

ADMINISTRATIVE PANEL DECISION

L'Anse Du Portier v. Domains By Proxy, LLC / Roberto Bucciol
Case No. D2022-2774

1. The Parties

The Complainant is L'Anse Du Portier, Monaco, represented by Monaco Intellectual Property (MIPRO), Monaco.

The Respondent is Domains By Proxy, LLC, United States of America ("United States") / Roberto Bucciol, United States.

2. The Domain Name and Registrar

The disputed domain name <mareterravillas.com> (the "Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 28, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 29, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Center received an email communication from the Respondent on August 2, 2022. The Complainant filed an amended Complaint on August 3, 2022.

The Center verified that the Complaint together with the amended 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 August 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2022. The Respondent did not submit a formal response. Accordingly, the Center notified the commencement of panel appointment process on August 25, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on August 29, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Monegasque constructions company registered since 2014. The Complainant is responsible for the realization of “Mareterra”, a new district in Monaco as an extension at sea. The project is reported in local and international press.

The Complainant owns trademark registrations for the term “Mareterra”, such as Monegasque trademark registration number 20.00282 registered on June 11, 2020, and International registration number 1569431 registered through WIPO on June 15, 2020 and designating European Union, United States of America, Russian Federation, Japan, Türkiye, and Ukraine.

The Complainant owns numerous domain names, such as <mareterra.com>, <mareterraproperties.com>, <mareterra-estate.com>, and <mareterra.realestate>.

The Domain Name was registered on June 13, 2022. The Domain Name has directed to a parking page containing commercial links in the field of holiday rentals and hotel reservations.

5. Parties' Contentions

A. Complainant

The Complainant documents registered trademark rights and argues that the Domain Name is confusingly similar to the Complainant's trademarks and domain names. The Complainant argues that the Domain Name incorporates the Complainant's trademark with the addition of “villas”. This addition does not prevent any likelihood of confusion. On the contrary, “villas” refers directly to the Complainant's area of activity.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant argues that the Respondent cannot establish rights in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Complainant submits that the Respondent's use, linking from a parking page cannot be considered as a legitimate fair use. The Domain Name was registered with the Complainant in mind to direct Internet users to the parking page for the Respondent's commercial gain.

Finally, the Complainant submits that the Complainant is well known, and the Respondent must have been aware of the Complainant's trademark when the Respondent registered the Domain Name. The composition of the Domain Name suggests that the Respondent registered the Domain Name to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. This intention to trade on the Complainant's goodwill is underlined by the Respondent's use of the Domain Name.

B. Respondent

The Respondent did not reply to the Complainant's contentions, but sent an email to the Center on August 2, 2022, requesting the Complaint and the Annexes.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established trademark rights in MARETERRA. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark with "villas" added at the end. The addition does not prevent a finding of confusing similarity. For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant. There is no evidence suggesting that the Respondent has any rights or legitimate interests in the Domain Name. Further, there is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the use suggests bad faith.

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's trademarks were registered before the Respondent's registration of the Domain Name, and the Complainant's project has generated substantial publicity. The composition of the Domain Name suggests that the Respondent was aware of the Complainant's trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the website at the Domain Name is authorized by or somehow connected to the Complainant.

The fact that the Domain Name has directed to a parking page containing commercial links supports that the Respondent has registered and used the Domain Name to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

The Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 Domain Name <mareterravillas.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 1, 2022