

ADMINISTRATIVE PANEL DECISION

Bayerische Motoren Werke AG v. Ralfs Liepins, Birojs 2B SIA
Case No. D2025-0067

1. The Parties

The Complainant is Bayerische Motoren Werke AG, Germany, represented by Kelly IP, LLP, United States of America.

The Respondent is Ralfs Liepins, Birojs 2B SIA, Latvia.

2. The Domain Name and Registrar

The disputed domain name <bmw.click> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 8, 2025. On January 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2025, 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 (Privacy Protected / REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2025, 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 January 15, 2025.

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 January 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2025.

The Center appointed Mireille Buydens as the sole panelist in this matter on February 14, 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 leading manufacturer of automobiles and motorcycles, founded in 1916, with headquarters in Germany, and numerous additional locations in countries around the world. The Complainant sells, and distributes automobiles and motorcycles, as well as automotive parts, accessories, and collateral products, and provides numerous services, including maintenance and repair services and financing. Complainant's products and components are manufactured at 32 sites in countries around the world and the Complainant has more than 150,000 employees worldwide. Bayerische Motoren Werke ("BMW") has for decades utilized a network of authorized dealers and importers.

The Complainant has started owning registered trademarks since 1917, including, but not limited to (hereafter "the BMW Trademark"):

- German trademark registration No. 221388 for BMW (word and design), registered on December 10, 1917;
- United States trademark registration No. 611710 for BMW (word mark), registered on September 6, 1955;
- Latvia trademark registration No. M 12 641 for BMW (word mark) registered on February 21, 1994;
- European Union Trade Mark No. 91835 for BMW (word mark), registered on February 25, 2000.

The BMW Trademark has been recognized repeatedly as one of the top 100 brands in the world, including being ranked in the Top 10 of the Interbrand's "Best Global Brands 2023" List.

The Complainant also owns various domain names including the BMW Trademark, including <bmw.com> and <bmwgroup.com>. The Complainant's portal websites provide information regarding BMW's products and services. In addition to its corporate websites, BMW has for years permitted its authorized dealers and importers to use domain names comprised in part of the BMW Trademark, subject to the terms of various agreements, for their authorized BMW businesses.

The disputed domain name was registered on February 5, 2021, and, according to the Complaint, resolves to a website prominently displaying the BMW Trademark and advertising, offering, and purporting to sell products under the BMW Trademark (automotive parts, accessories, and apparel). On the top of the page, one can read "genuine spare parts and accessories". At the bottom of the page, one can read (with difficulties as it is in a small grey font on a black background) "the website is not affiliated with BMW in any way and should not be confused with the websites of BMW AG, BMW M. GmbH. All trademarks and registered trademarks are the property of their respective owners". At the date of this decision, the disputed domain name resolves to a blank page mentioning "this account has been suspended".

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 confusingly similar to the BMW Trademark because it consists solely of the Complainant's BMW Trademark in its entirety and

merely adds the Top-Level Domain “.click.”

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way. Nor has the Complainant given the Respondent permission to use the Complainant's Trademark in any manner, including in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The disputed domain name is used to redirect Internet users to a website that advertises, offers, and purports to sell various products of dubious origins, including unauthorized (and potentially counterfeit) BMW-branded products, and prominently uses the BMW Trademark. As a result, the Respondent induces Internet users into believing that the disputed domain name resolves to a website operated or endorsed by the Complainant. The disclaimer and non-affiliation language in small font at the bottom of the website is insufficient to dispel the likely confusion because the website nonetheless uses the Complainant's intellectual property in various highly confusing and misleading manners. The Respondent's use of a disclaimer on the resolving website is therefore not sufficient to confer rights and legitimate interests.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant submits that the Respondent intentionally attempted to attract, for commercial gain, Internet users to the website located at the disputed domain name by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, the website, and/or the Respondent's activities. The Complainant further submits that the Complainant and its Trademark are well known, so that it is inconceivable that the Respondent ignored the Complainant and its earlier rights. In light of the reputation of the Complainant and its BMW Trademark, it is obvious that the Respondent had knowledge of both the Complainant and its Trademark at the time the disputed domain name was registered. The Respondent's actual knowledge of the Complainant and its BMW Trademark is further established because the disputed domain name resolves to a website that advertises, offers, and purports to sell unauthorized (and potentially counterfeit) BMW-branded products. It results therefrom that the Respondent attempted to misrepresent itself as being endorsed by or affiliated with the Complainant in order to sell unauthorized or counterfeit BMW products. Respondent's attempt to legitimize the registration and use of the disputed domain name by including the disclaimer and non-affiliation language at the bottom of the website is insufficient to deter a finding of bad faith use and registration.

