ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Massachusetts Financial Services Company v. Ritu Sarswat, MY MFS
Case No. D2025-0473

1. The Parties

The Complainant is Massachusetts Financial Services Company, United States of America (United States), represented by RNA IP Attorneys, India.

The Respondent is Ritu Sarswat, MY MFS, India.

2. The Domain Name and Registrar

The disputed domain name <mymfs.net> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 6, 2025. On February 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 February 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2025. The Response was filed with the Center on February 22, 2025. The Respondent sent an email communication to the Center on February 24, 2025. The Complainant filed an unsolicited supplemental filing on March 5, 2025.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on March 11, 2025. 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 a funds management and investment business operating around the world. Its services include mutual funds, retirement plans, college savings plans, and insurance-related plans.

The Complainant was founded in 1924 under the name Massachusetts Investors Trust. In 1969, however, it was reorganized under the name Massachusetts Financial Services which, according to the Complaint, allowed it to broaden its product offerings and client base.

According to the Complaint, the Complainant has been known by the acronym “MFS” since 1969 and uses that acronym both as a trade name and trademark. In 1970, for example, the Complainant began offering its first balanced investment fund, MFS Total Return Fund. In 1989, the Complainant formed its first subsidiary outside the United States – MFS International Limited.

The Complainant and its subsidiaries have offices around the world, including Boston, London, Singapore, Tokyo, Mexico City, Sydney, Toronto, Sao Paulo and Hong Kong. It has some 2,100 employees worldwide.

The Complainant also promotes its services online including from a website at “www.mfs.com”, having registered the domain name in 1994.

From Annex 5 to the Complaint, which is a corporate fact sheet published by the Complainant, the Complainant had USD 431 billions in funds under management in 2014 rising to USD 598.6 billions in 2023.

The Complainant and its products have received numerous awards including:

- In 2010, the Complainant was named Equity Manager of the Year by Global Pensions magazine;

- In 2011, the Complainant was named top firm in the Overall Large Company category in the US Lipper Fund Awards;

- In 2012, for the third year in a row, the Complainant received top honours in the Equity Asset Management Firm of the Year category in Financial News' Awards for Excellence in Institutional Asset Management;

- In 2013, the Complainant was named Best Specialist Equity Fund House by Morningstar UK and received the inaugural Equity Fund House award by Morningstar Hong Kong.

- In 2016, Barron's named the Complainant among the “Best Mutual Fund Families”.

The Complaint includes evidence that the Complainant owns a number of registered trademarks. For the purposes of this proceeding, it is sufficient to note only:

(1) United States Registered Trademark No. 1,233,922, MFS, which has been registered in the Principal Register since April 5, 1983 in respect of range of financial services in International Class 36 relating to investment and management; and

(2) Indian Registered Trademark No. 1509458, which was registered on December 1, 2006 in respect of investment and funds management services in International Class 36.

The disputed domain name was registered on November 26, 2014.

It resolves to the website of Magnima Financial Services through which the Respondent offers financial advice and investment services including, insurance, mutual funds, fixed deposit and bonds and the like.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

The Panel has reviewed the Complainant's unsolicited supplemental filing. The Panel understands why a party might choose to make a supplemental filing (which is not provided for under paragraph 12 of the Rules) but in the circumstances of this case has not found it to be of much, if any, assistance. Accordingly, it is unnecessary to admit it into the record of this proceeding.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.7.

The Complainant has proven ownership of numerous registered trademarks for MFS, two examples of which have been set out in section 4 above.

Disregarding the ".net" generic Top-Level-Domain as a functional aspect of the domain name system (WIPO Overview 3.0, section 1.11), the disputed domain name consists of the Complainant's registered trademark and the term "my". As this requirement under the Policy is essentially a standing requirement, the addition of this pronoun does not preclude a finding of confusing similarity. See e.g. WIPO Overview 3.0, section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy sets out three examples of circumstances which can be situations in which the Respondent has rights or legitimate interests in a disputed domain name. These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

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. WIPO Overview 3.0, section 2.1.

There is no dispute between the Parties that:

(1) The Respondent registered the disputed domain name after the Complainant began using the trademark and also after the Complainant had registered its trademark;

(2) The Respondent is not affiliated with the Complainant;

(3) The Complainant has not otherwise authorised the Respondent to use the disputed domain name.

In addition, the disputed domain name is being used for services conflicting with the scope of the Complainant's registered trademark in India.

In these circumstances, the Complainant has established a strong prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Respondent points out, however, that his business trades under the name Magnima Financial Services, which is a mutual funds distributor registered with the Association of Mutual Funds India, and "MFS" is obviously an acronym for that business name. The addition of the pronoun "my" before "MFS" is a fairly routine naming convention. The Respondent also draws attention to a number of other businesses or organizations around the world which use or are called "MFS".

The fact that a disputed domain name is a respondent's name, or derived from such a name, can be a circumstance establishing rights or legitimate interests in the disputed domain name. Thus, paragraph 4(c)(ii) provides:

"(ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights".

