

Decision for dispute CAC-UDRP-105237

Case number CAC-UDRP-105237

Time of filing 2023-03-07 14:02:37

Domain names MECAIL.COM

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Mecal Machinery S.r.l.

Complainant representative

Organization Perani Pozzi Associati

Respondent

Name caribel moon

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following registrations for the trademark MECAL:

- International trademark MECAL (Reg. No. 1286889) registered on September 25, 2015, in connection with class 7 extended to several countries, including USA and Mexico;
- EU trademark MECAL (reg. No. 14579346), registered on February 22, 2016, in connection with class 7.

FACTUAL BACKGROUND

The Complainant, Mecal Machinery S.r.l., is an Italian company founded in 1978 and specialized in the production of machines and systems for the processing of aluminum, PVC and light alloys. The Complainant produces 60 types of products, serves for more than 37.250 customers worldwide and operates about 50.000 square meters of production facilities. Its presence in the world is realized through joint ventures, distribution agreements or direct sales.

The Complainant also owns domain names <mecal.com> and <mecal.it>.

On January 27, 2023, the Respondent registered the disputed domain name <MECAIL.COM>. It is not used as the website, however,

e-mail messages fraudulently impersonating Complainant's employees are being sent (phishing), and therefore, Complainant has addressed Italian police to start criminal investigation.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel agrees with the Complainant that the disputed domain name <mecail.com> is confusingly similar to the Complainant's trademark MECAL. Considering the renown of the Complainant and its trademark MECAL, it becomes evident that incorporating a typo of the Complainant's well-known, distinctive trademark MECAL by merely inserting the letter "i", does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark.

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names. The Respondent's name "caribel moon" does not resemble the disputed domain name in any manner. Respondent's use of the disputed domain names does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent meant Complainant's trademark MECAL when he/she registered the disputed domain name <mecail.com> (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The evidence in this case also show that the disputed domain name has been used to pretend Complainant's employee and fraudulently send e-mail messages in order to deceive the Complainant's customers, requesting the payment of invoices to bank accounts that were different from those generally used by the Complainant incorporating the disputed domain name (phishing). Therefore, it is clear that the Respondent used the disputed domain name to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark. This qualifies as bad faith use under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **MECAIL.COM**: Transferred

PANELLISTS

Name	Darius Sauliūnas
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DATE OF PANEL DECISION **2023-04-07**

Publish the Decision
