

## ADMINISTRATIVE PANEL DECISION

Mintel Group Ltd v. Rick James / Babloo Bhiya  
Case No. D2023-1293

### 1. The Parties

The Complainant is Mintel Group Ltd, United Kingdom ("U.K."), represented by J A Kemp LLP, U.K.

The Respondents are Rick James, India and Babloo Bhiya, India (the "Respondent").

### 2. The Domain Names and Registrar

The disputed domain names <mintelreports.com> and <mintelreports.net> (the "Domain Names") are registered with NameCheap, Inc. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 24, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. Also on March 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain names which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 28, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Upon request by the Complainant, the proceedings were suspended on March 28, 2023. The proceedings were reinstated on June 27, 2023. The Complainant filed an amended Complaint on June 26, 2023.

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 June 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 19, 2023.

The Center appointed Gregor Vos as the sole panelist in this matter on July 21, 2023. 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 market research agency which provides market research and intelligence solutions to consumer focused-businesses and was founded more than 50 years ago. The Complainant currently has 14 global offices and its services are used by over 50,000 users worldwide.

The Complainant is the owner of *inter alia* the following registrations for the sign MINTEL (hereinafter jointly referred to as the "Trademarks").

- i. International Trade Mark Registration No. 857423, registered on November 24, 2004, with designation of *inter alia* Australia, China and Japan;
- ii. European Union Trade Mark Registration No. 000748970, registered on June 26, 2001;
- iii. U.K. Trade Mark Registration No. UK00900748970, registered on June 26, 2001;
- iv. United States of America Trade Mark Registration No. 2865331, registered on July 20, 2004.

The Domain Name <mintelreports.com> was registered on June 10, 2019 and the Domain Name <mintelreports.net> was registered on July 21, 2022, both with the registrar Namecheap Inc. The record shows that the Domain Name <mintelreports.com> resolved to a website that offered services identical to those offered by the Complainant, under "Mintel Reports". Currently, the Domain Name <mintelreports.com> leads to a webpage on which an alert is shown that the Domain Name may trick the user into installing software or revealing personal information. The record shows that the Domain Name <mintelreports.net> has been resolving to a webpage on which third-party pay-per-click ("PPC") links are shown.

It is undisputed that the Complainant is the holder of the domain name <mintel.com>.

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

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

Preliminarily, the Complainant states that the Registrants for the Domain Names are the same person, and are under the common control of one entity. Therefore, the different domain name disputes should be consolidated in these proceedings.

With the Complaint the Complainant further seeks that the Domain Names be transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the Domain Names, and the Domain Names were registered and are being used in bad faith.

Firstly, according to the Complainant, the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant states that the Domain Names contain the Trademarks in their entirety. The mere addition of a descriptive word does not detract from, diminish or otherwise alter the recognisability of the Trademarks. Furthermore the Complainant states that the addition of descriptive words likely increase the Domain Names' capacity to confuse Internet users as the descriptive word describes one of the main products offered by the Complainant.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in respect of the Domain Names. To support this the Complainant argues firstly that there has been no evidence of the Respondent's lawful use of, or intentions to use the Domain Names. Secondly, the Complainant states that the Respondent is not making legitimate noncommercial or fair use of the Domain Names. Finally, the Complainant argues that the Respondent is not authorized, licensed or otherwise permitted to use the Complainant's Trademarks in any way.

Finally, according to the Complainant, the Respondent has registered and used the Domain Names in bad faith. According to the Complainant, the Domain Names were primarily registered with the intention to disrupt the business of the Complainant and to prevent the Complainant from reflecting the Trademarks in a corresponding domain name. Also, the Respondent would take unfair advantage or abuse the Complainant's Trademarks and would promote a business that competes with the business of the Complainant. Further, the Domain Names would be exploited for commercial purposes of the Respondent, and the Complainant argues that the Domain Names are used by the Respondent to attract, for commercial gain, Internet users to its website or other online location.

## **B. Respondent**

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

### **6. Preliminary Procedural Issue: Consolidation of Multiple Domain Names and Respondents**

The Panel will first deal with the question of whether the different domain name disputes should be consolidated in a single proceeding.

