

ADMINISTRATIVE PANEL DECISION

Mr Bricolage v. Gra pe
Case No. D2023-1945

1. The Parties

The Complainant is Mr Bricolage, France, represented by Casalonga Avocats, France.

The Respondent is Gra pe, Singapore.

2. The Disputed domain name and Registrar

The disputed domain name <m-bricolage.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2023. On May 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 5, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Disputed domain name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Disputed domain name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Disputed domain name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2023.

The Center appointed Linda Chang as the sole panelist in this matter on June 21, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French retail company specializing in Do-It-Yourself (“DIY”), gardening, decoration and home improvement. The Complainant’s Mr Bricolage brand was created in 1980 with 150 stores, and Mr Bricolage products have been marketed in stores from 1994. At the beginning of 2022, the Complainant had 923 stores and was one of the largest French retailers in DIY.

The Complainant is the owner of a number of MR. BRICOLAGE trademarks, *inter alia*, International Trademark **Mr.Bricolage** Registration No. 521533 registered on February 22, 1988, European Union Trademark (“EUTM”) MR. BRICOLAGE Registration No. 008266686 registered on March 25, 2014, and EUTM trademark **Mr.Bricolage** Registration No. 008261761 registered on March 25, 2014.

The disputed domain name was registered on February 18, 2023 and currently is not redirecting to any active website. The Complainant’s evidence shows that the disputed domain name was once directing to a website containing pornographic content, with advertisements which appeared to promote gambling and betting.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name reproduces its MR. BRICOLAGE trademark in a typosquatting form, and is confusingly similar to the MR. BRICOLAGE trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainant has never consented to the Respondent’s registration and use of its MR. BRICOLAGE trademark in any manner.

The Complainant finally contends that the Respondent registered and is using the disputed domain name in bad faith. Given the Complainant’s reputation, the Respondent knew or should have known about the MR. BRICOLAGE mark when registering the disputed domain name. The Respondent’s use of the disputed domain name to direct Internet users to a website containing pornographic content constitutes sufficient evidence of bad faith.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has registered trademark rights in the MR. BRICOLAGE mark.

It has been well established that the generic Top-Level Domain (“gTLD”) suffix “.com” as a standard registration requirement should be disregarded, and thus the distinctive part of the disputed domain name is “m-bricolage” which closely resembles the Complainant’s MR. BRICOLAGE trademark. The Panel accepts that the disputed domain name reproduces the MR. BRICOLAGE mark in a typosquatting form, by deleting the second letter “r” from the MR. BRICOLAGE mark and replacing “.” with a hyphen “-”. However, the Complainant’s MR. BRICOLAGE mark remains recognizable in the disputed domain name. In cases where a domain name consists of an obvious or intentional misspelling of a trademark, confusing similarity has been held for purposes of UDRP standing.

Accordingly, the Panel holds the disputed domain name is confusingly similar to the Complainant's MR. BRICOLAGE trademark, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In view of the fact that the disputed domain name was once resolving to a website which contains pornographic content with gambling and betting advertisements, the Panel finds that the Respondent is clearly not making a legitimate noncommercial or fair use of the disputed domain name, nor does such use constitute a *bona fide* offering of goods or services.

The Panel determines that the Respondent's use is taking unfair advantage of the reputation of the Complainant and the MR. BRICOLAGE trademark, and will not create any rights or legitimate interests for the Respondent. As the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in respect of the disputed domain name, the burden of production on this element hence shifts to the Respondent. The Respondent however did not submit a response to rebut contentions of the Complainant.

The Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent's registration of the disputed domain name is a typical example of typosquatting. The Respondent should have been aware of the Complainant and its prior registered MR. BRICOLAGE trademark at the time of registering the disputed domain name hence bad faith can be inferred.

The disputed domain name is inactive at the moment but was once used to host a website containing pornographic content with gambling and betting advertisements. Such use on its own is sufficient for a finding of registration and use in bad faith. By selecting a domain name confusingly similar to the Complainant's MR. BRICOLAGE trademark, and using it in the manner as described above, the Respondent is clearly intending to make commercial gain by attracting Internet users to the disputed domain name and website. The current non-use of the disputed domain name does not change the Panel's finding of the Respondent's bad faith.

The Panel therefore finds that the disputed domain name was registered and is being used in bad faith and that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <m-bricolage.com> be transferred to the Complainant.

/Linda Chang/

Linda Chang

Sole Panelist

Date: July 5, 2023