

ADMINISTRATIVE PANEL DECISION

Mirova v. Mickael Breton
Case No. D2022-4766

1. The Parties

The Complainant is Mirova, France, represented by Inlex IP Expertise, France.

The Respondent is Mickael Breton, France.

2. The Domain Name and Registrar

The disputed domain name <mirova-immo.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2022. On December 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 21, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 20, 2023.

The Center appointed Marie-Emmanuelle Haas as the sole panelist in this matter on January 31, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the French financial Company MIROVA, which is linked to NATIXIS, a well-known Company specialized in the banking and financial sector.

The Complainant owns European Union (“EU”) and International trademarks for MIROVA:

- EU trademark registration MIROVA n°10787307, filed on April 4, 2012;
- EU trademark registration n°11123726 filed on August 16, 2012;
- International trademark registration MIROVA n°1146522 filed on August 14, 2012.

The disputed domain name was created on September 29, 2022. It does not resolve to any active website.

The registrant data were provided by the Registrar, according to the UDRP procedure.

According to these data, the registrant, who is an individual, is domiciled at the head office address of the Complainant.

The available data prove that a MX server is recorded, which means that the disputed domain name can be used to create and send emails.

5. Parties' Contentions

A. Complainant

MIROVA is active in the field of sustainable financial and namely offers investment solutions to its customers. It enables to collect funds and transfer cash to third-party accounts for remote and proximity payments and to easily integrate payments.

Identical or Confusingly Similar

The disputed domain name wholly incorporates the Complainant's trademark MIROVA placed in leading position and merely adds the descriptive term identifier “immo”, these terms being separated with an hyphen “-“. “immo” is the contracted form of “immobilier”, which means “real estate” in French.

It is also worth pointing out that the sign MIROVA has no meaning and is highly distinctive.

The Complainant's MIROVA trademark is clearly recognizable in the disputed domain name.

The added hyphen between the Complainant's trademark and the word “immo” are generic in nature, do not distract from the primacy of the Complainant's MIROVA trademark in the disputed domain name, and do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's mark.

Moreover, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8 provides that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Thus, there is a likelihood of confusion between the contested domain name and the Complainant's prior trademark rights.

Considering the above mentioned, the disputed domain name should be considered as confusingly similar to the prior rights owned by the Complainant.

Absence of rights or legitimate interest

According to a search conducted by the Complainant, the Respondent is not the owner of any MIROVA or MIROVA-IMMO trademark.

There is no business or legal relationship between the Complainant and the Respondent.

The Complainant has neither authorized nor licensed the Respondent to use its MIROVA trademark in any way.

The disputed domain name is currently held passively, as it does not resolve to an active website.

Moreover, a simple search of the denomination MIROVA-IMMO does not lead to pertinent results and the first results are related with the Complainant.

It results from the above that the Respondent is not commonly known as MIROVA-IMMO or MIROVA.

The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with *bona fide* offering goods or services.

On the contrary, the aforementioned elements suggest that the Respondent reserved the disputed domain name to take unfair advantage of the Complainant's reputation.

For all the above-mentioned reasons, it should be concluded, that the Respondent has no rights or legitimate interest in respect of the domain name.

Bad faith registration and use

The disputed domain name is registered with the aim of taking advantage of the reputation of the well-known trademark MIROVA of the Complainant.

The MIROVA trademarks are well known in France and abroad.

MIROVA is a key player in sustainable finance.

MIROVA is an asset manager that provides its clients with investment solutions that aim to reconcile financial performance with positive environmental and social impact.

A simple search for MIROVA on the Internet browser Google provides 789,000 results, which shows that the Complainant's official website appears first.

The Complainant is an affiliate of NATIXIS INVESTMENT MANAGERS, which enjoys a large reputation worldwide.

It results from the above that MIROVA enjoys a wide reputation, at least in the financial sector.

The Respondent was obviously aware of the existence of MIROVA as the Registrar revealed that he has mentioned the address of MIROVA as his personal address. This cannot be a hazard.