B. Respondent

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

6. Discussion and Findings

Dealing with the Respondent's failure to file a Response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (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 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 textual elements of 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.

Based on the available records, the Panels finds that the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the BMW Trademark is reproduced within the disputed domain name, with no addition or change. The generic Top-Level Domain ("gTLD") ".click" is a standard registration requirement and does not prevent the disputed domain name from being identical to the BMW Trademark.

Accordingly, the disputed domain name is identical to the BMW Trademark for the purposes of the Policy.

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.

The Respondent is not licensed by nor affiliated with the Complainant in any way. There is no evidence that the Respondent would be commonly known under the disputed domain name, nor is there any evidence of use or demonstrable plans to use the disputed domain name for a bona fide offering of goods or services. There is no evidence of legitimate noncommercial or fair use of the disputed domain name, either.

The Panel notes that the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1). The composition of the disputed domain name, which consists merely of the BMW Trademark with no change or addition along with the gTLD ".click", coupled with the use of the disputed domain name to resolve to a website that impersonates the Complainant (use of the Complainant's Trademark for identical or at least very similar products, prominent use of the BMW logo, pictures of the Complainant's well known cars), affirms the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant's Trademark. This confirms that there is no use, nor preparations to use, of the disputed domain name in connection with a bona fide offering of goods or services.

Panels have held that the use of a domain name for illegitimate activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The resolving website contains, at the bottom of some pages, a disclaimer stating “This website is not affiliated with BMW in any way and should not be confused with the websites of BMW AG, BMW M. GmbH. All trademarks and registered trademarks are the property of their respective owners”. However, the panel notes that this disclaimer appears in a very small font, in grey letters on a black background. It will go unnoticed by most Internet users, who will most likely believe that they are on a website operated by or affiliated with the Complainant (the more that, on the top of the page, it is mentioned “genuine spare parts and accessories”, reinforcing the impression that the resolving website is endorsed by the Complainant).

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.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy. The Panel notes that the disputed domain name merely consists of the BMW Trademark along with the gTLD “.click” for resolving to a website which proposes identical or at least very similar products (automotive parts and accessories). As a result, the Panel finds it evident that the Respondent was aware of the Complainant’s Trademark at the time of the registration of the disputed domain name.

Moreover, panels have held that the use of a domain name for illegitimate activity, here impersonating or passing off, constitutes bad faith. In the present case, as pointed out above, the disputed domain name resolves to a website offering products that are identical or at least very similar to the products offered by the Complainant (or its authorized dealers). The Respondent passes itself off as the Complainant: by choosing the Complainant’s BMW Trademark as domain name and by prominently featuring the Complainant Trademark and logos on the website, the Respondent attempted to misrepresent itself as being endorsed by or affiliated with the Complainant. Nothing indicates on the resolving website, in a clear and legible way, that it is not a website operated by, affiliated to, or endorsed by the Complainant. The disclaimer at the bottom of the website’s pages, in small grey letters on a black background, will go unnoticed to most Internet users. In view of the disputed domain name consisting of the BMW Trademark and the prominent use of the BMW Trademark and logo on each page of the website, as well as on the products offered for sale, Internet users will be induced to believe that they are on an official website of the Complainant or at least on a website endorsed by the Complainant. Where the overall circumstances of a case point to the respondent’s bad faith, the mere existence of a disclaimer cannot cure such bad faith. In such cases, panels may consider the respondent’s use of a disclaimer as an admission by the respondent that users may be confused. [WIPO Overview 3.0](#) section 3.7.

In light of this and taking into consideration the well-known character of the Complainant’s Trademark, it seems inconceivable that the Respondent would have registered and used the disputed domain name for a reason other than seeking to unduly benefit from the Complainant, its well-known BMW Trademark, and associated goodwill.

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 <bmw.click> be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: February 27, 2025