Decision for dispute CAC-UDRP-106312

Case number	CAC-UDRP-106312
Time of filing	2024-04-17 10:10:36
Domain names	mairegroup.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Maire S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	Anwar Mai

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's majority shareholder GLV CAPITAL S.p.A. is the owner of the following trademark registrations for the sign "MAIRE" (the "MAIRE trademark"):

− the European Union trademark MAIRE with registration No. 008111759, registered on 12 January 2010 for services in International Classes 35, 36, 37 and 42; and

− the International trademark MAIRE with registration No. 1010637, registered on 8 July 2009 for services in International Classes 35, 36, 37 and 42.

FACTUAL BACKGROUND

The Complainant was formed in 2005 and commenced trading its shares on the Milan Stock Exchange in 2007. It is part of a large industrial group active in various countries.

The Complainant is the owner of the domain name <mairetecnimont.com> registered on 21 September 2012, which resolves to its official website.

The disputed domain name was registered on 10 September 2021. At the time of filing of the Complaint, it was inactive. It currently resolves to a webpage with the title “MAI REAL ESTATE GROUP”, which describes services related to real estate properties. The webpage indicates the phone number of the Respondent, as provided by the Registrar (with the phone code for San Francisco, California), and an email address set up at the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that the disputed domain name is confusingly similar to its MAIRE trademark, because it is composed of the trademark and the dictionary word “group”.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant has not authorized him to register and use the MAIRE trademark as a domain name and the Respondent is not commonly known under it. The Complainant submits that the disputed domain name is currently inactive and is not being used in connection with a bona fide offering of goods and services or in a legitimate non-commercial or fair manner. According to the Complainant, the fact that the MAIRE trademark is combined with the dictionary word “group” shows that the disputed domain name was registered to mislead potential consumers, to tarnish the trademark and to prevent the Complainant from reflecting it in a corresponding domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent could not ignore the existence of the Complainant’s group and of the MAIRE trademark at the time of the registration of the disputed domain name, because the MAIRE trademark is known and it is unconceivable that the disputed domain name, combining the trademark with “group”, may be used for a purpose that is not related to the Complainant’s activities. The Complainant points out that the disputed domain name was registered long after the registration of the MAIRE trademark.

The Complainant maintains that the MAIRE trademark is highly distinctive and widely known in relation to the Complainant’s business and as its the company name, so any use of the disputed domain name which would not infringe the Complainant's rights is inconceivable. The Complainant adds that the disputed domain name is not used and has never been used, and that the Respondent’s contact details are redacted.

RESPONDENT:

The Respondent states that he is a licensed real estate agent in the State of California and holds license No.02154123 issued by the California Department of Real Estate. The Respondent adds that he registered the disputed domain name on 10 September 2021 after receiving his license on 13 August 2021.

According to the Respondent, it has rights or legitimate interests in respect of the disputed domain name, because the disputed domain name contains his name, Anwar Mai, and the abbreviation “re” for “real estate” – the business in which the Respondent is active. The Respondent states that the disputed domain name was intended for information use for the Respondent’s real estate business. He explains that the disputed domain name serves as a portfolio for past transactions in which he has participated, and is used to represent Mai Real Estate Group, the business practice of the Respondent. The Respondent points out that Mai Real Estate Group and the the disputed domain name both contain the name of their owner, the Respondent Anwar Mai. The Respondent adds that he purchased a Google Workspace package for email and website usage on the date of registration of the disputed domain name and maintains it until now.

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 failed to show that the Respondent has 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 failed to show that 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

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

(i) the 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 domain name; and

(iii) the domain name was registered and is being used in bad faith.

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the MAIRE trademark. As discussed in section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0"), a trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. Here, the trademark owner is the Complainant's majority shareholder, which fulfills the above condition.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence "mairegroup", which can be regarded as a combination of the MAIRE trademark with the dictionary word "group". As discussed in section 1.8 of the WIPO Overview 3.0, 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. The nature of such additional terms may however bear on assessment of the second and third elements, which will be discussed below.

Taking the above into account, the Panel finds that the disputed domain name is confusingly similar to the MAIRE trademark in which the Complainant has rights.

Rights and legitimate interests

The Respondent submits that his name is Anwar Mai and that he is a licensed real estate agent in the state of California and holds license No.02154123 issued by the California Department of Real Estate. The website of this institution available at https://www2.dre.ca.gov/PublicASP/pplinfo.asp indeed confirms that Anwar Tran Mai is the holder of a valid salesperson license issued on 9 August 2021. The disputed domain name was registered shortly afterwards - on 10 September 2021. The Respondent explains that the disputed domain name contains his name, Anwar Mai, and the abbreviation "re" for "real estate" – the business in which the Respondent is active, and that the disputed domain name was registered to serve as a portfolio for past transactions in which the Respondent has participated, and is used to represent Mai Real Estate Group, the business practice of the Respondent. He points out that Mai Real Estate Group and the disputed domain name both contain the name of their owner, the Respondent Anwar Mai.

The evidence in the case shows that the disputed domain name was inactive previously, but it currently resolves to a website showcasing the activities of Mai Real Estate Group and indicating the phone number of the Respondent. There is also support for the argument of the Respondent that "re" is a common abbreviation for "real estate" (see https://www.acronymfinder.com/Real-Estate-(RE).html). In this light, it seems plausible that the disputed domain name can be regarded as a combination of "mai", "re" and "group", thus reflecting the name of the Respondent, the business sector in which he is active, and the name "Mai Real Estate Group", the entity through which the Respondent operates his business.

On the other hand, the Complainant has submitted no evidence that it is active or well-known in the United States, and all media articles that it has submitted about its media recognition are only in Italian. There is no evidence to support a conclusion that the Respondent may have known the Complainant at the time of registration of the disputed domain name.

All this taken together make plausible the Respondent's explanations for the registration and use of the disputed domain name, and leads the Panel to the conclusion that it is more likely than not that the Respondent has registered the disputed domain name not to target the Complainant, but in furtherance of what appear to be legitimate business activities in the real estate sector in California.

Therefore, the Panel finds that the Complainant has failed to establish that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Since the Complainant has failed to establish that the Respondent does not have rights or legitimate interests in the disputed domain name, it is unnecessary to make a finding of whether the disputed domain name has been registered and used in bad faith.

Nevertheless, given that the Respondent's explanation for the registration and use of the disputed domain name seems plausible in light of the evidence, and that the Complainant has failed to show any targeting of its MAIRE trademark by the Respondent, there is no support for a finding that the disputed domain name was registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **mairegroup.com**: Remaining with the Respondent

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2024-05-15

Publish the Decision