

ADMINISTRATIVE PANEL DECISION

Credit du Maroc v. Mira Holdings, Inc.

Case No. D2022-4987

1. The Parties

The Complainant is Credit du Maroc, Morocco, represented by Daoud Salmouni-Zerhouni, Morocco.

The Respondent is Mira Holdings, Inc., a Minnesota corporation, United States of America (“United States” or “USA”), represented by Law Office of Howard M. Neu, PA, United States.

2. The Domain Name and Registrar

The disputed domain name <cdmbank.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 25, 2022. On December 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant (Private Domain, Above Privacy) and contact information for the disputed domain name, which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center sent an email communicating in both English and French regarding the language of the proceeding. The Complainant replied on December 30, 2022, asking French to be the language of the proceeding instead of English. The Respondent replied on January 3, 2023, objecting to this.

The Center sent an email communication to the Complainant on January 4, 2023, requesting a translation of the Complaint into English. On January 5, 2023, the Complainant filed an amended and translated Complaint into English.

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 January 6, 2023. In accordance with the Rules, paragraph 5, the initial due date for Response was January 26, 2023. Upon the request of the Respondent, the due date for Response was extended to January 30, 2023, under paragraph 5(b) of the Rules. The Respondent apparently tried to file the Response on January 29, 2023, but due to an apparent typographical error in the email address used by the Respondent resubmitted it on February 1, 2023. The Complainant filed a first supplemental filing on January 24, 2023.

The Center appointed Emre Kerim Yardimci, Alexandre Nappey and John Swinson as panelists in this matter on February 23, 2023. The Panel finds that it was properly constituted. Each member of 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.

The Complainant submitted a second supplemental filing on February 28, 2023.

The Respondent submitted a supplemental filing on March 3, 2023.

The Complainant submitted a third supplemental filing on March 8, 2023.

4. Factual Background

The Complainant is a Moroccan bank providing banking services to individuals and businesses with 90 years of history.

The Complainant holds a considerable number of trade and service marks registrations in Morocco, the oldest dating back to 1997. Among other CDM formative trademarks, the Complainant holds following trademarks:

- Moroccan trademark CDM with number 102947, registered on April 4, 2006, in 45 classes (namely classes 1 to 45).
- Moroccan trademark CDM with number 245083, registered on September 30, 2022, in classes 35, 36, 41 and 45.
- Moroccan trademark CDM BANK with number 245084, registered on September 30, 2022, in classes 35, 36, 41 and 45.
- Moroccan trademark CDM BANQUE DIRECTE with number 158979, registered on April 11, 2014, in, *inter alia*, class 36.

The Complainant has been operating online banking services with CDM CREDIT DU MAROC trademark under its website "www.creditdumaroc.ma" and is the owner of the several domain names <cdm.ma>, <cdmbank.ma>, <ca-cdm.ma> and <mycdm.ma>, only the later resolving to an active website for electronic banking.

The disputed domain name was created on August 31, 2019.

The disputed domain name is resolving to website where it is indicated that the disputed domain name is available for sale and where any interested person can enter its full name, e-mail address, phone number and an offer for purchasing the disputed domain name. The website does not have any pay-per-click ("PPC") links.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant asserts that the disputed domain name is identical or at least confusingly similar to the Complainant's trademark CDM formative trademarks and the descriptive term bank. The addition of the term bank enhances the confusion considering banking activity of the Complainant.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark CDMBANK.

Finally, in addressing the question of registration and use of the disputed domain name in bad faith, the Complainant claims that the Respondent have registered and / or acquired the disputed domain name primarily for the purpose of selling the disputed domain name for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. The Complainant claims that the Respondent was aware of the Complainant's activity and its well-known trademark and willingly created a confusion in order to benefit from the notoriety of the Complainant's trademark. Lastly, the Complainant observes that the Respondent is making the business of registering domain names fraudulently.

B. Respondent

The Respondent, being a Minnesota Corporation located in USA, states it had no knowledge of the Complainant trademarks that are all registered in Morocco.

The Respondent states that they are a domain name investing company holding over 1,000 domain names that are offered for sale and that they checked the term CDM at the United States Patent and Trademark Office before registering the disputed domain name and found not less than 50 entries but not trademark for CDMBANK. The Respondent further states that it is not required to check trademark records of every country.

The Respondent states that they did not do any business with Morocco and that to their knowledge, the Complainant has no presence in United States. The Respondent adds that they are not familiar with the Complainant's language, which is French language.

The Respondent states that because of high value keyword of the term "bank", it acquired the disputed domain name through a back order for USD 80, which was the high bid as the disputed domain name was expiring from its previous registration on August 31, 2019.

