

ADMINISTRATIVE PANEL DECISION

MakeMyTrip (India) Private Limited v. xianjin hong
Case No. D2022-3648

1. The Parties

Complainant is MakeMyTrip (India) Private Limited, India, represented by Sim And San, Attorneys At Law, India.

Respondent is xianjin hong, China.

2. The Domain Name and Registrar

The Domain Name <makesmytrip.com> is registered with Hong Kong Juming Network Technology Co., Ltd (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 30, 2022. On October 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on October 10, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 10, 2022.

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 Respondent of the Complaint, and the proceedings commenced on October 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 7, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on November 10, 2022. 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

Complainant was incorporated in 2000 and is one of the largest travel companies in India with presence in other countries and territories, including in the United States of America, the United Arab Emirates and Mauritius, European Union, Australia, and United Kingdom, amongst others. Per Complaint, since August 2000, Complainant has continuously and uninterruptedly used the MAKE MY TRIP mark for all its business activities. Presently, Complainant, through its primary website and mobile phone platforms, offers an extensive range of travel services and products, both in India and abroad. Condé Nast Traveler India awarded Complainant's App as the Favorite travel app of 2017.

Complainant owns trademark registrations for MAKE MY TRIP, such as Indian trademark registration no. 2149947, MAKE MY TRIP (word), registered on May 25, 2011, for services in class 39 and Indian trademark registration no. 2149948, MAKE MY TRIP (word), registered on May 25, 2011, for services in class 43.

Complainant's founder owns domain name registrations for MAKE MY TRIP such as <makemytrip.com>, which was registered on May 8, 2000.

The Domain Name was registered on June 4, 2022, and redirected at the time of filing of the Complaint to an active website offering lotteries (the Website). Currently it leads to an inactive website.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith

A. Identical or Confusingly Similar

The Domain Name incorporates Complainant's MAKE MY TRIP trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO

Case No. [D2000-1525](#)).

The addition of the letter “s” does not prevent a finding of confusing similarity, as the MAKE MY TRIP trademark remains clearly recognizable within the Domain Name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9).

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant’s MAKE MY TRIP trademark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to redirect to the Website offering third party mobile lotteries. A respondent’s use of a complainant’s mark to redirect Internet users for its commercial gain would not support a claim to rights or legitimate interests ([WIPO Overview 3.0](#), section 2.5.3).

In addition, the nature of the Domain Name, comprising Complainant’s trademark in its entirety in combination with the letter “s”, carries a risk of implied affiliation (See [WIPO Overview 3.0](#), section 2.5.1.). Similarly, the addition of the “s” can also be viewed as a typo, noting the adjacent location of the “e” and “s” on a standard QWERTY keyboard, reflecting an intent on part of Respondent to profit from unsuspecting Internet users unaware of said typo and believing the Domain Name to be Complainant’s <makemytrip.com> domain name or, at least as stated above, associated with Complainant’s MAKE MY TRIP trademark.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the MAKE MY TRIP mark had been used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant’s mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant’s rights, as such knowledge is readily obtainable through a simple browser search and also due to Complainant’s nature of business, provided also online, namely online travel services and bookings (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)). Moreover, the typosquatting nature of the Domain Name, reflecting merely an added “s” to Complainant’s mark, reinforces the notion that Respondent was aware of an intentionally targeted Complainant in an attempt to confuse Internet users expecting to find the Complainant.

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to redirect to the third party lotteries Website. Such use of a domain name to redirect to a third party website constitutes evidence of a respondent’s bad faith under paragraph 4(b)(iv) of the Policy.

The Domain Name currently leads to an inactive website. The non-use of a domain name would not prevent a finding of bad faith, particularly considering the typosquatting nature of the Domain Name, Respondent’s failure to provide any Response, and the lack of any plausible good faith use to which the typosquatting Domain Name could be put (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established 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 Domain Name <makesmytrip.com> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 24, 2022