

## **ADMINISTRATIVE PANEL DECISION**

Majid Al Futtaim Properties LLC v. Network Administrator  
Case No. D2022-3771

### **1. The Parties**

The Complainant is Majid Al Futtaim Properties LLC, United Arab Emirates (“UAE”), represented by Talal Abu Ghazaleh Legal, Egypt.

The Respondent is Network Administrator, Canada.

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

The disputed domain name <mycitycentre.org> 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 October 9, 2022. On October 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 2022, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 2022, 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 October 20, 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 the Respondent of the Complaint, and the proceedings commenced on October 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. The Center received an email communication from a third party on October 25, 2022. By email dated October 26, 2022, the Center invited the party named as Respondent and the third party to clarify their

relationship with each other but no response was received. The Center notified the Respondent's default on November 11, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on November 22, 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**

The Complainant is the holding company of a group that was established in 1992 and which owns and operates shopping malls, and retail, and leisure establishments in the Middle East, Africa, and Asia.

Since 1995, the Complainant has operated some 14 shopping malls in the Middle East which bear the name "City Centre" plus the relevant location, e.g., "City Centre Bahrain". The Complainant also operates the following neighbourhood retail malls, described as "social hubs tailored to meet the needs of the region's growing residential communities":

- "My City Centre Nasseriya" (opened 2014).
- "My City Centre Al Barsha" (opened 2016).
- "My City Centre Sur" (opened 2018).
- "My City Centre Al Dhait" (opened 2018).
- "My City Centre Masdar" (opened 2019).

The Complainant maintains webpages on its main "www.majidalfuttaim.com" website for each of its "City Centre" and "My City Centre" shopping malls, and it also operates a website at "www.mycitycentrenasseriya.com".

The Complainant owns a number of registered trade marks consisting of the stylised words MY CITY CENTRE in both English and Arabic including UAE trade mark No. 202927, filed on December 19, 2013, registered on September 30, 2014, in class 35.

The disputed domain name was registered on March 18, 2015.

As of September 21, 2022, the disputed domain name resolved to a Registrar parking page with pay-per-click ("PPC") links relating to "Citycenter", "Mall", and the Arabic term for "travel agency".

#### **5. Parties' Contentions**

##### **A. Complainant**

The following is a summary of the Complainant's contentions.

The Complainant has made a significant investment in advertising and promoting both marks, including on social media.

The Complainant's malls have become well-known to shoppers across the Middle East.

The Complainant's malls dominate search results for "my City Centre" on Google.

As well as registered rights, the Complainant has acquired common law rights in the terms CITY CENTRE and MY CITY CENTRE, which have become inextricably linked to the Complainant's enterprise by virtue of the Complainant's extensive commercial use of these marks in the shopping malls industry.

The Complainant has exclusive rights over its trade marks arising from UAE and international law.

The disputed domain name is identical to the Complainant's MY CITY CENTRE trade mark and confusingly similar to the Complainant's CITY CENTRE trade mark. The disputed domain name reproduces both marks in their entirety.

The Respondent lacks rights or legitimate interests in the disputed domain name.

There is no evidence that the Respondent owns any relevant trade marks.

The Complainant has never authorised the Respondent to use its trade mark or register any domain name containing the mark.

The Respondent's trade mark rights predate the disputed domain name.

The Respondent has not been commonly known by the disputed domain name. The registrant name does not resemble the disputed domain name.

The Respondent is not using the disputed domain name for a *bona fide* offering of goods or services. On the contrary, the Respondent is using the disputed domain name for a parking page with PPC links including in relation to malls, which is the Complainant's area of business. Furthermore, such links indicate that the Respondent was aware of the Complainant's MY CITY CENTRE mark and that the Respondent registered the disputed domain name to take advantage of the Complainant's rights.

Registering a domain name comprising a dictionary word or phrase does not confer rights or legitimate interests where, as here, it has been used to trade off trade mark rights rather than in connection with the dictionary meaning.

There is no conceivable legitimate use of the disputed domain name given the global fame of the Complainant's trade marks.

The disputed domain name was registered and is being used in bad faith.

It is inconceivable that, when registering the disputed domain name, the Respondent was unaware of the Complainant's globally famous trade marks which date back to 1995 (CITY CENTRE) and 2013 (MY CITY CENTRE), respectively.

The Respondent's registration of a domain name identical to the Complainant's famous trade mark of itself creates a presumption of bad faith.

The Respondent has set out to create a likelihood of confusion with the Complainant's mark.

The Respondent acted in wilful bad faith by deliberately failing to search online databases. A cursory trade mark search on Google or the WIPO Global Brand Database would have shown that MY CITY CENTRE is a trade mark associated with the Complainant.

The disputed domain name constitutes a passive holding in bad faith insofar as the Respondent has failed to use the disputed domain name for an active website.

The Respondent's purpose in registering the disputed domain name was to block the Complainant and/or disrupt its business.

The Respondent's use of a privacy service coupled with registration of the disputed domain name comprising the Complainant's trade mark in its entirety is further evidence of bad faith.

## **B. Respondent**

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

As explained in section 3 above, the Center received an email communication from an apparent third party stating:

"I am responding on behalf of our organization in regards to a complaint of our old website, mycitycentre.org. Today, I went into our GoDaddy account and cancelled our subscription of a service using the old email.

I am wondering what the next steps are to resolve this complaint."

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has established rights in the mark MY CITY CENTRE arising from its figurative registered trade marks as well as unregistered trade mark rights deriving from the Complainant's longstanding use of that mark.

Disregarding the Top-Level Domain ("TLD") suffix, which is excluded from the comparison, the disputed domain name is identical to the Complainant's trade marks.

Accordingly, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

### **B. Rights or Legitimate Interests**

As explained in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, the disputed domain name has been used for a parking page with PPC links to services which compete with those supplied by the Complainant. Such use of the disputed domain name could not of itself confer rights or legitimate interests. See section 2.9 of [WIPO Overview 3.0](#), which states that use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, and noting the lack of substantive Response but also the Complaint-responsive email suggesting the domain name registration had been or would be cancelled, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

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

In the Panel's view, by using the disputed domain name, comprising the Complainant's trade mark, in connection with a parking page with PPC links relating to the Complainant's industry, the Respondent has intentionally created a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

Section 3.5 of [WIPO Overview 3.0](#) makes clear that respondents cannot disclaim responsibility for "automatically" generated pay-per-click links on their websites and that neither the fact that such links are generated by a third party such as a registrar, nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.

While the disputed domain name is somewhat descriptive, the Panel notes that the combination of "my" and "city centre" is not an entirely obvious one and, furthermore, the Respondent has not come forward to deny the Complainant's assertions of bad faith or to put forward any legitimate reason for its registration of the disputed domain name – and has indeed either sent, or not disputed, an email response suggesting that the registration of same has been or would be cancelled.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) of 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, <mycitycentre.org>, be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: December 6, 2022