

## **ADMINISTRATIVE PANEL DECISION**

Milliman, Inc. v. Biomed Guy  
Case No. D2023-0190

### **1. The Parties**

The Complainant is Milliman, Inc., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is Biomed Guy, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <millimansol.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 January 13, 2023. On January 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2023, 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 January 23, 2023, 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 January 23, 2023.

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 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2023.

The Center appointed Andrew J. Park as the sole panelist in this matter on February 27, 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, formerly Milliman & Robertson, is one of the world's largest independent actuarial and consulting firms operating in the area of employee benefits, investment, property and casualty, healthcare, life and financial services, and insurance services. The Complainant has been active in this field since 1947, and is based in Seattle, Washington. The Complainant is an independent risk management, benefits, and technology firm with offices in major cities around the globe and advertises its goods and services through various websites, including <milliman.com>, as well as through print media and other advertising and promotional campaigns. The Complainant practices in various markets throughout the world, and has 62 offices located in Africa, Asia, Europe, Latin America, North America, and the Middle East. The Complainant, the owner and proprietor of the registered MILLIMAN and MEDINSIGHT trademarks, has promoted the marks continuously and extensively in numerous jurisdictions throughout the world.

The Complainant's registrations for MILLIMAN and MEDINSIGHT include the following:

Country	Trademark	Application No.	Application Date	Registration No.	Registration Date
United States	MILLIMAN	75714848	May 27, 1999	2551240	March 19, 2002
United States	MILLIMAN	75714666	May 27, 1999	2535010	January 29, 2002
United States	MILLIMAN	75714659	May 27, 1999	2694177	March 4, 2003
United States	MILLIMAN	75714658	May 27, 1999	2535009	January 29, 2002
United States	MILLIMAN	77145266	March 30, 2007	3387917	February 26, 2008
United States	MEDINSIGHT	75365474	September 30, 1997	2283873	October 5, 1999
United States	MEDINSIGHT	86790551	October 16, 2015	4987868	June 28, 2016

The Complainant operates its principal websites at <milliman.com> and <millimanbenefits.com>. The Complainant also uses the domain name <milliman.com> for its employees' email addresses. The Complainant first found out about the disputed domain name on January 10, 2023, when one of the Complainant's customers contacted the Complainant to inform that the customer received an email concerning payment request from "Milliman Solutions", the Respondent.

The Complainant's counsel sent the Respondent a cease-and-desist letter on January 13, 2023, requesting that the disputed domain name should be transferred to the Complainant.

The disputed domain name was registered on January 6, 2023, and currently resolves to a commercial parking page with pay-per-click links to websites purportedly offering services identical or related to those of the Complainant.

#### 5. Parties' Contention

##### A. Complainant

The Complainant contends that the disputed domain name should be transferred to the Complainant for the following reasons:

(a) the disputed domain name is identical or confusingly similar to the Complainant's trademark MILLIMAN in which the Complainant has rights. The Complainant owns registrations for the trademark MILLIMAN in many jurisdictions and has a strong reputation in the United States, among others, where the Respondent is located. The Complainant contends that the Complainant is the exclusive owner of the distinctive and well-known MILLIMAN mark, and the disputed domain name incorporates the Complainant's trademark MILLIMAN in its entirety, together with the addition of the letters "sol" which is the abbreviation of the generic word "solutions". Adding the letters "sol" to the Complainant's trademark in the disputed domain name fails to negate the confusing similarity between the disputed domain name and the Complainant's trademark because the Complainant's business involves the provision of employee benefits in Milliman Solutions. Therefore, the addition of "sol" in the disputed domain name actually increases the similarity rather than to differentiate it from the Complainant's MILLIMAN trademark.