The Respondent states that the acronym CDM means "Cash Deposit Machine" which is a self-service terminal that lets you make deposits and payment transactions by cash. They add that the acronym "cdm" fits with and complements the keyword "bank" to form a descriptive generic domain name.

The Respondent further adds that they also own <cbrbank.com>, <fdnbank.com>, <gdcbank.com>, <pbmbank.com>, <mcdbank.com>, and <slcbank.com>. In May 2022, the Respondent sold <fcmbank.com> for a five figures price in USD which reflects the value of an acronym with the word "bank", which is why the Respondent successfully bid on the disputed domain name.

The Respondent contends that the Complainant's domain name <cdmbank.ma>, was not registered by the Complainant until 2022. According to the Respondent, the disputed domain name has never been used by the Respondent to interfere in any way with the Complainant's business, nor to target the Complainant. As a matter of fact, the disputed domain name has never been offered for sale directly to the Complainant and offering a generic domain for sale, in itself, is not "bad faith".

The Respondent states that it has been held by many UDRP panels that domain investors provide a *bona fide* offering of goods and services and that the Respondent had a legitimate business reason for registering

the disputed domain name and has neither acquired the disputed domain name nor used it since acquisition in “bad faith”.

The Respondent therefore requests that the Complaint be denied. Lastly, the Respondent request that the Complainant’s Complaint amounts to Reverse Domain Name Hijacking as it knew that the Respondent registered the domain name three years before the Complainant acquired its trademark, and the Complainant had to know by a simple Google search that banks all over the world have already been using the acronym CDM for banking and other purposes.

6. Discussion and Findings

6.1 Consideration of Supplemental Filings

The Panel notes that the Center received additional submissions by the Complainant and the Respondent respectively on January 24, February 28, March 3, and March 8, 2023.

No provision concerning supplemental filings are made in the Rules or Supplemental Rules, except at the request of the panel according to paragraph 12 of the Rules, which states the panel, in its sole discretion, may request any further statements or documents from the parties it may deem necessary to decide the case.

According to paragraph 10 of the Rules, the panel has the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition, ensuring that the parties are treated with equality and that each party is given a fair opportunity to present its case.

As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), unsolicited supplemental filings are generally discouraged – unless specifically requested by the panel – and the party submitting an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response.

Accordingly, UDRP panels generally accept supplemental filings only when they provide material new evidence or a fair opportunity to respond to arguments that could not reasonably have been anticipated. See, along these lines, *Welcomemat Services, Inc. v. Michael Plummer Jr., MLP Enterprises Inc.*, WIPO Case No. [D2017-0481](#).

In the case at hand, the Panel notes that the Complainant’s Supplemental Filings, sent to the Center after the Panel appointment, mainly contains comments about the Respondent’s failure to respond to the Complaint on time, and an Annex showing a screenshot that the search result in Google, even from the United States, would have shown the Complainant’s website. The Panel is dubious of the value of such search (which could have been submitted with the original complaint), and uncertain of the extent to which the same search if performed in 2019 at the time of the registration of the disputed domain name would have shown the same result. In any case, the Panel does not deem appropriate to admit such Supplemental Filings as they are unnecessary and do not add anything new or material to the case, noting, however, that considering these additional filings would not have changed the outcome of the case. The Panel accordingly does not admit the Respondent’s Supplemental Filing in responses to the Complainant’s Supplemental Filings. Regarding the Complainant’s claim about the Respondent being in default due to the submission of a late response, the Panel notes the Respondent’s explanation that there was a failure in the delivery of the email due to a typographical error in the email address used by the Respondent. Anyhow, the Response was submitted only three days after the Response due date, the Respondent proceeded with the payment within the date for the submission of the Response, and the Response was received before the appointment of the Panel. Therefore, the Panel has considered the contents of the Response submitted. See *The Board of Governors of the University of Alberta v. Michael Katz d.b.a. Domain Names for Sale*, WIPO Case No. [D2000-0378](#), and *Türk Ticaret Bankası A.Ş. v. Seda Celik*, WIPO Case No. [D2019-3155](#).

6.2 Legal Assessment

In accordance with paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove the followings:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, the Complainant holds several trademark registrations.

The disputed domain name <cdmbank.com> integrates the Complainant's CDM trademark adding the word bank, and the Complainant's CDM BANK trademark in its entirety.

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that its CDM trademark is well-known for banking services and that the Respondent was aware of this, that it has not granted the Respondent any rights in respect of the disputed domain name, that the Respondent is not known by the disputed domain name and has not made any legitimate noncommercial or fair use of the disputed domain name. According to the Complainant the activity of buying and selling a domain name cannot be considered as a *bona fide* offering of goods and services.

