

## **ADMINISTRATIVE PANEL DECISION**

**Majid Al Futtaim Properties LLC v. Nanci Nette**  
**Case No. D2022-4104**

### **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 Nanci Nette, United States of America (“USA”).

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

The disputed domain name <matajeruae.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2022. On November 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 2, 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 November 6, 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 November 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on December 6, 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 was founded in Dubai in 1994. The Complainant is a subsidiary of Majid Al Futtaim Holding LLC that owns and operates shopping malls, retail, and leisure establishments in the Middle East, Africa, and Asia.

The Complainant commenced use of its MATAJER brand in connection with the operation of the Complainant's "Matajer Al Quoz" mall which opened in October 2011, followed by "Matajer Al Juraina", "Matajer Al Khan", and "Matajer Al Mirgab" in 2012 in the residential and academic areas of Sharjah.

The Complainant operates the website that resolves from <matajersharjah.com> and which relates to the Complainant's MATAJER-branded shopping malls.

The Complainant is the owner of the following trademark registrations:

- UAE trademark registration No. 294697 for MATAJER AL MUSALLA and words in Arabic and device, registered on December 20, 2018, in class 35;
- UAE trademark registration No. 294698 for MATAJER AL MUSALLA and words in Arabic and device, registered on December 20, 2018, in class 36;
- UAE trademark registration No. 295325 for M MATAJER AL RAHMANIYA and words in Arabic and device, registered on January 16, 2019, in class 35;
- UAE trademark registration No. 295327 for M MATAJER AL RAHMANIYA and words in Arabic and device, registered on January 16, 2019, in class 36.

Sharjah Holding Co. PJSC, the joint venture formed between the Complainant and the Government of Sharjah, appears as the registered owner of trademark registrations for MATAJER and a word in Arabic and a device in Bahrain, Lebanon, Oman, Qatar, Yemen and the UAE, amongst which the Bahrain registered Trademark No. 87486 for the device and word mark MATAJER (in English and Arabic), registered on January 23, 2013, in class 36.

The disputed domain name was registered on November 9, 2019, and has been used in connection with a parked webpage displaying pay-per-click ("PPC") advertisements. Currently, the disputed domain names is used to redirect Internet users, at times, to third party webpages offering to install applications to block advertisements and, at other times, to online casinos.

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

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

The Complainant claims to be part of a group of companies based in Dubai, that owns and operates shopping malls, retail, and leisure establishments in the Middle East, Africa, and Asia, with operations in 15 countries; UAE, Egypt, Saudi Arabia, Oman, Lebanon, Bahrain, Kuwait, Qatar, Jordan, Iraq, Kazakhstan, Pakistan, Kenya, Armenia, and Georgia, employing more than 40,000 people, and obtaining the highest credit rating (BBB) among privately-held corporates in the region. The group was established by Majid Al Futtaim in 1992. Majid Al Futtaim manages three major operating subsidiaries: Majid Al Futtaim Properties, Majid Al Futtaim Retail, and Majid Al Futtaim Ventures.

According to the Complaint, the Complainant is a developer of shopping malls together with hotels and mixed-use community projects in the Middle East and North Africa, owning and operating 29 shopping malls, 13 hotels, and five mixed-use communities, with further developments underway in the region. The shopping malls portfolio includes Mall of the Emirates, Mall of Egypt, Mall of Oman, City Centre malls, My City Centre neighborhood centers, "and five community malls (Matajer), which are in joint venture with the Government of Sharjah".

Also according to the Complainant, the MATAJER brand is a neighbourhood retail concept being delivered by Majid Al Futtain in conjunction with Sharjah Holding, providing high quality retail environment by neighbourhoods across Sharjah, having, since the first MATAJER-branded mall opened in 2011, provided convenience and premium shopping experiences to surrounding residents.

Under the Complainant's view, the extensive and continuous use of the MATAJER trademarks, and the fact that the Complainant has made significant investments over the years to promote and protect these trademarks and the Complainant's business across the Internet, demonstrate that the Complainant enjoys a substantial degree of public recognition in the MATAJER brand which has become uniquely and distinctly associated with the Complainant, having the Complainant established common law trademark rights in MATAJER which has become exclusively associated with the Complainant, enjoying a "worldwide reputation".

