

ADMINISTRATIVE PANEL DECISION

Australia Malt Holdco Pty Ltd v. deep kumar
Case No. D2025-1307

1. The Parties

Complainant is Australia Malt Holdco Pty Ltd, Australia, represented by Fidal Avocats, France.

Respondent is deep kumar, India.

2. The Domain Name and Registrar

The disputed domain name <unitedmaltgroups.com> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2025. On April 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 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 (No information provided) and contact information in the Complaint. The Center sent an email communication to Complainant on April 2, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 4, 2025.

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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 28, 2025.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on May 6, 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

Complainant appears to be a proprietary limited company registered in Australia that is owner of the trademark registrations relied upon in this proceeding. Complainant (or its affiliated owner)¹ was acquired in 2023 by Malteries Soufflet, a subsidiary of the InVivo Group (based in France). The InVivo Group is a large agricultural group based in France. Prior to its acquisition by Malteries Soufflet, Complainant (or its affiliated owner) was the fourth leading global maker of malt (a “malster”²), with malting plants and distribution centers across Canada, the United States of America (“United States”), Australia, New Zealand, and the United Kingdom.³ Complainant (or its affiliated owner) operates a commercial website at domain name <unitedmalt.com> and owns various additional UNITED MALT-formative domain name registrations.

Complainant asserts ownership of registrations for the word trademark UNITED MALT in a number of countries, including Australia, registration number 2030485, registration dated March 23, 2020, in international classes (“ICs”) 30, 31, 35, 39 and 42; the United Kingdom, registration number UK00801518550, registration dated July 22, 2020, in ICs 30, 31, 35, 39 and 42, and; an International Registration under the Madrid System, registration number 1518550, registration dated January 16, 2020, in ICs 30, 31, 35, 39 and 42, showing corresponding registrations in the designated countries/region Brazil, Canada, China, European Union, Japan, New Zealand, Republic of Korea, Philippines, United States and Viet Nam.⁴ Complainant also asserts ownership of word and design trademark registrations for UNITED MALT in various countries.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to the Whois report, the disputed domain name was registered on November 13, 2024. There is no indication that any party other than Respondent has owned or controlled the disputed domain name since its initial creation date.

Complainant has alleged that Respondent is not making active use of the disputed domain name.

¹ Complainant is referred to as Australia Malt Holdco Pty Ltd in the Complaint. According to the Press Release reporting on an acquisition by the InVivo Group, the acquired party was named “United Malt Group Limited (United Malt)” (see <https://www.invivo-group.com/sites/default/files/documents/2023-11/2023.11.15-Everest-Closing-PR-EN.pdf>). The Complaint does not indicate the legal relationship between itself and United Malt Group Limited.

² “A malster is a person who makes malt, typically for use in brewing or distilling. They oversee the process of malting, which is the controlled germination and drying of grains, usually barley, to make it suitable for brewing.” Google Gemini query by Panel, May 11, 2025.

³ Complainant has provided limited information regarding the corporate structure in which it is situated, other than by reference to a website that describes Complainant’s apparent corporate parent/affiliate prior to its acquisition, and with annual reports only for the years 2020 through 2022. Neither that website nor the press release regarding the acquisition (see note 1, supra) indicate the extent to which Complainant or its trademark will continue to be used by the combined entities subsequent to the acquisition. Although Complainant’s United Malt website, at <unitedmalt.com>, refers to a long history of malting businesses tracing back to the early 1800s, it does not indicate when the trademark UNITED MALT came to be used for the businesses that ultimately formed Complainant, the Panel noting that for the trademark registrations referred to by Complainant, the earliest filing date is in Australia on August, 15, 2019. This raises the presumption for the Panel that UNITED MALT as a trademark has been in use for approximately five years.

⁴ Complainant has not furnished certificates of registration, nor has it provided detailed information regarding the goods and/or services in the relevant classes it has identified.

Complainant has also argued and provided evidence that Respondent has directed the disputed domain name to a website that “seems to be a copy of IbisWorld website as it reproduces the website’s design and architecture except the mention of specific people such as in sections Our Team and Our Partners which have been removed”. There are digital buttons on the associated website, some of which refer to contacting the operator of the website, though Complainant has not specified whether any of these buttons are operational such as to potentially provide Respondent with information regarding a party that has contacted it (i.e., pressed a button and provided information). On December 13, 2024, Complainant transmitted by email a cease-and-desist and transfer demand to the Registrar with respect to the disputed domain name, for which it did not receive a reply.

There is no evidence on the record of this proceeding of any association, commercial or otherwise, between Complainant and Respondent.

5. Parties’ Contentions

A. Complainant

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

Notably, Complainant contends that it is the owner of rights in the trademark UNITED MALT and that the disputed domain name is confusingly similar to that trademark.

