Decision for dispute CAC-UDRP-106335

Case number	CAC-UDRP-106335
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Domain names	amanresidensesmiami.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Aman Group S.á.r.l.

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	Angelica Uribe

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 <amanresidensesmiami.com>.

IDENTIFICATION OF RIGHTS

The Complainant owns the registered trademark AMAN in numerous territories around the world, including but not limited to:

- AMAN, EU, Registration No. 005892757, registered on March 4, 2008;
- AMAN, USA, Registration No. 5870593, registered on October 1, 2019;
- Aman, Australia, Registration No. 834808, registered on May 11, 2000;

Due to extensive use, advertising, and revenue associated with its trademarks worldwide, the Complainant enjoys a high degree of renown worldwide as recognized by Travel Luxury Intelligence in 2018 when AMAN brand was rated number one in the Top Luxury Hotel Brands.

The Complainant owns the domain name www.aman.com which was registered on July 22, 1997.

The Complainant and its affiliates use the domain name to connect to the website through which it informs potential customers about the AMAN mark, related brands, and products and services.

FACTUAL BACKGROUND

Aman Group S.á.r.l. (the “Complainant”), along with its affiliates, subsidiaries and related entities, is a luxury hotel and accommodation business with around 35 destinations in 20 countries, 15 of which are located close to or within Unesco-protected sites. Currently, the Complainant owns five (5) hotels/residences in the USA: AMANGANI in Jacksonhole, USA, AMANGIRI in Utah, USA, AMAN NEW YORK in New York, USA, and with AMAN MIAMI BEACH in Miami, USA and AMAN BEVERLY HILLS in Beverly Hills, USA set to open their doors in 2026 and 2027 respectively. AMAN MIAMI BEACH, in addition to 56 guest suites, will also become a home, with a new standalone residence-only building resting alongside the hotel as a new addition to the landscape and offering no more than 22 branded residences.

The disputed domain name <amanresidensesmiami.com> was registered on January 22, 2024.

PARTIES CONTENTIONS

COMPLAINANT:

• The disputed domain name is identical or confusingly similar to the protected mark

According to the Complainant, the disputed domain name <amanresidensesmiami.com> incorporates entirely the Complainant’s well-known, distinctive trademark AMAN along with the addition and misspelling of the generic but related term ‘‘residenses’’ plus the geographic term ‘‘miami’’. UDRP panels have recognized that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See sections 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

Also, the addition of the generic Top-Level Domains (gTLD) ".com" does not add any distinctiveness to the disputed domain name.

Therefore, the Complainant argues that the disputed domain name is confusingly similar to the Complainant's AMAN trademark within the meaning of Paragraph 4(a)(i) of the Policy.

• Respondent does not have any rights or legitimate interest in the disputed domain name

According to the Complainant, the disputed domain name is not being used in connection with a bona fide offering of goods or services. The disputed domain name resolves to a look-a-like website of Complainant’s official website prominently displaying the AMAN trademark and logo. A copyright symbol followed by ‘’ © 2024 Million and Up Realty Miami Inc.’’ appears in the footer. Further, the website associated with the disputed domain name includes an online form login page that directs customers once they click on the sections that are located at the start of the webpage. As such, this online form appears to be an attempt to phish customers’ personal information as the website asks the visitor to submit an email address, full name and mobile number.

In addition, it is clear from the deliberate misspelling of the term “residence” with the “c” swapped to an “s” within the disputed domain name as well as the actual use of the disputed domain name that the Respondent was aware of the Complainant’s marks prior to the acquisition of the disputed domain name and the establishment of the Respondent’s website. The Complainant has never authorized the Respondent to use its trademarks or content in any manner, so the use of the disputed domain name could not be considered legitimate use.

The Respondent appears to be using the disputed domain name to perpetrate a phishing scheme that cannot constitute legitimate rights and interests in the disputed domain name pursuant to Paragraph 4(a)(ii) of the Policy. The Respondent is using the disputed domain name in a fraudulent scheme to deceive Internet users into providing their personal information through a prominent call out on the home page, asking visitors to submit their email addresses, full name and mobile numbers. Further, a Google search of the term, “Aman Miami Beach” showed the top sponsored result pointed to the disputed domain name, demonstrating a clear intention to target consumers with an interest in AMAN MIAMI BEACH.

