

ADMINISTRATIVE PANEL DECISION

M and M Direct Limited v. Fumi Oyama
Case No. D2025-2880

1. The Parties

The Complainant is M and M Direct Limited, United Kingdom (“UK”), represented by Konexo, Eversheds Sutherland (International) LLP, UK.

The Respondent is Fumi Oyama, Japan, self-represented.

2. The Domain Name and Registrar

The disputed domain name <m-andm.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2025. On July 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 23, 2025, 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 (Not known) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 30, 2025, 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 in English on August 4, 2025.

On July 30, 2025, the Center informed the Parties in Japanese and English, that the language of the Registration Agreement for the disputed domain name is Japanese. On August 4, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 August 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2025. The Response was filed in Japanese with the Center on August 22, 2025.

The Center appointed Erica Aoki as the sole panelist in this matter on August 29, 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 one of the leading online retailers of fashion and lifestyle products in the UK and internationally.

Founded in 1987, the Complainant has become one of the largest discount fashion e-commerce companies in Europe and was acquired in 2014 by Bestseller A/S, a multinational fashion group headquartered in Denmark. In February 2006, the Complainant changed its name from “M AND M Sports” to “M AND M Direct”, and “M AND M direct” became the Complainant’s primary trading name.

At this time the Complainant operates its primary commercial website at the domain name <mandmdirect.com>, which receives millions of visits annually and serves as a central platform for its retail operations across Europe.

On September 21, 2021, the Complainant acquired <mandm.com> and it currently is used to redirect users to the Complainant’s primary commercial website.

Today, the Complainant is one of Europe’s leading online retailers of discount fashion items, with Complainant’s primary commercial website delivering products to over 30 countries and it has over 21 million visitors every year.

The Complainant owns several trademark registrations for M AND M, including in the UK and the European Union, covering classes relevant to retail and online sales of clothing, footwear, and accessories.

- UK Trademark No. UK00904631677 M AND M, filed on October 4, 2005 and registered January 19, 2007, in classes 25, 28 and 35;
- European Union Trademark No. 004631677 M AND M, filed on October 4, 2005 and registered on January 19, 2007, covering classes 25, 28 and 35; and
- UK Trademark No. UK00906679534 M AND M, filed on February 19, 2008 and registered on January 22, 2009, in classes 25, 28 and 35.

These registrations predate the registration of the disputed domain name.

The disputed domain name <m-andm.com> was registered on June 24, 2025. At the time of the Complaint, the disputed domain name resolved to an error page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied all three elements required under the Policy for a transfer of the disputed domain name.

First, the Complainant argues that the disputed domain name is identical or virtually identical to its M AND M trademark, as it solely contains the mark M AND M, with a hyphen between the “M” and the word “AND”.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant, has never been authorized to use its marks, and is not commonly known by “m-andm”. The use of the disputed domain name for a holding/error page cannot constitute a bona fide offering of goods or services.

Third, the Complainant argues that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent, filed a Response in Japanese on August 22, 2025. In her response, she explained that she was surprised to receive multiple notifications regarding the Complaint and emphasized that, as a Japanese national, she would reply in Japanese.

The Respondent stated that the disputed domain name <m-andm.com> was registered for use by M&M Ltd. (有限会社エムアンドエム), a Japanese company engaged in the installation and maintenance of emergency call systems for elderly care.

According to the Response, this company was founded approximately 40 years ago by the Respondent's father-in-law, and formally incorporated as a limited company about 20 years ago.

The Respondent attached a copy of the company's certificate of incorporation issued by the Japanese government, which shows that M&M Ltd. was incorporated on April 1, 2005, with a registered capital of JPY 3,000,000.

The Respondent explained that her husband is the current President and Representative Director of M&M Ltd.

The domain name was registered in order to provide the company with a unique business email domain. The Respondent stated that the company is small, does not operate a website, and currently uses only the email address [...]@m-andm.com for business correspondence with clients.

The Respondent denied any knowledge of the Complainant in the UK and argued that there was no intent to interfere with the Complainant's business. She asserted that the disputed domain name was obtained solely for legitimate business needs in Japan, unrelated to fashion retail.

The Response emphasized that the disputed domain name is essential for the Respondent's local business operations and that the Complaint is unfounded.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant must prove that:

- (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.

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Japanese. Paragraph 11(a) of the Rules provides that, unless otherwise agreed by the parties or specified in the Registration Agreement,

the language of the proceedings shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the case.

The Complainant has requested that English be the language of the proceeding. The Complainant submits that at least one version of the Registration Agreement is in English, and that, in any event, the appropriate language should be English because the disputed domain name is in Latin script, incorporates the term “m and m” in which the Complainant has rights, and requiring translation of the Complaint into Japanese would cause undue delay and unfair prejudice.

The Center informed the Parties in both Japanese and English regarding the language of the proceeding. On August 22, 2025, the Respondent submitted a Response in Japanese, stating that they do not use English and therefore their submission would be in Japanese.

