

ADMINISTRATIVE PANEL DECISION

eMazzanti Technologies v. Name Redacted
Case No. D2024-3768

1. The Parties

The Complainant is eMazzanti Technologies, United States of America ("United States"), represented internally.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <emazzanti.net> is registered with IONOS SE (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 16, 2024. On September 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name, with a reminder sent on September 23, 2024. On the same day, 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 (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 24, 2024, 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 amendment to the Complaint on September 24, 2024.

The Center verified that the Complaint together with the amendment to the 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").

¹The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST- 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Respondent sent an email communication to the Center on September 26, 2024 and another email communication on November 8, 2024, before the due date for the Decision. The Respondent did not submit a formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 16, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on October 18, 2024. 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.

On October 30, 2024, the Panel issued a Procedural Order asking the Complainant to either (i) submit evidence of trademark registration for EMAZZANTI in the name of the Complainant, or (ii) explain with supporting evidence the corporate relationship between the trademark owner for EMAZZANTI, Mazzanti Inc., and the Complainant. The Complainant filed on November 1, 2024 its submission in response to the Procedural Order. The Respondent did not provide comments by the deadline indicated in the Procedural Order in this respect.

4. Factual Background

According to information in the Complaint, the Complainant is the trademark holder of EMAZZANTI, for consulting services in the field of design, selection, implementation and use of computer hardware and software systems. The Complainant holds the United States Patent and Trademark Office ("USPTO") Reg. No. 2933152 for EMAZZANTI, registered on March 15, 2005 for class 42. The Complainant provided evidence that while it was registered under the name Mazzanti Inc., its trade name is eMazzanti Technologies, therefore it is the same company.

The disputed domain name was registered on July 30, 2024. At the date of this Decision the disputed domain name resolves to an Error 403 – Forbidden page. There is no evidence that the disputed domain name was used at any prior date.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is nearly identical and confusingly similar to the Complainant's trademark, and that the Complainant has never granted any license to its online content to the Respondent and the Respondent has no right to use such content in any manner. Further, the Complainant submits that the disputed domain name was possibly registered for the purpose of disrupting the business of the Complainant with the possibility of creating a phishing website or by sending phishing emails as the Complainant's domain name <emazzanti.net> and the disputed domain name only have the difference of one character.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In an informal response of September 26, 2024, the Respondent submitted that the email from the Center was wrongly sent to them. In the informal email of November 8, 2024, the Respondent also claimed that their account has been hacked and the Respondent never used the disputed domain name.

6. Discussion and Findings

No formal response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark EMAZZANTI for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Complainant’s mark is recognizable within the disputed domain name, which consists of the obvious misspelling of the EMAZZANTI trademark of the Complainant, with the replacement of the letter “a” with an “e” in the middle of the word. This misspelling in the disputed domain name also referred to as typosquatting, does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9). Accordingly, the disputed domain name is confusingly similar to the Complainant’s mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is the settled view of panels applying the Policy that the Top-Level Domain (“TLD”) (here “.net”) should be disregarded under the first element test.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence

demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Also, there is no evidence indicating that the Respondent is commonly known by the disputed domain name. By not replying to the Complainant's contentions, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Respondent has no rights or legitimated interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the unrebutted assertions of the Complainant, its EMAZZANTI trademarks were used in commerce well before the registration of the disputed domain name. The disputed domain name is a misspelling of the Complainant's trademarks. Given the long use of the Complainant's trademark, the Panel considers that the Respondent more likely than not knew of the Complainant's trademark when registering the disputed domain name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Further, the Panel is persuaded that the Respondent's registration of the disputed domain name was achieved through knowingly providing false information to the Registrar in order to conceal its identity and to escape liability for its fraudulent conduct. Such conduct, particularly in this context where the Respondent seems to have falsely used another entity's information to register the disputed domain name, supports a finding of bad faith.

The Panel finds that the Complainant has established the third element 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 <emazzenti.net> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: November 11, 2024