The Complainant has not found that the Respondent is commonly known by the disputed domain name or that it has any interest in the disputed domain name or the major part of it. When entering the terms “AMAN’’ and ‘’AMAN RESIDENCES MIAMI’’ in the Google search engine, the returned results point to the Complainant and its business activity. The Respondent could easily perform a similar search before registering the disputed domain name and would have quickly learned that the Complainant owns the trademarks and that the Complainant has been using its trademarks extensively.

The Complainant concludes that it has not found any evidence that the Respondent has made any known legitimate, non-commercial use of the disputed domain name. The Respondent is not making legitimate, noncommercial, or fair use of the domain names but instead, is using the disputed domain name in furtherance of fraudulent activity, namely posing as being an official site of the Complainant’s with the potential to fraudulently harvest visitor’s personal information.

Therefore, the Complainant contends that the Respondent has no right nor legitimate interest in respect of the disputed domain name, within the meaning of the Paragraphs 4(a)(ii) and (4)(c) of the Policy.

• The disputed domain name has been registered and is being used in bad faith

The Complainant argues that the Complainant’s AMAN trademarks long predate the registration of the disputed domain name and the Respondent has never been authorized by the Complainant to register the disputed domain name, nor does the Complainant

have any relationship with the Respondent. The active business presence of the Complainant in different markets and on a significant scale around the world - and the use of the deliberately misspelled term “residenses” in the disputed domain name - makes it apparent that the Respondent was aware that the registration of the disputed domain name was unauthorized and improper.

In addition, the Complainant has submitted a takedown request to the Registrar on March 04, 2024, via email, to deactivate the disputed domain name along with all associated content infringing on the Complainant's trademarks and intellectual property. The disputed domain name resolves to a sophisticated look-a-like website of the Complainant’s official website prominently displaying the AMAN trademark and logo, similar color palette and related images from the official website.

The numerous mentions of the Complainant’s mark and sophisticated use of the Complainant-related imagery in the website associated with the disputed domain name makes it highly likely that Internet users will believe that there is an association between the disputed domain name and the Complainant. This indicates the Respondent’s intention to attempt to attract Internet users to its website by creating a likelihood of confusion between the disputed domain name and the AMAN trademark. For this reason, the Respondent must have had actual knowledge of the Complainant’s rights in the AMAN mark since the disputed domain name fully incorporates the Complainant’s mark with the mere addition of the related term using a common misspelling ‘‘residenses’’ and the relevant geographic term ‘‘miami’’ where the AMAN mark is prominent and is unquestionably recognizable. This demonstrates that the Respondent was not only aware of the Complainant’s rights but specifically targeted the Complainant as part of an attempt to deceive potential customers into believing that the disputed domain name website is owned by, operated or otherwise legitimately affiliated with the Complainant. It is clear, according to the Complainant, that the Respondent uses the disputed domain name to intentionally attempt to attract, for commercial gain, internet users to the website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation or endorsement of its website.

The Complainant further argues that the disputed domain name is also raising concerns about the harvesting of information. The site is likely used to deceive users and potentially compromise of personal data. Therefore, this unauthorized usage of the Complainant’s trademark and false claims of legitimacy present a significant threat not only to the Complainant’s intellectual property rights but also to the unsuspecting visitors who may fall victim to fraudulent activities associated with this domain. Moreover, based on the Registrar Verification, the Respondent has intentionally provided false contact information associated with the disputed domain name, specifically the address which is located in Miami, Florida; however, the country is Colombia according to the Registrar Verification. This deliberate act not only indicates a lack of transparency but also raises suspicions of bad faith registration and use.

Lastly, the Complainant’s trademark registrations long predate the Respondent’s disputed domain name registration because the Complainant’s AMAN trademark was filed in 2000, whereas the disputed domain name was registered in 2024. This, according to the Complainant, constitutes bad faith due to the gap of more than ten years between the registration of the Complainant’s trademarks and the Respondent’s registration of the disputed domain dame.

Therefore, the Complainant contends that the Respondent has registered and used the disputed domain name in bad faith and its conduct falls within the meaning of Paragraph 4(a)(iii) of the Policy.

In conclusion, the Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

RESPONDENT:

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 UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (UDRP) of the Internet Corporation for Assigned Names and Numbers (ICANN) (the “Policy”) provides that complainant must prove each of the following to obtain transfer or cancellation of the domain name:

1. that respondent’s domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

2. that respondent has no rights or legitimate interests in respect of the domain name; and

3. the domain name has been registered and is being used in bad faith.

1) The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights

The Panel is satisfied that the Complainant is the owner of trademark registrations for AMAN that predate the registration of the disputed domain name.