(b) the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent's company name is not "Millimansol," and the Respondent is not, and has never been commonly known as "Millimansol". The Respondent is not and has never been a licensee or franchisee of the Complainant. The Respondent also has never been authorized by the Complainant to register or use the Complainant's MILLIMAN mark or to apply for or use any domain name incorporating the mark. The Respondent's use of the disputed domain name to run pay-per-click links or to redirect Internet users to sponsored suspicious websites does not qualify as a *bona fide* offering of goods and services. Furthermore, the Respondent is not making a legitimate, noncommercial fair use of the disputed domain name, does not show any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

Further, the Complainant argues that the Respondent is using the disputed domain name in furtherance of a scheme to defraud the Complainant's customers into making payments by sending its customers emails with bogus payment instructions. These activities constitute wire fraud and phishing, and as such, cannot be considered legitimate non-commercial or fair use of the disputed domain name.

(c) the disputed domain name was registered and is being used in bad faith.

The Complainant contends that the Respondent must have had actual knowledge of the Complainant, its trademarks, and business activities when it registered the disputed domain name. The Respondent registered the disputed domain name with the aim of taking advantage of the reputation and goodwill of the well-known trademark MILLIMAN of the Complainant and creating confusion between the disputed domain name and the Complainant's trademark.

The Complainant also claims that the Respondent is using the disputed domain name in bad faith. The Respondent registered the disputed domain name which is confusingly similar to the Complainant's trademark and used it to send emails to the Complainant's customers with the intention of fraudulently procuring the customers to make payments to the Respondent. Currently, the Respondent runs a website to which the disputed domain name resolves and includes the sponsored pay-per-click links for all commercial gain.

These are clear indications of bad faith and the purpose of the Respondent in registering the disputed domain name was definitely to mislead, confuse and divert consumers or to tarnish the Complainant's well-known MILLIMAN trademark and thereby illegitimately capitalizing on the Complainant's name and reputation.

## **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

This element consists of two parts: first, whether the Complainant has rights in a relevant trademark and, second, whether the disputed domain name is identical or confusingly similar to that trademark.

The Panel finds that the Complainant has established registered rights in MILLIMAN trademark and that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name incorporates the Complainant's trademark in its entirety. Further, the addition of "sol" does nothing to prevent a finding of confusing similarity to the Complainant's trademark. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, the addition of the generic Top-Level Domain ("gTLD") ".com" may be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#)).

For these reasons, pursuant to the Policy, paragraph 4(a)(i), the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

### B. Rights or Legitimate Interests

The Complainant contends that the Respondent has no right including trademark rights in respect of the name, "milliman", and is neither affiliated with, nor has it been licensed or permitted to use the Complainant's MILLIMAN mark or any domain names incorporating the MILLIMAN mark.

The Respondent's use of the disputed domain name to run pay-per-click links does not qualify as a *bona fide* offering of goods and services. The Respondent is not making a legitimate, noncommercial fair use of the disputed domain name, does not show any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, and is not commonly known by the disputed domain name prior to the date on which the Respondent registered the disputed domain name resulting in trading on the value of the Complainant's famous trademark.

Therefore, it is clear that the Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

Here, the Panel finds that the Complainant has made out a *prima facie* case.

The Panel finds that the Respondent has no relationship with or authorization from the Complainant to use its trademark, MILLIMAN. There is nothing in the record to suggest that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or has been commonly known by the disputed domain name. Also, there is no evidence that the Respondent has the intention to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent registered the disputed domain name and created a website using the disputed domain name which contains the pay-per-click links purportedly offering services identical or related to those of the Complainant all in an effort to confuse Internet users or consumers about the relationship between the disputed domain name and the Complainant and all without the Complainant's permission or authorization. All of these facts demonstrate that the Respondent never had an intention to use the disputed domain name in connection with a *bona fide*

offering of goods and or services. The Panel's view is that these facts may be taken as true in the circumstances of this case.

Further, the Panel is unable to find any reasonable basis upon which the Respondent could be said to have any rights or legitimate interests in respect of the disputed domain name, and the Respondent has not filed a formal Response. Ultimately, given the use of the disputed domain name in furtherance of a fraudulent email scheme, regardless of any Response, said use would never confer rights or legitimate interests upon the Respondent. See [WIPO Overview 3.0](#), section 2.13.

Accordingly, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

- (i) circumstances indicating that the respondent has registered or 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 the 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 its website or other online 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.