Considering the above, the choice of the disputed domain name cannot be a coincidence as it has no meaning. Objectively, the only reason for having registered this domain is to create a confusion in the public's mind.

The Respondent registered the disputed domain name using a privacy service, in order to hide his identity. The Respondent has apparently made no active use of the disputed domain name, what does not prevent a finding of bad faith under the doctrine of passive holding.

MX records attached to the disputed domain name have been activated.

In this respect, it is worth pointing out that the Complainant has already been the target of phishing and scam through the registration of the typo squatted domain name <mirovas.com>.

The Complainant had succeeded in its UDRP Complaint against this domain name (*Mirova v. WhoisGuard Protected, WhoisGuard, Inc. / Brian Tranter*, WIPO Case No. [D2020-0142](#)).

The activity of the Complainant is sensitive as it involves high amounts, and the consequences of phishing campaigns and scams might be very harmful for both the Complainant and its clients.

It can be legitimately suspected that the Respondent is intentionally attempting to take advantage of the MIROVA trademark, in order to try to generate profits with email services attached to the disputed domain name which reproduces the Complainant's MIROVA trademark.

It is therefore in the public interest to transfer the domain name <mirova-immo.com> to the Complainant in order to avoid that this domain name be used for misleading the consumers

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The disputed domain name wholly incorporates the MIROVA trademark.

The disputed domain name only differs from the MIROVA trademark by the addition of the term "immo" which refers to "immobilier" and means "real estate". Any addition does not prevent a finding of confusing similarity so long as the trademark, or a dominant portion thereof, remains recognizable. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

Thus, the disputed domain name is confusingly similar to the MIROVA trademark.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the Respondent has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Respondent is not related in any way with the Complainant.

There is no indication that the Respondent is commonly known by the MIROVA trademark.

There is no evidence of any *bona fide* use of the disputed domain name.

The Respondent did not respond to the Complainant to rebut its *prima facie* case. It did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the disputed domain name.

Therefore, the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in respect to the disputed domain name, which was not rebutted by the Respondent. Moreover, considering the composition of the disputed domain name, the Panel finds the nature of the disputed domain name carries a risk of implied affiliation to the Complainant, contrary to the fact, which renders any fair use unlikely. [WIPO Overview 3.0](#), section 2.5.1.

The Panel concludes that the Complainant has established that the Respondent does not have any rights or legitimate interests in the disputed domain name, within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a Panel to be evidence of bad faith registration and use of the disputed domain name.

It provides that:

For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a Domain Name in bad faith:

(i) circumstances indicating that the Respondent has registered or the respondent has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the Domain Name; or

(ii) the Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

Given the Complainant's reputation, it is reasonable to assume that the Respondent, who is reportedly domiciled in France at the head office address of the Complainant, was well aware of the MIROVA trademark when it registered the disputed domain name.

Even if the disputed domain name does not resolve to an active website, it is proven that the Registrant recorded MX servers, in order to be able to create emails composed with the MIROVA trademark and to use these email addresses to send emails, with the likely purpose to impersonate the Complainant.

Given the scope of protection of the MIROVA trademark and the fact that financial activities are strictly regulated, in order to protect the public order, the Panel cannot conceive any use that the Respondent could make of the disputed domain name that would not interfere with the Complainant's trademark rights.

While the disputed domain name may not have been actively been used for emails yet, the non-use of the disputed domain name does not prevent a finding of bad faith. Pursuant to section 3.3 of the [WIPO Overview 3.0](#), panels should weigh the totality of the circumstances when assessing the passive holding doctrine. Here, noting the distinctive and well-known nature of the MIROVA trademark, the descriptive additional term in the composition of the disputed domain name, the Respondent's failure to participate in this proceeding, and the Respondent's provision of fraudulent contact details, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith.

Under the circumstances of the case, the Panel finds that the disputed domain name has been registered and is being used in bad faith, within the meaning of paragraph 4(b)(iv) and 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <mirova-immo.com> be transferred to the Complainant.

/Marie-Emmanuelle Haas/

Marie-Emmanuelle Haas

Sole Panelist

Date: February 14, 2023