

ADMINISTRATIVE PANEL DECISION

Onderlinge Waarborgmaatschappij CZ groep U.A v. Cachado
Case No. DNL2022-0043

1. The Parties

Complainant is Onderlinge Waarborgmaatschappij CZ groep U.A, Netherlands, represented by NLO Shieldmark B.V., Netherlands.

The registrant of the disputed domain name is Cachado, United States of America (“United States”), (“Respondent”).

2. The Domain Name and Registrar

The disputed domain name <mijncz.nl> (the “Domain Name”) is registered with SIDN through Registrar.eu.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2022. On October 14, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name.

On October 17, 2022, SIDN transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details of Respondent.

The Center verified that the Complaint satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on October 20, 2022. In accordance with the Regulations, article 7.1, the due date for Response was November 9, 2022. The Center did not receive any response. Accordingly, the Center notified Respondent’s default on November 10, 2022.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on November 25, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

According to the information provided in the Complaint, Complainant is a large health insurance provider in the Netherlands.

According to the evidence submitted, Complainant owns the Benelux Trade Mark MIJN CZ, registration number 871693, registration date February 10, 2010.

In addition, Complainant operates the website “www.cz.nl”. Policyholders can log in via the “mijn cz” button on the homepage, which redirects to another website of Complainant under the domain name <mijn.cz.nl>.

SIDN informed the Center that the Domain Name was first registered on March 5, 2022, and that the date of the current registration by change of registrant is August 31, 2022.

The Domain Name at the time of the Decision resolves to a pay-per-click parking website, including links in the Dutch language to various health insurance services and companies, mentioning “Beste Zorgverzekering 2023” (translated: Best Health insurance 2023), “Zorgverzekering 2023” (translated: Health insurance 2023) and “Goedkoopste Zorgverzekering 2023” (translated: Cheapest Health insurance 2023).

5. Parties’ Contentions

A. Complainant

Complainant submits that the Domain Name is identical or highly similar to Complainant’s registered trademark MIJN CZ.

According to Complainant, Respondent has no rights or legitimate interest in the Domain Name. Respondent has no trademark rights similar to the Domain Name, no company name rights similar to the Domain Name and does not act under the Domain Name. Complainant notes that the website under the Domain Name displays links and references to health insurances (being the core business of Complainant), generating advertising revenues.

Complainant asserts that the Domain Name has been registered and is being used in bad faith. The webpage under the Domain Name contains links to other health insurance companies and Respondent is thus clearly taking advantage of Complainant’s mark. Moreover, the reference to other health insurers makes it even more obvious that the brand recognition of Complainant is being deliberately abused. Complainant submits that the “mijn cz” service of Complainant on its home page concerns an environment where insured persons log in to arrange administration/finances with Complainant. Thus the registration of the Domain Name whilst referring to health insurances and other health insurers is even more sensitive. Noting the near instantaneous and global reach of the Internet and search engines, and because Complainant’s mark is widely known in the Netherlands, Respondent cannot credibly claim to have been unaware of the mark. Complainant believes that Respondent knew, or should have known, that the Domain Name would be identical or confusingly similar to Complainant’s mark. This is supported by the fact that the website under the Domain Name displays references to health insurance companies. Respondent clearly should have known that the MIJN CZ trademark was clearly owned by Complainant. It is therefore likely that Respondent sought to take advantage of the image and reputation of the widely known trademark of Complainant in the Netherlands at the time of registration of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Based on article 2.1 of the Regulations, a claim for the transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark or trade name protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations; and
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

Complainant has established that it is the owner of the Benelux Trademark MIJN CZ.

The Domain Name incorporates the MIJN CZ trademark in its entirety, the only difference being the omission of the space between the first part “MIJN” and the second part “CZ” of the trademark. Previous panels under the Regulations have found that a domain name is identical or confusingly similar to a complainant’s trademark where the domain name incorporates the entirety of such trademark or where at least a dominant feature of the trademark is recognizable in the domain name. The omission of the space between the two parts of the trademark may thus be disregarded for this purpose. See also section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).¹

The country code Top-Level Domain “.nl” may also be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Name is identical or in any event confusingly similar to Complainant’s MIJN CZ trademark under the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

As stated in section 2.1 of the [WIPO Overview 3.0](#), “while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

In the Panel’s opinion, Complainant has made out a *prima facie* case that Respondent lacks rights to or legitimate interests in the Domain Name.

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

According to the undisputed submissions and evidence provided by Complainant, by using the Domain Name, Respondent through the incorporation of the entirety of Complainant's trademark in the Domain Name diverts Internet users to a pay-per-click website.

The Panel at the time of the decision accessed the website under the Domain Name and confirmed that the website included pay-per-click links in the Dutch language to various health insurance services and companies competing with Complainant, mentioning "Beste Zorgverzekering 2023" (translated: Best Health insurance 2023), "Zorgverzekering 2023" (translated: Health insurance 2023) and "Goedkoopste Zorgverzekering 2023" (translated: Cheapest Health insurance 2023). At the bottom of the home page of the website under the Domain Name the following is mentioned: "This webpage was generated by the domain owner using Sedo Domain Parking. Disclaimer: Sedo maintains no relationship with third party advertisers. Reference to any specific service or trade mark is not controlled by Sedo nor does it constitute or imply its association, endorsement or recommendation".

The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name.

In addition, there is no evidence before the Panel that Respondent has acquired any relevant trademark or other rights corresponding to the Domain Name nor of any business relationship between Complainant and Respondent. There is also no indication that Respondent is commonly known by the Domain Name.

No Response to the Complaint was filed and Respondent has not rebutted Complainant's *prima facie* case.

The Panel finds that Respondent has no rights to or legitimate interests in the Domain Name for purposes of the second element of article 2.1 of the Regulations.

C. Registered or Used in Bad Faith

The Panel finds that the Domain Name has been registered and is being used in bad faith.

SIDN informed the Center that Respondent became the registrant of the Domain Name in 2022, thus many years after Complainant acquired relevant trademark rights. It is well established that the date Respondent as the current registrant acquired the Domain Name is used to assess bad faith registration (see [WIPO Overview 3.0](#), section 3.9).

Noting the status and the specific composition of the MIJN CZ mark as well as the further circumstances of this case, the Panel finds it highly likely that Respondent knew, and further finds that Respondent in any event should have known, Complainant's trademark at the time Respondent became the current registrant, especially in view of the fact that the Domain Name includes the entirety of Complainant's trademark and that the Domain Name resolves to a website which is used as a pay-per-click parking website, including links to various health insurance services competing with those provided by Complainant. As noted by previous panels under the Regulations, the manner in which such links are generated does not prevent a finding of bad faith (see [WIPO Overview 3.0](#), section 3.5). The Panel also notes that the Domain Name is practically identical to Complainant's domain name <mijn.cz.nl>.

The Panel also notes that it is not unlikely that the contact details of Respondent as mentioned in the information provided by SIDN to the Center are false or in any event inconsistent as the postal address is in Santa Fe, United States, while the country code telephone number mentioned is not in the United States but apparently in Bulgaria.

In light of these circumstances the Panel concludes that Respondent has attempted or is attempting to attract Internet users, for commercial gain, to the website of Respondent through the likelihood of confusion which may arise with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of the website of Respondent, which constitutes registration and use in bad faith.

Accordingly, the Panel finds that the Domain Name has been registered in bad faith and that the third element of article 2.1 of the Regulations has been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name, <mijnz.nl>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Panelist

Date: December 9, 2022