Decision for dispute CAC-UDRP-108262

Case number	CAC-UDRP-108262
Time of filing	2025-12-18 12:41:10
Domain names	themoffett.com

Case administrator

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

Complainant

Organization	Hiab Ireland Limited

Complainant representative

Organization	Berggren Oy

Respondent

Name	xiaoyu yang

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 numerous registrations for the trademark "MOFFETT", including the EU trademark No. 002643799, “MOFFETT”, registered on May 23, 2003, for goods and services in class 12.

The disputed domain name was registered by the Respondent on October 17, 2025.

FACTUAL BACKGROUND

The Complainant states that it is the owner of the "MOFFETT" trademark and is part of the Hiab Group, a leading provider of various lifting, loading and unloading machines, devices, and equipment for use in cargo and load handling purposes and services related to them. The Complainant clarifies that the Hiab Group operates globally in more than 100 countries around the world.

The Complainant points out that it is the owner of numerous trademark registrations for the word “MOFFETT”. The Complainant considers that the "MOFFETT" trademark is distinctive, well-known and enjoys significant reputation around the world due to its consistent and extensive use throughout the years especially related to lifting apparatus, forklifts and the related services.

The Complainant observes that the disputed domain name redirects to a website where one of the "MOFFETT" figurative marks is shown. The Complainant argues that a visitor is likely to mistakenly understand that the website is owned and being maintained by

the Complainant. The Complainant submits that many of the images on the website appear to be generated by artificial intelligence.

The Complainant points out that the disputed domain name incorporates the Complainant's trademark "MOFFETT" as its dominant and only distinctive element. The Complainant argues that the addition of the article "THE" does not have any impact on the confusing similarity of the disputed domain name.

The Complainant states that:

- it has not granted the Respondent any license or other rights to use any of its trademarks or domain names;

- the registration and use of the disputed domain name have neither been authorized nor approved by the Complainant;

- the Respondent is not commonly known by the disputed domain name;

- the use of the disputed domain name is neither non-commercial nor fair, as it falsely suggests affiliation with the trademark owner;

- the disputed domain name redirects to a website where the wording used suggests that the website is owned or maintained by the Complainant.

On the basis of the above-mentioned elements the Complainant contends that the Respondent has no right or legitimate interests in respect of the disputed domain name.

The Complainant considers that the Respondent had the intention to use the well-known and distinctive "MOFFETT" trademark in the disputed domain name to attract Internet users to its website where the "MOFFETT" mark is being used for offering the same goods and services offered by the Complainant.

The Complainant notes that the figurative "MOFFETT" mark used on the website is identical to the one registered and used by the Complainant, and this supports the Complainant's view that the website is specifically targeting its "MOFFETT" trademark.

The Complainant observes that, in addition to the use of the "MOFFETT" trademarks and of the pictures of product similar to the Complainant's ones, the wording used on the website clearly implies that the website is owned or managed by the Complainant.

The Complainant notes that the website also contains an online contact form and an email address, that might be used for fraudulent purposes.

The Complainant considers that the use of the "MOFFETT" trademark in the Respondent's website is detrimental to the Complainant's reputation.

The Complainant argues that at the time of the disputed domain name's registration, the Respondent was well aware of the Complainant's trademark and has intentionally registered and used the disputed domain name in order to benefit from the reputation and goodwill of the Complainant's distinctive and well-known trademark.

The Complainant considers that it is unlikely that the registration has been a coincidence considering the registered and famous "MOFFETT" trademark incorporated in the disputed domain name, and taking into account that on the Respondents' website goods identical to the Complainant's ones are marketed.

Furthermore, the Complainant notes that the Respondent has taken active steps to hide his identity by using a privacy service.

The Complainant takes the view that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website.

On these bases the Complainant concludes that the disputed domain name was registered and is being used in bad faith.

In light of the above, the Complainant requests the transfer in its favor of the disputed domain name.

PARTIES CONTENTIONS

The Complainant, relying on the arguments summarised above, 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

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

PRINCIPAL REASONS FOR THE DECISION

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and

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

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to the Complainant’s trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership, among others, of the registered trademark “MOFFETT”, identified in section “Identification of rights” above.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant’s trademark.

