

ADMINISTRATIVE PANEL DECISION

Saint-Gobain Glass v. Dondera Ion Bogdan Cristian
Case No. DRO2023-0004

1. The Parties

The Complainant is Saint-Gobain Glass, France, represented by Nameshield, France.

The Respondent is Dondera Ion Bogdan Cristian, Romania.

2. The Domain Name and Registry

The disputed domain name <masterglass.ro> is registered with ROTLD (the "Registry").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on May 17, 2023. On May 17, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On May 18, 2023, the Registry 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 22, 2023, 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 May 23, 2023.

On May 22, 2023, the Center informed the parties in Romanian and English, that the language of the registration agreement for the disputed domain name is Romanian. On May 23, 2023, 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 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 June 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 26, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on June 29, 2023. 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.

Language of proceedings

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Romanian. Under paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant requests that the language of proceedings be English. The Center has sent all its communications to the Respondent in both English and Romanian and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted any objections to the Complainant's request that the proceedings be held in English. The disputed domain name is in English and from the un rebutted evidence submitted by the Complainant it appears that the website at the disputed domain name was available in English.

The above satisfies the Panel that the Respondent would not be disadvantaged if the language of the proceeding is English, and that using the English language in this proceeding would be fair and efficient. Therefore, in exercise of its powers under paragraph 11 of the Rules, the Panel decides that the language of this administrative proceeding will be English.

4. Factual Background

According to information in the Complaint, the Complainant is a subsidiary of the French company Saint-Gobain, specialized in the production, processing and distribution of materials for the construction and industrial markets. It manufactures and offers a full range of different types of flat construction glass all over the world including in Romania. The Complainant's MASTERGLASS line is a range of products used by the Complainant to market textured and murky glass.

The Complainant is the owner of several trademarks consisting of MASTERGLASS, registered worldwide, including in Romania, such as the European Union Trade Mark MASTERGLASS no. 001258599 registered on December 16, 2003. The Complainant also owns many domain names that include its trademark MASTERGLASS, such as the domain name <masterglass.info> registered on July 31, 2001.

The disputed domain name was registered on January 18, 2023, and resolves to a website marketing safety glass, mirrors, cladding with colored or printed glass for the kitchen and bathroom, glass doors, shower cabins, and glass railings.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is identical to its well-known and distinctive trademark MASTERGLASS, which is included in its entirety in the disputed domain name.

As regards the second element, the Complainant argues that the Respondent is not known by the disputed domain name, as the Respondent is not identified in the Whois database as the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license

nor authorization has been granted to the Respondent to make any use of the Complainant's trademark MASTERGLASS, or to apply for registration of the disputed domain name. Furthermore, the disputed domain name resolves to a website marketing safety glass, mirrors, cladding with colored or printed glass for the kitchen and bathroom, glass doors, shower cabins, glass railings. The Complainant contends that the use of a disputed domain name to resolve to a webpage offering competing goods or services may not qualify as a *bona fide* offering of goods or services nor as a legitimate noncommercial or fair use under Policy.

With respect to the third element, the Complainant argues that the Respondent has registered the disputed domain name several years after the registration of the trademark MASTERGLASS by the Complainant, which has established a strong reputation while using this trademark. The disputed domain name resolves to a website marketing safety glass, mirrors, cladding with colored or printed glass for the kitchen and bathroom, glass doors, shower cabins, glass railings. Thus, given the distinctiveness of the Complainant's trademarks and their reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The Complainant further argues that the Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant or, at a minimum, disrupt Complainant's business by offering services in direct competition with the Complainant, which amounts to bad faith use.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the MASTERGLASS trademark by providing evidence of its trademark registrations.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the Top-Level Domain ("TLD") may be ignored when assessing the confusing similarity

between the disputed domain name and the Complainant's trademarks as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The disputed domain name incorporates the MASTERGLASS trademark in its entirety without any addition. It is, therefore, identical to the MASTERGLASS trademark in which the Complainant has rights.

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name.

As established by previous UDRP panels, it is sufficient for the complainant to make a *prima facie* case demonstrating that the respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has proved it holds rights over the trademark MASTERGLASS, and claims that the Respondent has no legitimate reason to acquire the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, the website at the disputed domain name seems to be used for competing services with those of the Complainant and displays the MASTERGLASS trademark of the Complainant. The use of the disputed domain name for a website of commercial nature, offering services within the same industry as the Complainant, cannot confer rights or legitimate interests upon the Respondent.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because the Respondent did not respond to the Complainant's contentions.

Furthermore, the nature of the disputed domain name carries a high risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(ii) of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the un rebutted assertions of the Complainant, its MASTERGLASS trademarks were used in commerce well before the registration of the disputed domain name. The Complainant contends that the disputed domain name was registered several years after the registration of the trademark MASTERGLASS by the Complainant, and that the Complainant manufactures and offers a full range of different types of flat construction glass all over the world including in Romania, where the Respondent is located. The disputed domain name is identical to the Complainant's trademarks and it is used for a website that displays the Complainant's trademark and offers competing services. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademarks at the registration date of the disputed domain name.

As regards the use of the disputed domain name, the Panel accepts the Complainant's evidence, which the Respondent has not disputed, that the Respondent uses the disputed domain name to resolve to a website featuring the Complainant's MASTERGLASS trademark and offering competing services to those of the Complainant. Such use is likely to mislead Internet users looking for the Complainant's products or services. Accordingly, the Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of his website or of a product or service on his website (paragraph 4(b)(iv) of the Policy).

With the evidence on file, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are satisfied.

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, <masterglass.ro>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: July 13, 2023