Paragraph 11 of the Rules must be applied consistently with paragraphs 10(b) and 10(c), which ensure equality of treatment between the parties and that each party is given a fair opportunity to present its case, while also ensuring that the proceeding is conducted with due expedition.

According to section 4.5.1 of the [WIPO Overview 3.0](#), factors relevant to determining the language of the proceeding include whether the domain name is in Latin script, whether the respondent can reasonably be expected to understand the language of the complaint, and whether translation would cause unnecessary delay or unfairness.

In this case, the Panel notes that: (i) the Complaint was filed in English; (ii) the Center communicated with the Parties in both English and Japanese; (iii) the disputed domain name is in Latin script and incorporates the Complainant’s mark; and (iv) the Respondent was able to submit a Response in Japanese, which the Panel accepts and has considered in this Decision.

Taking all the circumstances into account, the Panel determines that it is appropriate to exercise its discretion under paragraph 11(a) of the Rules and direct that the language of the proceeding be English, while also accepting the Respondent’s Japanese-language submission as validly filed.

B. Identical or Confusingly Similar

It is well established that the first element functions primarily as a standing requirement ([WIPO Overview 3.0](#), section 1.7). The Complainant has demonstrated rights in the M AND M trademarks through multiple registrations in the UK and the European Union.

The disputed domain name incorporates the M AND M trademark in its entirety, with only the addition of a hyphen and the “.com” generic Top-Level Domain. Panels have consistently found that such trivial modifications do not prevent the finding of confusing similarity where the complainant’s mark remains recognizable ([WIPO Overview 3.0](#), section 1.8).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark. The first element of the Policy is satisfied.

C. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate rights or legitimate interests by showing bona fide use, being commonly known by the domain name, or legitimate noncommercial or fair use. Once the complainant makes a prima facie case that no such rights exist, the burden shifts to the respondent ([WIPO Overview 3.0](#), section 2.1).

The Complainant argues that the Respondent is not affiliated with it, has never been authorized to use its marks, and is not commonly known by “m-andm”.

The Complainant further alleges that the disputed domain name resolved to a holding/error page, which cannot constitute a bona fide offering of goods or services.

The Respondent, however, has provided evidence of the incorporation of the company M&M Ltd. (有限会社 エムアンドエム) in Japan on April 1, 2005, predating the Complainant's launch of its <mandmdirect.com> website in 2006 and several of its trademark registrations.

The Respondent's company is engaged in the installation and maintenance of emergency call systems for elderly care and is led by the Respondent's husband.

The Respondent states that the disputed domain name is used only for business email (e.g., [...]@m-andm.com) and that no website exists or is planned.

Panels have generally held that the mere registration of a company name does not automatically confer rights in a corresponding domain name if the domain name is used in a way that takes unfair advantage of another party's trademark.

At the same time, credible evidence of incorporation and longstanding use of a company name which corresponds to the disputed domain name can support a respondent's claim of being "commonly known" by the name ([WIPO Overview 3.0](#), section 2.3).

In this case, the Panel notes the coexistence of two factors: (i) the Respondent's credible evidence of incorporation of M&M Ltd. in 2005 under a katakana version of the same name, and (ii) the Complainant's evidence that the disputed domain name resolved to a holding/error page.

On balance, however, the Panel finds that the Respondent's evidence of incorporation and corporate identity predating the Complainant's online presence is sufficient to rebut the Complainant's prima facie case.

The Panel therefore concludes that the Complainant has failed to prove that the Respondent lacks rights or legitimate interests in the disputed domain name.

The second element of the Policy is not satisfied.

D. Registered and Used in Bad Faith

As noted above, the Panel finds that the Complainant has failed to establish the second element of the Policy. Considering that finding, it is not strictly necessary for the Panel to consider the third element of the Policy. Nevertheless, for completeness, the Panel will briefly address the issue of bad faith.

To satisfy the third element, the Complainant must show that the disputed domain name was both registered and used in bad faith (Policy, paragraph 4(a)(iii)).

The Complainant contends that the Respondent registered the disputed domain name with knowledge of its well-known M AND M brand, and that the disputed domain name was used to host an error page.

The Respondent denies any knowledge of the Complainant, asserting that the disputed domain name was registered for legitimate business purposes of M&M Ltd. in Japan, a company incorporated in 2005 and operating in an entirely different industry (emergency call systems for elderly care).

The Respondent also states that the disputed domain name has been used exclusively for internal business email.

The Panel notes that the Respondent's evidence shows incorporation of the company M&M Ltd. in April 2005, prior to the Complainant's launch of its <mandmdirect.com> website in 2006 and several of its trademark registrations. Moreover, while the Complainant claims that it and its predecessors have been

using names which include “M AND M” since 1987, the Panel finds that the overall circumstances do not demonstrate that the incorporation of the Japanese company was undertaken primarily to circumvent the application of the UDRP or otherwise to prevent the Complainant from exercising its legitimate rights.

In these circumstances, the Panel is not persuaded that the Respondent has registered and used the disputed domain name in bad faith.

The Panel therefore concludes that the Complainant has failed to establish the third element.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: September 12, 2025