

ADMINISTRATIVE PANEL DECISION

Zuru (Singapore) Pte., Ltd. d/b/a Monday v. Monday Haircare
Case No. D2023-3135

1. The Parties

The Complainant is Zuru (Singapore) Pte., Ltd. d/b/a Monday, Singapore, represented by Dunlap, Bennett & Ludwig P.L.L.C., United States of America (“United States”).

The Respondent is Monday Haircare, Lebanon.

2. The Domain Name and Registrar

The disputed domain name <mondayhc.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 July 20, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 24, 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 (DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 25, 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 July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit a formal response, but sent an email communication to the Center on August 3, 2023. The Center informed the parties that it will proceed to panel appointment on August 21, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 28, 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

According to information in the Complaint, the Complainant is the owner of the MONDAY HAIRCARE brand, used in connection with numerous bath, haircare, and cosmetic goods.

The Complainant is the owner of the United States trademark registration No. 6,367,191 for MONDAY HAIRCARE, registered on June 1, 2021. The Complainant owns and operates the domain name <mondayhaircare.com>, which it uses to promote, offer for sale, advertise, and sell its goods.

The disputed domain name was registered on June 30, 2023 and it is used for a website allegedly offering MONDAY products, but no products are displayed for sale. It includes a copyright notice "2023 MONDAY".

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name uses the dominant portion of the Complainant's domain name <mondayhaircare.com> and its registered trademarks MONDAY in its entirety, and in addition it uses the initials "h" and "c" which come from "haircare". The content housed on the disputed domain name offers to sell and advertise cosmetic goods which are identical in nature to those provided by the Complainant.

Further, the Complainant argues that the Respondent has no rights concerning the disputed domain name.

Moreover, the Respondent is fully aware of the Complainant's brand and signature product name, and only registered the confusingly similar disputed domain name well after the Complainant established itself as a leading entity in the market. The Respondent is seeking to benefit from or otherwise unlawfully obtain a competitive edge by using the Complainant's well-known brand name.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In its informal communication, the Respondent indicated, *inter alia*, that "As soon as we became aware of the issue, we took all the necessary steps to stop any activities related to the domain in question. We understand the importance of protecting the uniqueness and reputation of your domain, and we deeply regret that this incident occurred in the first place. Please be assured that we have conducted a thorough internal review to identify any lapses in our processes and have taken corrective measures to prevent any such occurrences in the future. The matter has been addressed with utmost seriousness, and we are committed to maintaining the highest ethical standards in all our operations."

6. Discussion and Findings

No formal response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the MONDAY HAIRCARE trademark by providing evidence of its trademark registrations.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the Top-Level Domain may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant’s trademarks as it is viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The disputed domain name consists of the first and dominant part of the Complainant’s trademark, being “monday”, together with an obvious contraction of the last part of the Complainant’s mark, being “hc”. Where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing ([WIPO Overview 3.0](#), section 1.7).

The Panel finds that the Complainant has satisfied the standing requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

As established by previous UDRP panels, it is sufficient for the complainant to make a *prima facie* case demonstrating that the respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has proved it holds rights over the trademark MONDAY HAIRCARE, and claims that the Respondent has no legitimate reason to register or acquire the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, the website at the disputed domain name looks like a poor version of the Complainant’s official website, it displays the dominant part of the Complainant’s trademark, *i.e.*, “monday”, it uses the dominant colour of the Complainant’s products in the favicon at the disputed domain name and a copyright notice for “monday” with no disclaimer as to the relationship or lack thereof with the Complainant. Such use does not in the circumstances of this case give rise to any rights or legitimate interests on the Respondent’s part.

The Panel further notes that the Respondent's name appears to be Monday Haircare, which includes the dominant part of the disputed domain name. However, in its informal response, the Respondent did not claim it is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. Moreover, the Panel considers that the Respondent cannot claim to have been "commonly known" by the disputed domain name under the above-mentioned paragraph of the Policy, as the circumstances of the case indicate that the Respondent most likely adopted the name "Monday Haircare" specifically to take advantage of the Complainant's rights, as discussed in Section 6C below.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because the Respondent did not respond to the Complainant's contentions. In its informal communication of August 3, 2023, the Respondent provided no explanation or evidence to demonstrate preparations for a *bona fide* offering of goods or services or other circumstances that could rebut the *prima facie* case made by the Complainant.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

According to the un rebutted assertions of the Complainant, its MONDAY HAIRCARE trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is confusingly similar with the Complainant's trademark. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

The disputed domain name resolves to a web shop that appears to offer products under the name "Monday". However, while the website gives the impression of being operational, no products are actually being offered. The products supposedly offered by the Respondent seem to be related in some way to the business of the Complainant, given the health statement on the website that alludes to beauty products: "Your health comes before your looks". Also, the contact details at the Refund Policy section include an email address with "Mondayhaircare".

Therefore, given the circumstances in the case the Panel considers that the Respondent must have had knowledge of the Complainant's rights in the MONDAY HAIRCARE trademarks when it registered the disputed domain name and it has intentionally created likelihood confusion with the Complainant's trademarks and website in order to attract Internet users for its own commercial gain, as envisaged by paragraph 4(b)(iv) of the Policy and/or to disrupt the business of the Complainant.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainants' contentions or provide any evidence of actual or contemplated good-faith use, and indeed none would seem plausible. The informal communication from the Respondent further supports the above conclusion.

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

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, <mondayhc.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: September 11, 2023