The disputed domain name differs from the Complainant’s trademark “MOFFETT” only by the addition of the definite article "THE" at the beginning, and of the top-level domain ".COM".

It is a common view that where a trademark is the distinctive part of a domain name, the domain name is considered to be confusingly similar to the trademark (see, for example, WIPO case No. D2017-1266).

In the present case, the definite article "THE" has no impact on the distinctive part “MOFFETT”. It is well established that where the relevant trademark is recognizable within the domain name, the addition of generic terms would not prevent a finding of confusing similarity (see, for example, WIPO case No. D2025-3214).

It is also well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

In the light of the above, the Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark “MOFFETT”.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the respondent has rights or legitimate interests in a domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent] [has] acquired no trademark or service mark rights; or

(iii) [the Respondent] [is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”.

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in a domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

In particular, the Complainant states that:

- it has not granted the Respondent any license or other rights to use any of its trademarks or domain names;

- the registration and use of the disputed domain name have neither been authorized nor approved by the Complainant;

- the Respondent is not commonly known by the disputed domain name;

- the use of the disputed domain name is neither non-commercial nor fair, as it falsely suggests affiliation with the trademark owner;

- the disputed domain name redirects to a website where the wording used suggests that the website is owned or maintained by the Complainant.

In the absence of a Response, there is no indication in the present case that the Respondent is commonly known by the disputed domain name.

Furthermore, the Respondent has failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under paragraph 4(c) of the Policy or other evidence of rights or legitimate interests in the disputed domain name.

The Respondent does not appear to make any legitimate non-commercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services. Indeed, the disputed domain name redirects users to a website offering products similar to the Complainant's products.

Taking into account that the Complainant has not granted the Respondent any license or other rights to use any of its trademarks or domain names, that the registration and use of the disputed domain name have neither been authorized nor approved by the Complainant, that the Respondent is not known as the disputed domain name and that the disputed domain name redirects users to a website offering products in competition with the Complainant's products, the Panel cannot imagine any possible legitimate justification for this use, and the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

BAD FAITH

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent] [has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent] [has] engaged in a pattern of such conduct; or

(iii) [the Respondent] [has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel, on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain name was registered in bad faith and that it has been used in bad faith.

The Panel observes that it is well established that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative. Therefore, even where a complainant is not able to demonstrate the literal application of one of the above-mentioned scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant’s trademark would also satisfy the complainant’s burden.

The Respondent should have performed an internet search, aimed at excluding possible conflicts with third party rights. Therefore, the Respondent has failed to carry out such a search and has to be considered responsible for the resulting abusive registration under the concept of wilful blindness (see, for example, WIPO Case No. D2018-1182). Consequently, this circumstance is considered by the Panel as evidence of bad faith.

As regards the fact that the disputed domain name, incorporating the Complainant's trademark, points to a commercial website offering products similar to those of the Complainant, the Panel considers that in this way the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website, and that this constitutes evidence of bad faith.

The Panel agrees that the fact that the website also contains an online contact form and an email address constitutes evidence of bad faith, in line with the views of other panels in similar cases (see, for example, CAC Case No. 107625). Indeed, the personal information collected by using these means might be used for fraudulent purposes.

As regards the Respondent's use of a privacy service for concealing his identity, the Panel considers that in the circumstances of this case this is evidence of bad faith, in line with the approach taken by other panels in similar cases (see, for example, WIPO Case No. D2021-1964).

The Panel observes that if the Respondent had legitimate purposes in registering and using the disputed domain name it would have filed a response in this proceeding.

The Panel, having taken into account the Respondent's knowledge of the "MOFFETT" trademark at the time of the disputed domain name’s registration, the fact that the disputed domain name points to a website that offers products similar to the Complainant's ones, the fact that the website contains an online form and an e-mail address that might be used for fraudulent purposes, the fact that the Respondent used a privacy service, and that no response to the complaint has been filed considers that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of 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. **themoffett.com**: Transferred

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2026-01-18

Publish the Decision