

ADMINISTRATIVE PANEL DECISION

ANIMA Corp v. MOHAMMED TAHIRI

Case No. D2023-1066

1. The Parties

The Complainant is ANIMA Corp, France, represented by Coblence Avocats, France.

The Respondent is MOHAMMED TAHIRI, Morocco.

2. The Domain Name and Registrar

The disputed domain name <aminamuad.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 9, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 13, 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 amendment to the Complaint on March 14, 2023.

The Center verified that the Complaint together with the amendment to 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 March 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 5, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on April 12, 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 company incorporated in France, specializing in the sale of shoes and accessories for women under its trademark AMINA MUADDI, which is registered in numerous jurisdictions (Annexes F to the Complaint). Among others, the Complainant is the owner of the International Trademark Registration No. 1371021, registered on July 27, 2017, for goods and services in class 3, 9, 14, 18, 25, and 35, designating many jurisdictions around the world (Annex F0 to the Complaint).

The Complainant also owns and operates its main website at <aminamuaddi.com> (Annex E to the Complaint).

The Respondent is reportedly an individual from Morocco.

The disputed domain name was registered on November 29, 2022.

The disputed domain name apparently has not yet been associated to an active website.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its AMINA MUADDI trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant is also convinced that the Respondent has registered and is using the disputed domain name in bad faith.

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.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

To begin, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the AMINA MUADDI trademark, which is registered in numerous jurisdictions around the globe (Annex E to the Complaint).

Further, the Panel notes that the disputed domain name differs from the Complainant's AMINA MUADDI trademark only by the omission of the two characters "d" and "i" from the second part of the Complainant's trademark.

As stated at section 1.9 of the [WIPO Overview 3.0](#), where the relevant trademark remains recognizable within the disputed domain name, the omission of characters would generally not prevent a finding of confusing similarity. Against this background, the Panel believes that the omission of the two characters "d" and "i" does not eliminate the recognizability of the Complainant's AMINA MUADDI trademark within the disputed domain name, and hence does not prevent a finding of confusing similarity in the present case.

In this regard, the Panel also notes that ".shop" as the generic Top-Level Domain ("gTLD") in this case may, as a general principle, be disregarded when assessing identity or confusing similarity between a domain name and a trademark, see [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's AMINA MUADDI trademark and concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's AMINA MUADDI trademark in a confusingly similar way within the disputed domain name.

In the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name.

The Panel rather finds that the typos in the Complainant's trademark represented in the disputed domain name removing the letters "d" and "i" are demonstrative of the Respondent's lack of rights or legitimate interests. In fact, the Panel has no doubt that the Respondent's intent is to impersonate the Complainant, which in view of the Panel results in an illegitimate purpose of use that can never confer rights or legitimate interests upon the Respondent, see [WIPO Overview 3.0](#), section 2.13.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is convinced that the Respondent was aware of the Complainant's AMINA MUADDI trademark when registering the disputed domain name in November 2022. At the date of registration, the Complainant's trademark was already registered, used, and widely known.

Additionally, it is obvious to the Panel, that the Respondent has chosen the disputed domain name to target and mislead Internet users who particularly are searching for the Complainant and its offered goods. Consequently, the Panel has no doubt that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, as already indicated before, the disputed domain name has apparently not been linked to an active website. Nonetheless, and in line with the previous UDRP decisions (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)) and section 3.3 of the [WIPO Overview 3.0](#), the Panel believes that the non-use of domain name does not prevent a finding of bad faith use.

Applying the passive holding doctrine as summarized in section 3.3 of the [WIPO Overview 3.0](#), the Panel assesses the Complainant's widely known AMINA MUADDI trademark as distinctive, so that any good faith use of the Complainant's trademark in the inherently misleading disputed domain name by the Respondent appears to be inconceivable. In this regard, the Panel believes that the disputed domain name creates a real or implied threat to the Complainant. Even if not associated to an active website so far, the inherently misleading disputed domain name may at any time be used by the Respondent for fraudulent or at least illegitimate activities, e.g. by activating and using an MX email server for the dispute domain name. Furthermore, the Panel accepts the failure of the Respondent to submit a response to the Complainant's contentions as an additional indication for bad faith.

All in all, the Panel cannot conceive of any plausible and legitimate use of the inherently misleading disputed domain name that would be in good faith, except with an authorization of the Complainant.

Taking these facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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, <aminamuad.shop>, be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: April 26, 2023