

ADMINISTRATIVE PANEL DECISION

MCI GROUP HOLDING SA v. vendo chocolate, xny
Case No. D2024-4567

1. The Parties

The Complainant is MCI GROUP HOLDING SA, Switzerland, represented by MIIP MADE IN IP, France.

The Respondent is vendo chocolate, xny, United States of America.

2. The Domain Name and Registrar

The disputed domain name <wearemcl.com> (the “Disputed Domain Name”) is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2024. On November 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 7, 2024, 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 (REDACTED FOR PRIVACY, Xny) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 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 amended Complaint on November 13, 2024.

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 15, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was December 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on December 12, 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.

4. Factual Background

Founded in 1986, the Complainant is a professional conference organizer for private companies or associations, which offers event organization and marketing services under the “MCI” brand and “WE ARE MCI” slogan. The Complainant has a global presence of 60 offices in 31 countries.

The Complainant owns various figurative trademarks for the MCI logo in multiple jurisdictions. The relevant trademark registrations include, inter alia,

- the European Union Trade Mark Registration No. 004401774 for “  ” in Classes 35, 39, and 41 registered on May 2, 2006,
- the International Trade Mark Registration No. 1560747 for “  ” in Classes 35, 39, and 41 registered on September 3, 2020,
- the Hong Kong, China, Trade Mark Registration No. 305397814 for “  ” in Classes 35, 19, and 41 registered on September 22, 2020 (the “Complainant’s Trademark”).

The Complainant also owns the following domain names, including <wearemci.com>, <wearemci.us>, <wearemci.franchise.com>, <wearemci.in >, <wearemci.au>, and <wearemci.com.au>.

The Disputed Domain Name was registered on November 8, 2023, many years after the Complainant registered the Complainant’s Trademark. At the time of the filing of the Complaint and rendering of this Decision, the Disputed Domain Name resolved to a parking page displaying (1) the Disputed Domain Name at the center of the webpage and (2) a message saying that “We’re under construction. Please check back for an update soon” at the bottom of the webpage (the “Respondent’s Website”).

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:

- (a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The Disputed Domain Name contains a dominant feature of the Complainant’s Trademark as it features, in the latter part, the letters “mci” which includes two identical letters (“m” and “c”) and one letter (“i”) which is visually similar to the letter (“i”). The substitution of the letter “l” is an intentional misspelling of the Complainant’s Trademark and signals an intention to confuse users seeking or expecting the Complainant. The addition of the generic term “we are” does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant’s Trademark. The term “we are”, in addition to the term “mci” in the Disputed Domain Name enhance the confusing similarity since the phrase “wearemci” coincides the Complainant’s well-known slogan “WE ARE MCI”.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. There is no business or legal relationship between the Complainant and the Respondent, and the Complainant has not authorized or licensed the Respondent to use its trademarks in any way. The Disputed Domain Name resolves to a parking page which should not constitute a bona fide offering of goods or services or legitimate

noncommercial or fair use of the Disputed Domain Name. Moreover, the Respondent did not reply to the Complainant's cease-and-desist letter requesting information on the intended use of the Disputed Domain Name and pointing out the suspicious elements of the Disputed Domain Name. The Respondent's failure to reply to the cease-and-desist letter further suggests that the Respondent has no legitimate interest in the Disputed Domain Name.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. Given the goodwill and reputation that the Complainant has acquired in the Complainant's Trademark, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademark when the Respondent registered and used the Disputed Domain Name. Furthermore, the Respondent has seemingly provided false contact information by using the address of another business (a Volvo Car dealer) to register the Disputed Domain Name. The Respondent has configured Mail Exchange servers on the Disputed Domain Name, which may present a risk of the Respondent engaging in a phishing scheme to impersonate the Complainant. Moreover, given the distinctiveness and reputation of the Complainant's Trademark, the Respondent is seeking to take unfair advantage of the Complainant's Trademark and is likely to have used the Disputed Domain Name to mislead customers and divert Internet traffic away from the Complainant's websites.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel finds the Complainant's Trademark is recognizable within the Disputed Domain Name. The Disputed Domain Name incorporates the Complainant's Trademark, save for the substitution of the letter "i" with the letter "l". The intentional misspelling of the Complainant's Trademark, in this case, the substitution of the letter "i" with the similar-appearing letter "l", does not alter the finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9. Furthermore, it is well established that the generic Top-Level Domain, ".com" in this case, may be disregarded for the purposes of assessing confusing similarity under the first element. See section 1.11.1 of the [WIPO Overview 3.0](#). Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case “we are”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant’s Trademark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

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 the 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.

In the present case, the Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent’s failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name. The Panel further notes the distinctiveness and worldwide reputation of the Complainant’s Trademark, and the fact that the Complainant has provided no license or authorization of any kind to the Respondent to use the Complainant’s Trademark or to apply for or use any domain name incorporating the Complainant’s Trademark. The Respondent would likely not have adopted the Complainant’s Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originate from, the Complainant. The Panel also notes that the typo-squatting nature of the Disputed Domain Name, particularly as regards the Complainant’s well-known slogan “WE ARE MCI”, highlights the Respondent’s intention to confuse Internet users, which cannot constitute fair use. The Panel also notes that the Respondent did not respond to the Complainant’s cease-and-desist request issued on October 16, 2024, and did not explain to the Complainant the intended use of the Dispute Domain Name as requested by the Complainant.

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.

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.

In the present case, the Panel notes that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it incorporates the Complainant's Trademark with a deliberate misspelling of "mci" as "mcl" to create a domain name that looks like the Complainant's domain names. See paragraph 4(b)(vi) of the Policy and section 3.1 of the [WIPO Overview 3.0](#). Further, the Respondent failed to respond to the Complainant's contentions and have provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name. Panels have previously held that a finding of bad faith can be established where a complainant's trademark is shown to be well-known or in wide use at the time of registration of the disputed domain name (see *LEGO Juris A/S v. store24hour*, WIPO Case No. [D2013-0091](#)). It is likely that the Respondent has been fully aware of the Complainant and the Complainant's Trademark when they registered the Disputed Domain Name, given the well-known nature of the Complainant's brand, evidenced by the various trademark registrations for the Complainant's Trademark across the globe that was put into use well before the Respondent registered the Disputed Domain Name.

The Panel notes that the Disputed Domain Name now resolves to parking page with a message saying "We're under construction. Please check back for an update soon" displayed. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's Trademark, the composition of the Disputed Domain Name, the Respondent's failure to file a Response, and the purportedly false contact detail of the Respondent provided for registration 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.

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 <wearemcl.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: December 26, 2024