

ADMINISTRATIVE PANEL DECISION

L'Anse Du Portier v. qianhang
Case No. D2022-3857

1. The Parties

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

The Respondent is qianhang, China.

2. The Domain Name and Registrar

The disputed domain name <mae-terra.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 14, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 October 20, 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 October 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 11, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on November 17, 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 a construction company established in 2014 in Monaco. It is responsible for a land extension project currently underway in the principality to create a new district named “Mareterra”. According to evidence presented by the Complainant, the Complainant holds multiple trademark registrations for a semi-figurative trademark incorporating the textual element MARETERRA placed below a series of islands depicted in a shading of blue, green and beige (the “MARETERRA mark”). The registrations include:

- Monaco trademark registration number 20.00012, registered on December 13, 2019, specifying goods and services in all classes;
- Monaco trademark registration number 20.00282, registered on June 10, 2020, specifying goods and services in multiple classes; and
- International trademark registration number 1569431, registered on June 15, 2020, designating multiple jurisdictions.

The above trademark registrations remain current. The Complainant has also registered multiple domain names incorporating “mareterra” as their respective initial elements, including <mareterra.com>, which it uses in connection with a website where it provides information about the new Mareterra district and land extension project.

The Respondent is an individual resident in China.

The disputed domain name was created on June 29, 2021. According to evidence provided by the Complainant, it formerly resolved to a webpage in Chinese displaying advertising and links to other websites offering pornographic content and escort services. Later, it resolved to a webpage with a header that read 溧阳捶敖食品有限公司 (which may be transcribed and translated as “Liyang Chuihao Food Co., Ltd”) with an advertisement in Chinese for a gambling website. At the time of this decision, it resolves to a website displaying hyperlinks to gambling websites.

The Registrar confirmed that the language of the Registration Agreement is English.

5. Parties’ Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant’s MARETERRA mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use the name MARETERRA or the disputed domain name. There is no business relationship or link of any nature between the Parties. The use of the disputed domain name suggests affiliation with the Complainant.

The disputed domain name was registered and is being used in bad faith. The Respondent was likely aware of the Complainant’s reputation, keeping in mind the strong communication around the construction of the new Mareterra district in Monaco. The disputed domain name mimics the Complainant’s domain names. The disputed domain name links to pornographic content. By using the disputed domain name, the

Respondent has intentionally attempted to attract Internet users to his website by creating a likelihood of confusion as to source or affiliation with the Complainant's trademark and rights.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (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.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the MARETERRA mark.

Although the MARETERRA mark contains many figurative elements, it has a single textual element ("Mareterra") that remains prominent. Given that the figurative elements cannot be reflected in a domain name, the Panel will not take them into consideration in the comparison between the disputed domain name and the trademark. See generally WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.10.

The disputed domain name appears to be a misspelt version of the textual element of the MARETERRA mark. It incorporates virtually the entirety of that element, substituting "e-" for "re" before the "t". Aurally, it is very similar to that textual element. It is also similar visually and, though it contains the Italian word "terra" (meaning "land"), as a whole it appears to be meaningless. Accordingly, the textual element of the MARETERRA mark, albeit misspelt, remains recognizable within the disputed domain name.

The only additional element in the disputed domain name is the generic Top-Level Domain ("gTLD") extension ".com" which, as a technical requirement of domain name registration, may be disregarded in the comparison between the disputed domain name and the MARETARRA mark. [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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 noncommercial 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.

As regards the first and third circumstances set out above, the disputed domain name resolves to a webpage that displays hyperlinks to sites variously offering escort services, gambling, and pornography. Nothing on the website has any apparent connection to the disputed domain name. There is no relationship between the Parties whatsoever. The webpage operates for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or the commercial gain of the operators of the linked websites, or both. In the Panel's view, this evidence constitutes a *prima facie* case that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as "qianhang", not the disputed domain name. There is no evidence indicating that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith. The fourth of these is as follows:

(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent'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 respondent's] web site or location or of a product or service on [the respondent's] website or location.

With respect to registration, the disputed domain name was registered on June 29, 2021, over a year after the earlier registrations of the Complainant's MARETERRA mark. The disputed domain name is aurally very similar to the sole textual element of that mark, which it misspells, a practice known as "typosquatting". On the facts available of this case, the most likely reason to register the disputed domain name is to approximate the Complainant's domain name <mareterra.com>. The Respondent offers no other explanation for his choice to register the disputed domain name and the content of the Respondent's webpage has no connection to it. In view of these circumstances, the Panel finds it more likely than not that the Respondent was aware of the Complainant and its MARETERRA mark at the time that he registered the disputed domain name.

With respect to use, the disputed domain name resolves to a webpage offering links to websites that offer escort services, gambling, and pornography. The disputed domain name appears to be intended to operate by attracting Internet users who are searching for the Complainant's website but mistype its domain name in a browser in order to attract them to the Respondent's webpage, which operates for the commercial gain of the Respondent or the operators of the linked websites, or both. Given these circumstances, the Panel finds that the Respondent is using the disputed domain name intentionally to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or of a service on the Respondent's website, within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <mae-terra.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 22, 2022