The Complainant claims that the Respondent registered and is using the disputed domain name in bad faith in violation of the Policy, paragraph 4(a)(iii). Specifically, the Complainant argues that the Respondent violated the Policy, paragraph 4(b)(iv) by registering the disputed domain name in order to attempt to attract, for commercial gain, Internet users to the Respondent's website which the disputed domain name resolves to, by creating a likelihood of confusion with the Complainant's trademark.

As stated previously, the Respondent did not file any response to the Complaint, failing thereby to rebut the Complainant's allegations of the Respondent's bad faith registration and use of the disputed domain name.

Nevertheless, the Panel still has the responsibility of determining which of the Complainant's assertions are established as facts, and whether the conclusions asserted by the Complainant can be drawn from the established facts (see *Harvey Norman Retailing Pty Ltd v. Oxford-University*, WIPO Case No. [D2000-0944](#)).

First, the Panel finds the Respondent intentionally registered the disputed domain name in bad faith. The Respondent registered the disputed domain name, which is identical or confusingly similar to the Complainant's trademark, MILLIMAN, while aware of the Complainant's business and its trademark. The Complainant started its business in 1947 and created its own trademark MILLIMAN, which is sufficiently qualified as the identification for the Complainant and its business activities. Also, the Complainant first registered its trademark in 1999 which predates the Respondent's registration date of the disputed domain

name by some 23 years. Moreover, the disputed domain name was created by combining the Complainant's trademark MILLIMAN, and the letters, "sol", which can be considered as the abbreviation of the word "solutions". Since the Complainant owns so many domain names incorporating the MILLIMAN marks and its business involves the provision of employee benefits, these facts clearly show that the Respondent had knowledge of the Complainant's trademark and its reputation when it registered the disputed domain name and that it tried to show that there was a business relationship between the disputed domain name and the Complainant and to benefit from the likelihood of confusion with the Complainant's trademark.

This registration of the disputed domain name that reproduces the Complainant's trademark in its entirety and is identical or confusingly similar to such trademark by the Respondent that has no relationship to that mark, without any reasonable explanation on the motives for the registration, may be suggestive of opportunistic bad faith. See *Ebay Inc. v. Wangming*, [WIPO Case No. D2006-1107](#); and *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#).

Second, the website to which the disputed domain name resolves is a parking page containing commercial pay-per-click links. These links are all related to the Complainant's business and purportedly offering services identical to those of the Complainant. The Panel finds that the Respondent attempted to attract, for commercial gain, internet users including the Complainant's customers to its infringing website by creating a likelihood of confusion with the Complainant's trademark.

Third, the Respondent used the disputed domain name to impersonate the Complainant and perpetrate a phishing scheme directed against the Complainant's customers which is a strong indication of bad faith. The Respondent's phishing scheme to send fraudulent emails with payment instructions purporting to come from the Complainant and to defraud the Complainant's customer with fraudulent invoices evidence a clear intent to disrupt the Complainant's business, deceive individuals, and trade off the Complainant's goodwill by creating an unauthorized association between the Respondent and the Complainant's MILLIMAN Mark. See *Banco Bradesco S.A. v. Fernando Camacho Bohm*, WIPO Case No. [D2010-1552](#). Such conduct is emblematic of the Respondent's bad faith registration and use of the disputed domain name. [WIPO Overview 3.0](#), section 3.4.

Further, UDRP panels have found that email-based phishing schemes that use a complainant's trademark in a domain name are evidence of bad faith. See, e.g., *DeLaval Holding AB v. Registration Private, Domains By Proxy LLL / Craig Kennedy*, WIPO Case No. [D2015-2135](#).

Accordingly, the evidence shows that the Respondent likely knew of and had sought to take unfair advantage of the confusing similarity between the disputed domain name and the Complainant's trademarks all for commercial gain. The Respondent registered and is using the disputed domain name in bad faith.

As the conduct described above falls squarely within paragraph 4(b)(iv) of the Policy, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith pursuant to the Policy, paragraph 4(a)(iii).

## 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 <millimansol.com> be transferred to the Complainant.

/Andrew J. Park/

**Andrew J. Park**

Sole Panelist

Date: March 14, 2023