The Complainant contends that the disputed domain name is confusingly similar to the MATAJER trademark, entirely reproduced therein, not adding the "uae" element any distinctiveness thereto but rather increasing the likelihood of confusion given that the Complainant's MATAJER-branded malls are located in the UAE.

According to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Complainant never authorized or licensed the Respondent to use its common law and registered trademark, or to seek the registration of any domain name incorporating said trademark;
- (ii) the Respondent is not affiliated with the Complainant in any way;
- (iii) the Respondent has no prior rights or legitimate interests in the disputed domain name; and
- (iv) the Respondent is not commonly known by the disputed domain name.

As to the registration of the disputed domain name in bad faith the Complainant submits that the Respondent knew of, or should have known of, the Complainant's fame and massive reputation under the MATAJER brand worldwide and in the Middle East countries through its operations of "Matajer Al Quoz", "Matajer Al Juraina", "Matajer Al Khan", and "Matajer Al Mirgab" shopping malls. Also according to the Complainant, quoting *Nike Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#), given the global fame of the Complainant's MATAJER brand, it was unlikely that the Respondent was unaware of the Complainant's well-known trademark, there being no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent, given the confusing similarity of the disputed domain name with the Complainant's well-known trademark.

Under the Complainant's view, the disputed domain name is being passively held by the Respondent, not having been actively used by the Respondent, which is a further indicative of the Respondent's bad faith.

The Complainant further argues that the Respondent had been involved in a significant number of UDRP cases in view of the registration of several domain names reproducing or incorporating third party trademarks.

## **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

### A. Identical or Confusingly Similar

As seen above, the Complainant has provided evidence of registered trademark rights in M MATAJER AL RAHMANIYA – in English and Arabic letters, and MATAJER AL MUSALLA - in English and Arabic letters, along with a family of other MATAJER-formative trademarks wherein the dominant element, excluding the geographically descriptive terms “Al Musalla” and “Al Rahmaniya”, is MATAJER.

As also seen above, Sharjah Holding Co. PJSC, the joint venture formed between the Complainant and the Government of Sharjan, holds trademark registrations for MATAJER and a word in Arabic and English and a device in Bahrain, Lebanon, Oman, Qatar, Yemen, and the UAE.

The disputed domain name <matajeruae> reproduces the Complainant’s trademarks entirely, the “uae” acronym referring to the United Arab Emirates, where the Complainant is located, not preventing a finding of confusing similarity.

It is well accepted that the first element functions primarily as a standing requirement and that the 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 first element of the Policy has therefore been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent’s rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not responding to the Complaint, failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that it never authorized or licensed the Respondent to use its common law and registered trademark, or to seek the registration of any domain name incorporating said trademark; and also that the Respondent is not affiliated with the Complainant in any way.

According to the information provided by the Registrar concerning the registrant of the disputed domain name, the registrant's name is Nanci Nette. In that sense, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks registered by the Respondent corresponding to the disputed domain name, indicates that the Respondent does not hold rights or legitimate interests in the disputed domain name.

Also, both the past use of the disputed domain name in connection with the PPC links and the present use in connection with suspicious websites cannot characterize a *bona fide* use of the disputed domain name. In *Majid Al Futtaim Properties LLC v. Ayman Bajnaid*, WIPO Case No. [D2022-4130](#), the panel assessed the potential intrinsic value of a domain name comprising only of the term "matajer", which means "shops" in Arabic. Here, the disputed domain name is comprised of the term "matajer" along with the acronym "uae", which in the circumstances can only reasonably be interpreted as a direct reference to the Complainant given that this combination refers to the Complainant and its primary location in the UAE. Moreover, the disputed domain name is not being used in connection with the dictionary meaning of the term or for a noncommercial use, seeing as it previously resolved to automatically sponsored commercial links to unrelated third party sites and currently engages in a dynamic redirect to various sites including online gambling, neither use conferring rights or legitimate interests upon the Respondent.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

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

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

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

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name;

