Decision for dispute CAC-UDRP-106978

Case number	CAC-UDRP-106978
Time of filing	2024-10-21 08:37:01
Domain names	magimix.store

Case administrator

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

Complainant

Organization	MAGIMIX SAS

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	abdiprod

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, inter alia, a registered owner of the following trademark containing the word element "MAGIMIX":

(i) MAGIMIX (word), International Trademark, registration date 4 September 1991, registration no. 575556, registered for goods in classes 8, 11 and 21,

besides other national trademarks consisting of or containing the "MAGIMIX" wording.

(Collectively referred to as "Complainant's trademarks").

The Complainant has also registered several domain names under generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD") containing the term „MAGIMIX" such as <magimix.com>, <magimix.fr> and others.

FACTUAL BACKGROUND

The Complainant, MAGIMIX (société par actions simplifiée), is a French company founded in 1963 with a strong presence worldwide that designs high-quality professional food processors.

The disputed domain name was registered on 9 October 2022 and is held by the Respondent.

The disputed domain name website (i.e. website available under the internet address containing the disputed domain name) has a similar layout and “look and feel” as the Complainant’s websites (i.e. it mimics the official Complainant’s website).

Moreover, an MX record for the disputed domain name specifies the mail server responsible for accepting e-mail messages on behalf of the disputed domain name. This indicates that the disputed domain name can be used for e-mail purposes.

The Complainant seeks transfer of both disputed domain names to the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

A) CONFUSING SIMILARITY

The Complainant states that:

- The disputed domain name contains the “MAGIMIX” word elements of the Complainant's trademarks in its entirety and thus it is identical to the Complainant’s trademarks.

- The gTLD “.STORE” element is not relevant in assessing confusing similarity as it is a necessary technical aspect of domain name registration.

Thus, according to the Complainant, the confusing similarity between Complainant’s trademarks and the disputed domain name is clearly established.

B) NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

- The Respondent has not been commonly known by the disputed domain name;

- The Complainant has not authorized, permitted or licensed the Respondent to use Complainant’s trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name;

- Furthermore, the domain name website has not been used for any legitimate or fair purposes.

C) BAD FAITH REGISTRATION AND USE

The Complainant states that:

- Seniority of the Complainant's trademarks predates the disputed domain name registration and such trademarks are well known in relevant business circles;

- The Respondent can be considered aware of the Complainant's trademarks when registering the disputed domain name due to the well-known character thereof and also because the Responded mimicked the official website of the Complainant;

- The disputed domain name (at the time of filing of the Complaint or anytime thereafter) was not used for any bona fide offerings of goods or services;

- Moreover, the disputed domain name redirects to a website copying the Complainant’s official website. Therefore, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial purposes, internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website.

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

A) RIGHTS

The disputed domain name and the Complainant’s trademarks are identical since both fully and solely incorporate the word element “MAGIMIX”.

For the sake of completeness, the Panel asserts that the top-level suffix in the disputed domain name (i.e. the “.store”) must be disregarded under the identity and confusing similarity tests, as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B) NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

Given the facts above and in the absence of the Respondent's response, the Panel concludes that there is no indication that the disputed domain name was intended to be used in connection with a bona fide offering of goods or services as required by UDRP.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

C) BAD FAITH

The activity of the disputed domain name website, which mimics the Complainant's official site, constitutes illicit impersonation.

Impersonation occurs when the website of the disputed domain name is used to mislead users into believing it is associated with or operated by the Complainant, often for malicious purposes such as fraud, phishing, or traffic diversion. This is considered a form of bad faith use because it infringes on the Complainant's rights as a trademark owner and confuses or deceives the public.

The goal is to exploit the trust that internet users have in the trademarked brand, causing confusion about the site's legitimacy. This impersonation typically aims to benefit the Respondent (the registrant of the disputed domain name) in an illegitimate manner, such as by stealing sensitive information (e.g., passwords, credit card details), selling counterfeit goods, or generating advertising revenue under false pretenses.

In conclusion, by using the disputed domain name, the Respondent intentionally attempted to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark and business regarding the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Thus, the Panel has determined that the disputed domain name has been registered and is being used in bad faith, as defined in 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. **magimix.store**: Transferred

PANELLISTS

Name	**Jiří Čermák**

DATE OF PANEL DECISION 2024-11-18

Publish the Decision