Complainant alleges that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent is not commonly known under the disputed domain name, nor is it making a bona fide offering of goods or services; (2) Respondent does not make any use of a business name which includes the disputed domain name, and has no trademark composed of the disputed domain name; (3) Complainant has not authorized, licensed, permitted or otherwise consented to Respondent’s use of its trademark or the disputed domain name; (4) Respondent is deliberately creating confusion for Complainant’s business, and leading Internet users to believe that it is associated with Respondent’s website.

Complainant contends that Respondent registered and is using the disputed domain name in bad faith because: (1) Respondent is engaged in passive holding of the disputed domain name in bad faith; (2) Respondent must have been aware of Complainant and its trademark when it registered the disputed domain name because Complainant’s trademark is well-established (with Complainant referring to three prior UDRP decisions referring to the INVIVO trademark of Complainant’s new parent company “InVivo Group”, and not the UNITED MALT trademark of Complainant); (3) Respondent’s registration of the disputed domain name postdates Complainant’s rights in the INVIVO trademarks; (4) the disputed domain name is associated with an MX record; (5) the association by Respondent of the disputed domain name with a website that appears to be a copy of third party website is fraudulent and damages Complainant’s activities, reputation and client relations; (6) Respondent is engaged in typo-squatting because the disputed domain name differs from Complainant’s UNITED MALT or United Malt Group by a single letter; (7) registration of the disputed domain name obviously connected with a well-known name and products suggests opportunistic bad faith, with intention to confuse Complainant’s actual or potential customers into believing that Respondent is Complainant.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

The Center formally notified the Complainant to Respondent at the email and physical addresses provided in its record of registration. Courier delivery to the physical address provided by Respondent in its record of registration could not be completed because of inaccurate and inadequate address information provided in the record of registration. It appears that email transmission to Respondent listed addresses may have been partially successful. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;

(ii) 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 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.

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

The entirety of the UNITED MALT 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 "groups", 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 notes that Complainant has used the term "group" in association with its trademark to refer to its business.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant, as here, makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Despite Complainant's seemingly conflicting arguments regarding passive and active use, Respondent has made active use of the disputed domain name from the standpoint of the Policy in connection with a website that appears to incorporate elements of a website operated by a substantial third-party hotel group unrelated to Respondent or Complainant. This use by Respondent does not constitute a bona fide offering of goods or services, and it does not constitute legitimate noncommercial or fair use of the disputed domain name. There is no evidence that Respondent or the disputed domain name is in any way associated with the third-party hotel group to which the disputed domain name is linked, nor is there any evidence that Respondent has any trademark rights in the disputed domain name, nor other established rights in the disputed domain name itself.

Panels have held that the use of a domain name for illegitimate activity, here claimed as impersonation of a third-party hotel group, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent knew or should have known of Complainant's rights in the UNITED MALT trademark because a routine Google search for that term principally provides results referring to Complainant (or its affiliated group). In addition, Complainant appears to have routinely operated as "United Malt Group" which is nearly identical to second-level domain in the disputed domain name (i.e., <unitedmaltgroups.com>. Respondent is highly unlikely to have selected the disputed domain name inadvertently and without reference to Complainant.⁵

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.

The Panel will not address Complainant's arguments regarding passive use of the disputed domain name because the disputed domain name has been actively used by Respondent ⁶

⁵The Panel observes that Complainant's arguments regarding the well-known character of its trademark rely on the previously decided character of the INVIVO trademark of its new parent company. These arguments are not relevant to the character of Complainant's UNITED MALT trademark. The Panel declines to make any finding regarding whether the UNITED MALT trademark may be well known.

⁶Complainant has alleged the establishment of an MX record by Respondent but has not provided evidence to support the allegation. The Panel notes that if an MX record was established in connection with the disputed domain name, that fact standing alone does not provide material evidence of bad faith since such records are created as a matter of routine by various registrars in connection with registration of domain names.

Panels have held that the use of a domain name for illegitimate activity, here claimed as impersonation of a third-party hotel group, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Although Complainant has not provided evidence of the operational characteristics of the website operated by Respondent and whether, for example, it is able to collect information from Internet users under the mistaken impression that it is associated with a third-party hotel operator or Complainant, impersonating a third-party hotel operator is an illegitimate use of the disputed domain name by Respondent, whether or not it is actively engaged in a scheme to defraud.

The disputed domain name is nearly identical to Complainant's longer form business name "United Malt Group", of which its trademark UNITED MALT constitutes the predominant part. The addition by Respondent of an "s" to "Group" might be considered a form of typo-squatting, though the "s" is attached to the business or trade name of Complainant, as compared to its trademark. Whether or not it is "typo-squatting" as such, there is nonetheless an evident attempt to confuse Internet users as to the identity of the owner of the disputed domain name and operator of its associated website. This is sufficient to constitute evidence of bad faith by Respondent in the sense of registering and using the disputed domain name for commercial gain by creating confusion for Internet users as to Complainant being the source, sponsor, affiliate or endorser of Respondent's website. This constitutes bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <unitedmaltgroups.com> be transferred to Complainant

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: May 16, 2025