(ii) the Respondent's registration of the disputed domain name consisting of the Complainant's MATAJER trademark along with the geographic acronym for the Complainant's primary location, the UAE, after the Complainant's continuous and publicized use of the trademark for over eight years;

(iii) the past use of the disputed domain name in connection with PPC links;

(iv) the indication that the Respondent appears to have engaged in a pattern of bad faith conduct having been found of registering domain names reproducing or incorporating third party trademarks in the past previous UDRP cases: *Licensing IP International S.A.R.L. v. Nanci Nette*, WIPO Case No. [DTV2017-0003](#); *OkCupid, operated by Humor Rainbow, Inc. v. Nanci Nette, Name Management Group*, WIPO Case No. [DCO2017-0008](#); *Veolia Environnement SA v. Nanci Nette, Name Management Group*, WIPO Case No. [D2017-1511](#); *Getty Images (US), Inc., iStockphoto L.P. v. Nanci Nette, Name Management Group*, WIPO Case No. [D2017-1645](#); *Wikimedia Foundation, Inc. v. Nanci Nette, Name Management Group*, WIPO Case No. [D2018-0717](#); *Wikimedia Foundation, Inc. v. Domains by Proxy, LLC / Management Group, Nanci Nette*, WIPO Case No. [D2018-1453](#); *Andrey Ternovskiy dba Chatroulette v. Registration Private, Domains By Proxy, LLC / Nanci Nette, Name Management Group*, WIPO Case No. [D2018-2508](#); *Andrey Ternovskiy dba Chatroulette v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Nanci Nette, Name Management Group*, WIPO Case No. [D2018-2573](#); *Echobox Audio, LLC v. Nanci Nette*, WIPO Case No. [D2019-0751](#); *LogMeIn, Inc. v. Nanci Nette*, WIPO Case No. [DME2019-0007](#); *CVS Pharmacy, Inc. v. Registration Private, Domains By Proxy, LLC / Nanci Nette, Name Management Group*, WIPO Case No. [D2019-1740](#); *Facebook, Inc. and WhatsApp Inc. v. Registration Private, Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2019-2223](#); *Association des Centres Distributeurs E. Leclerc -A.C.D. Lec v. Nanci Nette*, WIPO Case No. [D2019-2545](#); *Slack Technologies, Inc. v. Registration Private, Domains by Proxy, LLC / Nanci Nette, Name Management Group*, WIPO Case No. [DCO2020-0018](#); *Quizlet, Inc. v. Nanci Nette, Name Management Group*, WIPO Case No. [DCO2020-0034](#); *Ruby Life Inc. v. Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2020-0093](#); *Skeeter Products, Inc. v. Registration Private, Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2020-2320](#); *Health Care Service Corporation v. Nanci Nette, Name Management Group*, WIPO Case No. [D2020-2335](#); *Montage Hotels & Resorts, LLC v. Nanci Nette*, WIPO Case No. [D2020-3145](#); *Aboitiz & Company, Inc. ("ACO"), Aboitiz Equity Ventures, Inc. ("AEV") v. Nanci Nette, Name Management Group*, WIPO Case No. [D2021-0565](#); *Luna Management Sam v. Nanci Nette*, WIPO Case No. [D2021-1579](#); *Khadi and Village Industries Commission v. Registration Private, Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2021-3243](#); *Volvo Trademark Holding Aktiebolag v. Nanci Nette*, WIPO Case No. [D2022-0299](#); *Khadi and Village Industries Commission v. Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2022-0361](#); *Khadi and Village Industries Commission v. Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2022-1200](#); *Itron, Inc. v. Super Privacy Service LTD c/o Dynadot / Nanci Nette, Name Management Group*, WIPO Case No. [D2022-1249](#); *Fenix International Limited v. Privacy Services Provided by Withheld for Privacy ehf / Nanci Nette*, WIPO Case No. [D2022-1659](#); *Itron, Inc. v. Super Privacy Service LTD c/o Dynadot / Nanci Nette, Name Management Group*, WIPO Case No. [D2022-1920](#);

(v) the indication of what appears to be false contact information, not having the Center been able to fully deliver communications to the Respondent.

For the reasons as those stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

The third element of the Policy has therefore been established.

## 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 <matajeruae.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: December 27, 2022