The consolidation of multiple domain name disputes under paragraph 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised over the disputed domain names or the websites to which the domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.

*Indicia* of common control have been found based on commonalities in registrant information, such as shared administrative or technical contacts and shared postal or email addresses, as well as other circumstances in the record indicating that the respondents are related or that a sufficient unity of interests otherwise exists that they may be essentially treated as a single domain name holder for purposes of paragraph 3(c) of the Rules (see [WIPO Overview 3.0](#), section 4.11.2; *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

In the present case, the Panel finds that the consolidation of the domain name disputes is justified for the following reasons. First, all Domain Names are registered with the same Registrar (Namecheap Inc.). Second, the Domain Names are registered with the same telephone number, email-address and address details (city and state). Finally, the Respondent has not objected to consolidation of the domain name disputes.

Therefore, the Panel finds, having regard to all relevant circumstances, that the Domain Names are under common control and that it is procedurally efficient, fair and equitable to all parties when the domain name disputes are consolidated.

### **7. Discussion and Findings**

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed

factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

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

Only if all three criteria have been met, the Panel is able to grant the remedy requested by the Complainant. The Panel will now consider each criterion individually.

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

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Names are (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Names with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Trademarks and the Domain Names (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")). In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Names. The addition of the word "reports" to both Domain Names do not prevent a finding of confusing similarity. The generic Top-Level Domains (".com" and ".net" respectively) are viewed as a standard registration requirement and as such are disregarded under the confusing similarity test. Consequently the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been 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 Domain Names. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in a disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to rebut the *prima facie* case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

In addition, the Domain Name <mintelreports.com> previously resolved to a webpage that offered services identical to those offered by the Complainant, under "Mintel Reports", and currently leads to a webpage on which an alert is shown that the Domain Name resolves to a phishing website. The Domain Name <mintelreports.net> has been resolving to a webpage on which PPC links are showed. This use, given the circumstances, does not establish rights of legitimate interests in the Domain Name on the part of the Respondent.

Furthermore, the composition of the Domain Names cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner, without that being the case (section 2.5.1, [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names. Paragraph 4(a)(ii) is thereby fulfilled.

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

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain names have been registered and are being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Names. Based on the record before it the Panel agrees with the Complainant that it at least enjoys a reputation in the field of market research and intelligence solutions. Given the fact that the Domain Names incorporate the Trademark in their entirety and in combination with a term ("reports") that is frequently used in the professional field of the Complainant and in the course of its business, it is not conceivable that the Respondent chose the Domain Names without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business.

With regard to use of the Domain Names in bad faith, the Panel finds that the use of the Trademarks in the Domain Names signals an intention on the part of the Respondent to confuse Internet users into thinking that the Domain Names are connected to the Complainant (section 3.2.1, [WIPO Overview 3.0](#)). In addition, the Domain Name <mintelreports.com> previously resolved to a webpage that offered services identical to those offered by the Complainant, under "Mintel Reports", and currently leads to a webpage on which an alert is shown that the Domain Name resolves to a phishing website, which at least presumes use in bad faith of this Domain Name.

Further, the Panel has found that the Respondent lacks any rights to or legitimate interests in the Domain Names. With regard to the Domain Name <mintelreports.net> the Panel finds that the Respondent is taking unfair advantage of the Domain Names by diverting Internet users to a website that includes PPC links of a commercial nature. Therefore, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation or endorsement (see e.g., "*Dr. Martens*" International Trading GmbH / "*Dr. Maertens*" Marketing GmbH v. Joan Mitchell, WIPO Case No. [D2018-0226](#)).

Also, the Respondent failed to submit a response to rebut the *prima facie* case as established by the Complainant.

Therefore, the Panel finds that the Domain Names have been registered and are being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

## **8. 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 Names, <mintelreports.com> and <mintelreports.net> be transferred to the Complainant.

*/Gregor Vos/*

**Gregor Vos**

Sole Panelist

Date: August 4, 2023