

ADMINISTRATIVE PANEL DECISION

Trias Holding AG v. Zhang Qiang, Charlotte Sharp, and Freya Garner
Case No. D2024-4922

1. The Parties

The Complainant is Trias Holding AG, Switzerland, represented by Corsearch, Inc., United States of America.

The Respondents are Zhang Qiang, China, Charlotte Sharp, Germany, and Freya Garner, Italy.

2. The Domain Names and Registrars

The disputed domain names <mcmargentina.net>, <mcmaustralia.net>, <mcmbelgie.net>, <mcmbelgique.com>, <mcmbrasil.com>, <mcmbulgaria.com>, <mcmcanada.net>, <mcmchile.net>, <mcmcolombia.com>, <mcmcz.net>, <mcmdanmark.net>, <mcmdeutschland.net>, <mcmfrance.net>, <mcmgreece.net>, <mcmhrvatska.com>, <mcmhungary.net>, <mcmireland.net>, <mcmisrael.net>, <mcmitalia.net>, <mcmjapan.org>, <mcmkuwait.com>, <mcmlatvija.com>, <mcmlietuva.com>, <mcmexico.net>, <mcmnederland.net>, <mcmnorge.net>, <mcmnz.net>, <mcmperu.net>, <mcmpolska.net>, <mcmportugal.net>, <mcmromania.net>, <mcmslovenija.com>, <mcmslovensko.net>, <mcmsouthafrica.net>, <mcmsrbija.com>, <mcmsuomi.net>, <mcmsverige.net>, <mcmuae.net>, <mcmuk.net> and <mcmwellington.com> (The "Domain Names") are registered with Paknic (Private) Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 25, 2024. On November 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On November 29, and December 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Zhang Qiang / NA) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 5, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on December 10, 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 Respondents of the Complaint, and the proceedings commenced on December 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2025. The Respondents did not submit any response. Accordingly, the Center notified the Respondent's default on January 6, 2025.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on January 9, 2025. 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 owns the luxury brand MCM for luxury luggage and handbags. MCM is distributed online and in over 650 stores worldwide. It enjoys global consumer recognition.

The Complainant owns several trademark registrations in many jurisdictions, for example European Union trademark No. 002667335, registered on August 21, 2003. The Complainant also has an extensive domain name portfolio.

The Respondents appear to have registered the Domain Names between March 11 and August 2, 2024. Most of the Domain Names have resolved to a website where the Respondents pretend to pass off as the Complainant by - without consent from the Complainant - selling the Complainant's products. A few of the Domain Names do not resolve to an active webpage. The Domain Name <mcmwellington.com> resolved to a website that offers clothing and footwear products that compete with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant argues that the Domain Names are effectively controlled by the same person and/or entity that operates under several aliases. All Domain Names incorporate the MCM trademark as the dominant portion. The Domain Names are similarly constructed with the Complainant's trademark followed by a geographical term or abbreviation. The Domain Names use the same IP addresses and have the same server service and Registrar. All Domain Names, except <mcmdeutschland.net> and <mcmwellington.com>, have the same listed registrant. The Complainant believes the registrants behind <mcmdeutschland.net> and <mcmwellington.com> are aliases. The domain name <mcmdeutschland.net> has resolved to the same website as other Domain Names.

The Complainant provides evidence of trademark registrations and argues that the Domain Names feature the Complainant's MCM trademark in its entirety and merely adds various geographical terms and abbreviations. The additions do not prevent a finding of confusing similarity.

The Complainant argues that the Respondents have no rights or legitimate interests in respect of the Domain Names. The Respondents have not been commonly known by the Domain Names. The Complainant has not granted the Respondents any right, authorization, or permission to use the Complainant's trademarks. The Respondents' use of the Domain Names does not give rise to a legitimate interest in the Domain Names, as it is not bona fide.

Given the fame of the Complainant's trademark and the use of most the Domain Names, the Complainant believes that the Respondents had actual knowledge of the Complainant. The Complainant argues that the Respondents are intentionally attempting to attract, for commercial gain, Internet users to the Respondents' sites by creating a likelihood of confusion with the Complainant's trademark. The non-use of some of the Domain Names does not prevent a finding of bad faith under the doctrine of passive holding. Finally, the registrant behind most of the Domain Names (Zhang Qiang) has been behind numerous trademark-abusive domain name registrations as documented by UDRP practice.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural matter - consolidation

The Complaint was filed in relation to nominally different domain name registrants. The Complainant argues that the domain name registrants are the same entity or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards to common control, the Panel notes that all the Domain Names target the Complainant's trademark and have a similar structure. The Domain Names use the same IP addresses and have the same server service and Registrar. Even if the Domain Names <mcmdeutschland.net> and <mcmwellington.com> have a different registrant listed, they are linked to each other and the other Domain Names through the same website and similar contact details.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. The registrants have been granted the right to comment but opted not to.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to as "the Respondent") in a single proceeding.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademarks and the Domain Names. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has established that it has rights in the trademark MCM. The Domain Names incorporate the Complainant's trademarks with the addition of various geographical terms and abbreviations. The additions do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Names. 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 Domain Names. The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Names in connection with a bona fide offering of goods or services. The Respondent use of some of the Domain Names to pass off as the Complainant is clearly not legitimate but rather evidence of bad faith, see below.

Based on the available record, 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.

The incorporation of the entirety of the Complainant’s trademark in the Domain Names, the fame of the Complainant’s trademark, and the use of the Domain Names, make it probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The Panel finds it likely that the Respondent chose the Domain Names because of its similarity with the Complainant’s trademarks.

Panels have held that the use of a domain name for illegitimate activity here, claimed, impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.1.4. The use of the Domain Names to mimic the Complainant is clear evidence of bad faith use.

The non-use of Domain Names does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Moreover, the Complainant has documented that the Respondent before this case has registered numerous domain names in bad faith.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has 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 the Domain Names <mcmargentina.net>, <mcmaustralia.net>, <mcmbelgie.net>, <mcmbelgique.com>, <mcmbrasil.com>, <mcmbulgaria.com>, <mcmcanada.net>, <mcmchile.net>, <mcmcolombia.com>, <mcmcz.net>, <mcmdanmark.net>, <mcmdeutschland.net>, <mcmfrance.net>, <mcmgreece.net>, <mcmhrvatska.com>, <mcmhungary.net>, <mcmireland.net>, <mcmisrael.net>, <mcmitalia.net>, <mcmjapan.org>, <mcmkuwait.com>, <mcmlatvija.com>, <mcmlietuva.com>, <mcmexico.net>, <mcmnederland.net>, <mcmnorge.net>, <mcmnz.net>, <mcmperu.net>, <mcmpolska.net>, <mcmportugal.net>, <mcmromania.net>, <mcmslovenija.com>, <mcmslovensko.net>, <mcmsouthafrica.net>, <mcmsrbija.com>, <mcmsuomi.net>, <mcmsverige.net>, <mcmuae.net>, <mcmuk.net> and <mcmwellington.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: January 17, 2025