

ADMINISTRATIVE PANEL DECISION

Milliman, Inc. v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-3082

1. The Parties

The Complainant is Milliman, Inc., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <millimanbenifts.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 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 August 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 19, 2022.

The Center appointed Knud Wallberg as the sole panelist in this matter on September 27, 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 is one of the world's largest independent actuarial and consulting firms operating in the areas of employee benefits, investment, property and casualty, healthcare, life and financial services, and insurance services. The Complainant has been active in this field since 1947 and is based in Seattle, Washington. The Complainant advertises its goods and services through various websites, including <milliman.com> and <millimanbenefits.com>, as well as through print media and other advertising and promotional campaigns. The Complainant operates in various markets throughout the world, and has over 60 offices located in Africa, Asia, Europe, Latin America, North America, and the Middle East. Since its first use of the MILLIMAN & ROBERTSON mark in 1957, and the MILLIMAN mark in 2001, the Complainant has promoted its trademarks continuously and extensively in numerous jurisdictions throughout the world. The Complainant spends millions of dollars every year promoting the MILLIMAN mark and the goods and services sold under this mark.

The Complainant owns numerous trademark registrations for MILLIMAN in various jurisdictions, including United States Registration No. 75714848 for MILLIMAN, registered on March 19, 2002, for services in class 36 and Panamanian Registration No. 178969 for MILLIMAN, registered on February 5, 2009, also for services in class 36.

The Complainant is also the owner of many domain names incorporating the MILLIMAN mark or common misspellings thereof. The Complainant operates its principal websites at "www.milliman.com" and "www.millimanbenefits.com". The website at "www.millimanbenefits.com" is a web portal through which the Complainant provides information and services to Milliman clients pertaining to employee and other benefits.

The Registrant registered the disputed domain name on February 26, 2021. The disputed domain name resolves to a website with pay-per-click ("PPC") links to various third-party websites some of which appear to offer goods and services that are in competition with the goods and services of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name <millimanbenifits.com> is identical or confusingly similar to the Complainant's MILLIMAN mark. The dominant and most distinctive element of the disputed domain name is the Complainant's MILLIMAN mark in its entirety. The slight misspelling of the word "benefits" to "benifits" in the disputed domain name is insufficient to distinguish the disputed domain name from the Complainant's MILLIMAN mark. To the contrary, the variation seeks to take advantage of the fact that a proportion of Internet users will, in attempting to locate the Complainant's website at "www.millimanbenefits.com", misspell the word "benefits". The disputed domain name is thus a deliberate typo-variant of the Complainant's <millimanbenefits.com> domain name.

The Complainant further asserts that one of the circumstances provided in paragraph 4(c) of the Policy for demonstrating a respondent's rights to or legitimate interests in a domain name are present in this case. To the Complainant's knowledge, "Milliman benifits" is not the Respondent's name, and the Respondent is not, and has never been commonly known as "Milliman benifits." Also, the Respondent is not, and has never been a licensee or franchisee of the Complainant, nor has the Respondent ever been authorized by the Complainant to register or use the Complainant's MILLIMAN mark or to apply for or use any domain name incorporating the mark. Furthermore, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, or in a legitimate noncommercial or fair manner. As of the date of filing of this Complaint, the disputed domain name directed to a parking page showing PPC advertising links to websites purportedly offering services identical or related to those of the Complainant, such as "Employee Benefits 401k," "401k Retirement Plan," and "Retirement Plan".

Additionally, without authorization from the Complainant, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed by the Respondent, as the MILLIMAN mark was well known at the time of registration, due to the Complainant's extensive use of the mark.

The Complainant finally asserts, that the Complainant's international reputation, and the fact that MILLIMAN is a well-known mark universally associated with the Complainant, it is not plausible that the Respondent could have been unaware of the Complainant at the time of registration. This is furthermore confirmed by the Respondent's choice of a slight variation of the Complainant's <millimanbenefits.com> domain name for the disputed domain name, which constitutes blatant typo squatting, and is itself evidence of bad faith. The disputed domain name is being used in bad faith to divert Internet users, and particularly the Complainant's clients, to a commercial parking page with links to identical or related services offered under the Complainant's mark. By using the disputed domain name in this manner, the Respondent is using the MILLIMAN mark as an appeal brand to attract the Complainant's customers, and then to encourage those customers, who would plausibly assume that the Complainant owned or endorsed the commercial parking page, to visit other websites they might similarly assume were associated with the Complainant. The Respondent generates unjustified revenues for each click-through of the sponsored links, thereby illegitimately capitalizing on the Complainant's mark and reputation. Such activity constitutes evidence of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name <millimanbenifits.com> is confusingly similar (in the sense of the Policy) to the Complainant's registered trademark MILLIMAN because it contains the Complainant's mark in its entirety with the addition of a misspelling of the word "benefits" to read "benifits". The generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

It follows from the information that is included in the Complaint, that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark in any way.

Further, given the circumstances of this case, the Panel is of the opinion that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this, and the way the Respondent has been and is using the disputed domain name (see below in section 6.C) does not support a finding of rights or legitimate interests.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances, which shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the 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 holder's documented out-of-pocket costs directly related to the domain name; or

(ii) the holder has registered the 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 holder has engaged in a pattern of such conduct; or

(iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

In view of the Complainant's widely used and distinctive trademark MILLIMAN, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark, particularly considering that the disputed domain name is a misspelled version of the Complainant's <millimanbenefits.com> domain name. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name it chose could attract Internet users in a manner that is likely to create confusion for such users.

The Panel thus finds that the disputed domain name was registered in bad faith.

The Respondent is using the disputed domain name actively for a PPC page that contains links to websites of third parties some of which appear to offer services in competition to the Complainant. It is thus obvious to the Panel that the Respondent uses the disputed domain name in bad faith by intentionally attempting to

attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. See section 3.5 of the [WIPO Overview 3.0](#).

Noting that no response has been filed, that there appears to be no conceivable good-faith use that could be made by the Respondent of the disputed domain name, and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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 <millimanbenifts.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: October 11, 2022