

ADMINISTRATIVE PANEL DECISION

Euromaster Services et Management v. DAP KİMYA İNŞ. NAK. SAN. ve
TİC.LTD.ŞTİ.

Case No. D2024-5342

1. The Parties

The Complainant is Euromaster Services et Management, France, represented by Dreyfus & associés, France.

The Respondent is DAP KİMYA İNŞ. NAK. SAN. ve TİC.LTD.ŞTİ., Türkiye, represented by Intra Legal, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <euromasterlubricants.com> is registered with ODTÜ Geliştirme Vakfı Bilgi Teknolojileri Sanayi Ve Ticaret Anonim Şirketi (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 30, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 1, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On January 2, 2025, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain name is Turkish. On January 6, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that 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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint in both English and Turkish, and the proceedings commenced on January 6, 2025. In accordance with the Rules, paragraph 5, the initial due date for Response was January 26, 2025. The Respondent sent an email communication to the Center on January 29, 2025, and requested an extension to Response due date. Accordingly, the Center extended the Response due date to January 30, 2025. The Respondent did not submit anything further.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 5, 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 is a company that was established in 1965. It is a subsidiary of the widely-known Michelin group. It operates over 2,400 service centers for tire services and vehicle maintenance in 17 countries in Europe. In Türkiye alone, where the Respondent is reportedly located, the Complainant operates 157 service points in 50 provinces since 2012.

The Complainant is the owner of the EUROMASTER trademark, which is registered in many jurisdictions around the world. Among others, the Complainant is the registered owner of the Turkish Trademark Registration No. 95/009185, registered on May 13, 1997, for EUROMASTER, covering protection mainly for vehicle maintenance and tire services as protected in class 37.

The Complainant further owns and operates its official website at <euromaster.com> since 1996.

The disputed domain name was registered on September 28, 2023.

According to the case record, the disputed domain name has so far never been linked to an active website.

On October 19, 2023, the Complainant sent via its lawyers a letter to the Respondent (followed by three reminders) and tried to solve the dispute amicably and received nothing further.

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.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Center only received an email communication from the Respondent's lawyer on January 29, 2025, requesting an extension of the Response due date. Even though the due date was extended until January 30, 2025, the Respondent did not submit anything further.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Turkish. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise

in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Complainant has no knowledge of Turkish and that requested translation would be time and costs intensive.

The Respondent did not make any specific submissions with respect to the language of the proceeding, even though communicated by the Center in Turkish and English. Moreover, the email from the Respondent's lawyer dated January 29, 2025 was written in English language only, indicating that the Respondent, or at least its lawyer, is able to read and write in English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

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 EUROMASTER trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the EUROMASTER mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “lubricants”, 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 mark 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 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. In the absence of a response, 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.

Even more, the Panel notes that the composition of the disputed domain name incorporates the Complainant’s EUROMASTER trademark and the term “lubricants”, which is closely related to the Complainant’s products and services as offered under its EUROMASTER trademark. Even if the disputed domain name has apparently not been linked to an active website so far, the Panel finds that this indicates the Respondent’s intention to compete with or capitalize on the reputation and goodwill of the Complainant’s EUROMASTER mark or otherwise mislead Internet users. In view of the Panel, this cannot constitute any right or legitimate interest of the Respondent 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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its EUROMASTER trademark in mind when registering the disputed domain name, particularly considering the inherently misleading composition of the disputed domain name comprising the Complainant’s trademark in its entirety and the additional term directly related to the Complainant’s activities. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name to target the Complainant, its products and services and mislead Internet users.

As regards bad faith use, the Panel notes that the disputed domain name has not yet been actively used and does not resolve to an active website.

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 reputation of the Complainant's EUROMASTER trademark, and the inherently misleading 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.

Taking all facts of the case into consideration, the Panel finds that the disputed domain name is registered and is being used in 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 <euromasterlubricants.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 19, 2025