This ground is available, however, only where the registration and use of the disputed domain name is in good faith. Similarly, bearing in mind that the Respondent claims only to be servicing clients in India, it is appropriate to note that section 35 of the Trade Marks Act 1999 in India provides a defence for "bona fide use by a person of his own name or that of his place of business".

In this connection, the Respondent merely states:

"My decision to register mymfs.net was based solely on my business name, **Magnima Financial Services**, without any intent to capitalize on the Complainant's brand." (original emphasis)

Ultimately, the Panel considers this is not sufficient to establish that the Respondent adopted the disputed domain name in good faith. As already noted, the Panel accepts that "MFS" can be a natural shortening of

"Magnima Financial Services". However, the Respondent's explanation says nothing about how he came to adopt that name as the name of his business. It may have been entirely innocent. Alternatively, it may have been chosen precisely because it could be abbreviated to "MFS".

As already noted, the disputed domain name is being used for the services covered by the Complainant's registered trademark in India so that the Respondent's use of the disputed domain name plainly conflicts directly with that registered trademark. Accordingly, it falls to the Respondent to satisfy the Panel of the good faith adoption and use of the trading name. As the Respondent has not exposed the reasoning underlying the adoption of the trading name, Magnima Financial Services in circumstances where the Complainant has established a strong and wide reputation in the financial services industry, the Panel cannot be satisfied that the name was adopted in good faith. While the inclusion of "Financial Services" is readily apparent, there has been no explanation or apparent reason for the adoption of "Magnima".

Further, even if "Magnima" were adopted in good faith, the Respondent would need to show why the further step of adopting "MyMFS" was in good faith. In circumstances where the Complainant's trademark appears to be well-known in financial circles, it is not sufficient merely to state that the Respondent did not intend to capitalise on the Complainant's brand. That does not address whether the Respondent knew about the Complainant's trademark (which seems likely) or why the Respondent thought confusion was not likely.

The Respondent also argues entitlement to the disputed domain name on the grounds that the Registrar permitted him to register it. The Respondent contends that, if the Complainant had exclusive rights over "MFS", it would be the responsibility of the Registrar to prevent such registrations.

Unfortunately for the Respondent, that is not the way the domain name naming system has been set up. First, the existence of the Policy makes it clear that the right to register a domain name is subject to conflicting, prior trademark rights. Secondly, by clause 12 of the registration agreement, the Respondent warranted to the Registrar that, to the best of the Respondent's knowledge and belief, the registration and use of the disputed domain name would not directly or indirectly infringe the rights of a third party. Thirdly, it would be possible for someone to register the disputed domain name for use in some field wholly remote from the Complainant's field of financial services without infringing on the Complainant's rights or to target the Complainant and its reputation.

Next, it is not clear from the Response when the Respondent undertook the searches which he relies on to show that MFS is used by a number of other businesses or organizations. If they were undertaken at the time of registration, it seems likely that a search of "MFS" would have revealed the Complainant and its use of the term in the same field (or perhaps not in India).

In that connection, the Respondent has submitted the results of a Google search for "MyMFS" which returned results for a "My Schools App", then two results for the Respondent's business and a fourth result for a "MyMFS" financial advice business in the United Kingdom. That business does not appear to be related to the Complainant.

This search does not assist the Respondent. First, it is a screen shot of part of the search page only so the full context cannot be assessed; secondly, it is a search on the specific term "myMFS" and not "MFS"; and thirdly, it does not disclose what a search would have revealed in 2014 when the Respondent was adopting the disputed domain name. Plainly, the search results for the Respondent's business would not have been displayed.

More generally, as the discussion in WIPO Overview 3.0 at section 2.11 in relation to dictionary words and acronyms shows, the fact of third party users is not relevant in and of itself. The question is the nature of the Respondent's use and the reasons informing the Respondent's adoption of the disputed domain name. Where that was found to be conditioned by the Complainant's reputation in its trademark, it would usually be very difficult a respondent to make out a case of good faith. As discussed above, the Respondent has not discharged that burden in the face of the Complainant's strong prima facie case.

The Panel is conscious that the Respondent registered the disputed domain name in 2014 and, according to the Response, has been using the disputed domain name for at least eight years (if not more). Ordinarily, however, mere delay does not disentitle a Complainant from seeking relief under the Policy. WIPO Overview 3.0, section 4.17.

Further, it appears from the Complaint that the Complainant may have learned of the Respondent only in July 2024 which led to it sending a cease and desist letter to the Respondent then. If that is the case, the Panel would not characterise the Complainant as having delayed in any disentitling sense in any event.

In light of the foregoing, the Panel finds that the Complainant has established a prima facie case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name which the Respondent has not rebutted successfully.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: See e.g. *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. D2017-0183.

For the reasons discussed in section 5B above, the use of the disputed domain name appears to conflict directly with the Complainant's registered trademark and, consequently, constitutes use in bad faith. The reasons for the failure of the Respondent's claim to have adopted the disputed domain name in good faith discussed in section 5B above also leads to a finding of registration in bad faith under the Policy.

Therefore, the Panel finds the Respondent has registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has established all three requirements under 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 <mymfs.net> be transferred to the Complainant.

/Warwick A. Rothnie/
Warwick A. Rothnie
Sole Panelist
Date: March 25, 2025