The Respondent in its reply states that they are a domain name investment company with more than 1,000 domain names and that it has acquired the disputed domain name after its expiration from a previous registration for the purposes of selling the disputed domain name. The Respondent has several three-letter domain names combined with "bank" term and it has sold one of them for a five figures price in USD. The Respondent has never targeted the Complainant's trademark specifically and has not contacted the Complainant for the purposes of selling the disputed domain name.

Based on the Panel's finding under the third element of the Policy, the Panel need not come to a determination on the second element under paragraph 4(a) of the Policy..

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed

domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The Respondent asserts that it was unaware of the Complainant when it registered the disputed domain name and that it has not offered the disputed domain name to the Complainant. (Compare *Displays Depot, Inc. v. GNO, Inc.*, WIPO Case No. [D2006-0445](#).)

The Respondent's assertion that it was unaware of the Complainant when registering the disputed domain name seems believable in the circumstances of the case. The Respondent is in the United States; the Complainant is in Morocco. There is no evidence that the Complainant has business in or a reputation in the United States. The Complainant does not have a relevant United States trademark registration. Moreover, the Respondent appears to have a collection of bank related domain names in a similar format to the disputed domain name (*i.e.*, three letters followed by the word "bank"). Additionally, "CDM" is used in the banking industry to refer to "cash deposit machine".

Even though the Respondent is a professional domain name investor, on the facts of this case, the fact that the Respondent did not conduct searches of the Moroccan trademarks register is not evidence of bad faith. In this case, the Respondent does not seem to have had actual knowledge and should not have constructive knowledge of the contents of the Moroccan register. See *Delta Dental Plans Association v. Domains By Proxy, LLC / Kwangpyo Kim*, WIPO Case No. [D2022-0566](#).

It is relevant, but not conclusive in this case, that the Complainant did not register its trademark for CDM BANK until after the Respondent registered the disputed domain name. The Complainant registered its CDM BANQUE DIRECT trademark before the registration of the disputed domain name, but it differs from the composition of the disputed domain name, and in the circumstances of the case, the Panel does not consider it sufficient to show that the Respondent had this trademark in mind when registering the disputed domain name. The Complainant had registered trademark rights in CDM prior to the Respondent registering the disputed domain name, but the Panel notes that this is a three-letters trademark, and that the Complainant did not provide sufficient evidence to show that the Respondent likely knew or should have known such trademark.

The Panel concludes that the Respondent likely registered the disputed domain name because of its inherent value as a domain name and not because of the Complainant or the Complainant's trademark. The disputed domain name has value unrelated to the Complainant, and the Respondent's explanation for the registration seems probable. Possibly, the disputed domain name has other uses, such as in respect of cash deposit machines, which would not be bad faith use. The Panel does not agree with the Complainant's submission that the Respondent registered the disputed domain name to prevent the Complainant using their CDM trademark in a domain name or to create confusion. Compare *So Bold Limited v. TechOps, VirtualPoint Inc.*, WIPO Case No. [D2022-1100](#).

The Respondent has a webpage that invites offers for the disputed domain name and suggests that the disputed domain name is for sale. At one point in time, the disputed domain name was listed for sale for USD 1,098. The Respondent's business model appears to be registering disputed domain names that the Respondent can sell at a profit. Without more, this is not evidence of bad faith under the Policy. See, for example, *Bookker Corporate S.L.U and The Grafter SL v. Domain Admin / This Domain is For Sale, HugeDomains.com*, WIPO Case No. [D2021-4277](#). The Panel wishes to clarify that this finding is not intended to suggest that speculation in domain names is always legitimate and in good faith (nor is it always in bad faith); where the case circumstances point to a speculative registration for the specific purpose of targeting existing brand owners, this runs afoul of good faith.

There is no evidence that the Respondent has acted dishonestly or fraudulently.

Accordingly, the Panel concludes that the Complainant has not demonstrated that the Respondent registered and used the disputed domain name in bad faith.

D. Reverse Domain Name Hijacking

Under paragraph 1 of the Rules, Reverse Domain Name Hijacking is defined as “using the Policy in bad faith to attempt to deprive a registered domain name holder of a domain name”. The Respondent seeks a formal finding under paragraph 15(e) of the Rules that the present proceedings constitute Reverse Domain Name Hijacking.

The Panel finds that the circumstances in this case fall short of reverse domain name hijacking, or any other form of bad faith use of the Policy. The Respondent’s allegation of reverse domain name hijacking is therefore rejected.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Presiding Panelist

/Alexandre Nappey/

Alexandre Nappey

Panelist

/John Swinson/

John Swinson

Panelist

Date: March 22, 2023