The disputed domain name is comprised of the Complainant’s well-known trademark AMAN with the addition of the terms "residenses" and "miami". Essentially, the Respondent has appropriated the trademark AMAN by adding a generic and misspelled term "residenses" plus the geographic term ‘‘miami’’ to presumably lead consumers to believe that it is affiliated with the Complainant and its business activities. Previous UDRP panels have found that the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for the purposes of the Policy (see, e.g., Oki Data Americas Inc. v ASD, Inc., WIPO Case No. D2001-0903). Previous UDRP panels have also constantly held that the mere addition of a descriptive or generic term would not prevent a finding of confusing similarity to a trademark (see Minerva S.A. c. Domain Administrator, Fast Serv Inc. d.b.a. QHoster.com, WIPO Case No. D2019-2767).

It is clear from the deliberate misspelling of the term “residence” with the “c” swapped to an “s” within the disputed domain name as well as the actual use of the disputed domain name that the Respondent was aware of the Complainant’s marks prior to the acquisition of the disputed domain name. It is well established that typosquatting can constitute a finding that the domain name is confusingly similar (Deutsche Bank Aktiengesellschaft v. New York TV Tickets Inc., WIPO Case No. D2001-1314, DaimlerChrysler Corporation v. Worshipping, Chrisler, and Chr, aka Dream Media and aka Peter Conover, WIPO Case No. D2000-1272 and Playboy Enterprises v. Movie Name Company, WIPO Case No. D2001-1201). The Panel considers this to be a clear case of typosquatting.

Additionally, the disputed domain name not only fully incorporates the AMAN trademark but also includes a purely generic top-level domain (“gTLD”) “com”. Previous UDRP panels have also held that the gTLD “.com” is not to be taken into account when assessing whether a domain name is identical or confusingly similar to a trademark. See e.g., Wiluna Holdings, LLC v. Edna Sherman, FA 1652781 (Forum 22 January 2016).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark AMAN.

2) The Respondent lacks rights or legitimate interests in the disputed domain name

Under the Policy, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy (see WIPO Overview 2.0, paragraph 2.1).

The Panel finds that the Respondent does not have a legal right to use the term "AMAN” as part of the disputed domain name. The Respondent is not in any way affiliated with the Complainant nor is it authorized to register the disputed domain name. The Panel agrees with the Complainant that the Respondent is not commonly known by the disputed domain name or that it has legitimate interest over the disputed domain name. When entering the terms “AMAN” plus “residenses” plus "miami" in the Google search engine, the returned results point to the Complainant and its business activities.

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant’s trademark for its commercial activities.

The Panel thus takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name.

3) The disputed domain name has been registered and is being used in bad faith

The Panel agrees with the Complainant that its trademark AMAN is distinctive and well-known globally. The Complainant's well-known trademark AMAN significantly predates the registration of the disputed domain name. The Panel finds that there appears no reason why the Respondent would register the Complainant's trademark as part of the disputed domain name, other than to create the impression that it is connected to the Complainant's business activities. Given the distinctiveness of the Complainant's trademark worldwide and its strong online presence, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's well-known trademark AMAN. The Complainant's use and registration of the trademark AMAN significantly precede the registration date of the disputed domain name. The fact that the Respondent has registered a domain name that includes the term AMAN with the addition of the generic and misspelled term "residenses" plus the geographic term ''miami'', and despite the addition of the gTLD ".COM", clearly indicates that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name. It is reasonable to conclude that this is evidence of registration of the domain name in bad faith.

In fact, the use of the term "residenses" and "miami" in connection with the AMAN trademark rather strengthens the impression that the disputed domain name is in some way connected to the Complainant or the Complainant's business activities, and at least the Respondent may be seen to free ride on the reputation of the Complainant and its name and trademark AMAN.

In addition, the Panel notes that the Respondent's attempt to defraud the Complainant's customers by reproducing the Complainant's website prominently displaying the AMAN trademark and logo, similar color palette and related images claiming to provide real estate services with location in Miami, USA to presumably deceive internet users into believing the website was operated by the Complainant does not constitute good faith of use of the disputed domain name.

For all reasons stated above, the Panel is satisfied that the Complainant has proven the third element of the Policy, which is that the Respondent's registration and use of the disputed domain name is in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amanresidensesmiami.com**: Transferred

PANELLISTS

Name	**Barbora Donathová**

DATE OF PANEL DECISION 2024-04-18

Publish the Decision