

## **ADMINISTRATIVE PANEL DECISION**

AM Design v. 祥凤朱  
Case No. D2022-0116

### **1. The Parties**

The Complainant is AM Design, France, represented by Coblence Avocats, France.

The Respondent is 祥凤朱, China.

### **2. The Domain Name and Registrar**

The disputed domain name <aminamuaddishop.com> is registered with Name.com, Inc. (Name.com LLC) (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 13, 2022. On January 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform 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 February 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 23, 2022.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on March 3, 2022. 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, AM Design, is French company specialized in the sale of shoes and accessories (such as leather goods and jewelry), for women under the brand AMINA MUADDI available in particular from the website “www.aminamuaddi.com”.

Mrs. Amneh Muaddi, the CEO of AM Design, is the owner of several trademark registrations for AMINA MUADDI used by the Complainant, notably the word international trademark registration No. 1371021 AMINA MUADDI, registered on July 27, 2017, designating Australia, China, Algeria, Ghana, Japan, Mexico, New Zealand, African Intellectual Property Organization, Philippines, Russian Federation, Sudan, Thailand, Tunisia, Turkey, and United States of America, in classes 03, 09, 14, 18, 25, and 35, among several other national trademark registrations.

The Panel is prepared to infer the existence of authorization from Mrs. Amneh Muaddi to the Complainant for bringing this administrative proceeding and considers that this *prima facie* satisfies the threshold requirement for the Complainant of having trademark rights for purposes of standing to file a UDRP case.

The disputed domain name <aminamuaddishop.com> was registered on December 4, 2021, and resolves to a website in which the Respondent offers principally shoes for women, similar to those offered by the Complainant in its website identified by the domain name <aminamuaddi.com>.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant, AM Design, is a well-known company specialized in the sale of shoes and accessories (leather goods, jewelry *etc.*) for women, which are sold worldwide under the band AMINA MUADDI and are highly renowned especially thanks to original details composing her creations: a signature geometric heel and accessories decorating shoes.

This high reputation is notably demonstrated by numerous press articles from major magazines about Mrs. Amneh Muaddi and its brand and by the followers who follow her in Instagram accounts.

In essence, the Complainant claims that the disputed domain name is confusingly similar to the trademark AMINA MUADDI in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Complainant has not authorized or licensed the Respondent to use its trademarks or to register or use the disputed domain name.

To the Complainant's knowledge, the Respondent has never registered AMINA MUADDI and has never acquired any common law rights in this wording.

The website to which the disputed domain name resolves reproduces the Complainant's AMINA MUADDI trademark, name of products' collections, and photographs to sell counterfeit products. Therefore, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's website and to take advantage of the high reputation the Complainant enjoys in the world.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Panel is satisfied that the Complainant has proved that it has rights in the AMINA MUADDI trademark.

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's AMINA MUADDI trademark.

The disputed domain name includes the trademark AMINA MUADDI in its entirety, with the addition of the word "shop" and the generic Top-Level Domain ("gTLD") ".com", which do not suffice to avoid a finding of confusing similarity.

For the purposes of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the gTLD as it is viewed as a standard registration requirement (section 1.11 of [WIPO Overview 3.0](#)). Thus, for the test for confusing similarity the Panel shall disregard the ".com" gTLD included in the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar with the AMINA MUADDI trademark in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or

service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

Likewise, and as further discussed under section 6.C of this decision, the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name, but rather it registered the disputed domain name with the intention to confuse Internet users and thereby obtain illegal monetary compensation for its own benefit. As regards the Complainant's claim on the counterfeit nature of the goods offered at the disputed domain name, the Panel makes note of section 2.13.2 of the [WIPO Overview 3.0](#), that the goods offered at the disputed domain name are offered disproportionately below market-value, and the Complainant claims the use of its copyrighted images. While the circumstances of the case support an inference that the goods are not genuine, it is unnecessary for the Panel to make any determinative finding given the Panel's findings under section 6.C of this decision and the Respondent's lack of rights and legitimate interests.

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry." As indicated in Section 6.A above, the disputed domain name is confusingly similar to the AMINA MUADDI trademark and the disputed domain name is without any clarifying statement as to its relation, or lack thereof, to the Complainant.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

### **C. Registered and Used in Bad Faith**

The Panel is satisfied that the Respondent must have been aware of the trademark AMINA MUADDI mentioned in section 4. above (Factual Background) and also the Complainant's domain name <aminamuaddi.com> when it registered the disputed domain name on December 4, 2021.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the trademark AMINA MUADDI in its entirety plus the term "shop" with the intention to confuse Internet users and capitalize on the fame of the Complainant's business and the AMINA MUADDI

trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name resolving to a website which resembles the website of the Complainant for offering shoes for women similar to those offered by the Complainant, even if they are not counterfeits, are all elements indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

## 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 <aminamuaddishop.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: March 17, 2022