Decision for dispute CAC-UDRP-106600

Case number	CAC-UDRP-106600
Time of filing	2024-06-14 07:51:08
Domain names	maersk.ai

Case administrator

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

Complainant

Organization	A.P. Møller – Mærsk A/S

Complainant representative

Organization	Convey srl

Respondent

Organization	Enigma Blockchain Ltd.

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 trademark MAERSK since 1954, with many international and national trademark registrations worldwide, including the following:

- TM n. 1619246 registered on November 27, 1920 – MAERSK – in Cl. 1, 4, 6, 7, 9, 11, 12, 35, 36, 37, 38, 39, 40, 41, 42, 45;
- TM n. 003483039 registered on June 27, 2006 – MAERSK – in Cl. 1, 4, 6, 9, 11, 12, 16, 35, 36, 37, 38, 39, 40, 42;
- TM n. VR195401456 registered on September 25, 1954 – MÆRSK – in Cl. 1, 4;
- TM n. VR195600383 registered on March 10, 1956 – MAERSK – in Cl. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42;
- TM n. 48075889 registered on April 14, 2021 – MAERSK – in Cl. 39;

The Respondent has not submitted any evidence as for identification of its rights.

FACTUAL BACKGROUND

The Complainant - TA.P. Møller – Mærsk A/S represents the largest container logistics company in the world, with more than 100.000 employees and operations in more than 130 countries, moving about 12 million containers every year. The company is headquartered in Denmark, in the city of Copenhagen. A.P. Møller – Mærsk A/S container logistics company was established in 1904, in Svendborg, Denmark by Arnold Peter Møller, who started out his activity in tramp shipping, where vessels were operating on the spot market without fixed schedules or port calls.

The Complainant, owns several domain names consisting of or comprising the trademark MAERSK under several different TLDs, including <maersk.com>, which was registered on October 10, 1995, <maersk.us>, registered on April 24, 2002, <maersk.cn>, registered on March 29, 2003, maersk.dk>, registered on April 23, 1996, or <maersk.in>, registered on February 10, 2005 and redirecting all to https://www.maersk.com/. The web site https://www.maersk.com/ generates a significant number of visits by Internet users every day and it is used to promote and provide online Maersk logistic services, in twelve different languages.

The Complainant alleges that disputed domain name infringed its rights in accordance with relevant UDRP policies and rules.

PARTIES CONTENTIONS

The Complainant contends 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 disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The disputed domain name <maersk.ai> incorporates the Complainant's MAERSK Trademark in its entirety. gTLDs are commonly viewed as a standard registration requirement, and as such they are disregarded under the first element confusing similarity test (WIPO Overview 3.0, section 1.11). ".ai" referred to the Anguilla country, which is also the acronym for "artificial intelligence". Nonetheless, the use of the .ai gTLD implies the close link between the brand and the fast-evolving technology industry, which is more likely to lead to user confusion given many reputable brands venturing into artificial intelligence territory.

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use its trademark MAERSK or the disputed domain name. There is also no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademark. Furthermore, according to the Complainant, the Respondent registered several domain names referrable to other well-known brand. It is presumably true that there is an absence of any legitimate interest within the Respondent in registering a domain name containing the term “MAERSK”.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

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

First of all, the registration of the disputed domain name by the Respondent was done in bad faith. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity can by itself create a presumption of bad faith. “The brand and its registered mark enjoy a high level of distinctiveness and has develop a wide reputation. With the reputation of the “MAERSK” trademark, the presumption arises that the disputed domain name was registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known “MAERSK” trademark.

Secondly, the use of the disputed domain name was in bad faith. The Complainant notes that the disputed domain name "does not resolve to an active web site”. However, pursuant to section 3.3 of the WIPO Overview 3.0, the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding if certain circumstances are met. “While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” As the Complainant has rightly pointed out having regard to structure of the disputed domain name in the way confusingly similar to the Complainant’s trademark and without providing additional evidence to prove any potentially legitimate use, it is impossible to think of any good faith use to which the disputed domain name could be put by the Respondent (See also Siemens AG v. Hello Greatness, WIPO Case No. D2020-1641). In addition, the Complainant provides evidence that the Respondent registered several domain names referrable to other well-known brands.

The Respondent has answered to the Complainant’s request to transfer him the disputed domain name by offering it for sale for 6.000 USD. Prior UDRP panels have held that offering a domain name, for sale, to the Complainant that is the owner of the trademark for an amount highly exceeding any Respondent’s reasonable out-of-pocket costs directed related to the registration and maintenance of the domain name can be evidence of bad faith. See e.g., Galvanize LLC, dba Galvanize v. Brett Blair/ChristianGlobe Network, FA1405001557092 (Forum June 26, 2014).

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainant has provided that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **maersk.ai**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2024-08-02

Publish the Decision