

## **ADMINISTRATIVE PANEL DECISION**

### **MakeMyTrip (India) Private Limited v. Yuxiao Liang Case No. D2023-1152**

#### **1. The Parties**

The Complainant is MakeMyTrip (India) Private Limited, India, represented by Sim And San, Attorneys At Law, India.

The Respondent is Yuxiao Liang, China.

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

The disputed domain name <makingmytrip.com> is registered with Realtime Register B.V. (the "Registrar").

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 15, 2023. 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 March 16, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 16, 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 amended Complaint also on March 16, 2023.

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 March 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 11, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on April 14, 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 registered in India. It is a provider of travel services.

The Complainant is the owner of various trademark registrations for the mark MAKEMYTRIP. These registrations include:

- India trademark registration number 2149947 for the word mark MAKEMYTRIP, registered on May 25, 2011 in International Class 39; and
- United States of America ("United States") trademark registration number 4836848, registered on October 20, 2015 in International Classes 39 and 43.

The Complainant provides evidence that it has operated a website at "www.makemytrip.com" since 2001.

The disputed domain name was registered on June 4, 2022.

The Complainant provides evidence by way of screenshots that the disputed domain name has resolved to a Chinese language website at "www.makingmytrip.com", featuring pornographic content and what appear to be pay-per-click ("PPC") advertising links to other pornographic websites.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant submits that its trademark MAKEMYTRIP is distinctive and widely known in connection with travel services in India and elsewhere. It contends that it has used that name and mark since 2000 and provides evidence of substantial sales turnover and promotional spend. It also submits evidence of a mobile app which it launched in 2012 and of a significant presence on social media. The Complainant further provides evidence of industry recognition, including its app having been rated "favourite travel app" by Condé Nast Traveler India in 2017. The Complainant states that it is a member of several international travel associations such as IATA and that it has collaboration agreements with airlines and hotels in numerous countries around the world.

The Complainant submits that the disputed domain name is confusingly similar to its trademark MAKEMYTRIP, in that it differs from that mark only by using the present participle "making" in place of the verb "make" contained in the trademark. It contends that its trademark is therefore clearly recognizable within the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its MAKEMYTRIP trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. It submits, in particular, that the Respondent's deceptive use of the disputed domain name to direct Internet users to a pornographic website cannot be viewed as a *bona fide* activity giving rise to rights or legitimate interests.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant contends that its mark MAKEMYTRIP is a highly distinctive coined mark and that there can be

no plausible reason for the Respondent to have registered the disputed domain name other to cause a likelihood of confusion with its trademark. The Complainant also submits that the disputed domain name is inherently misleading owing to its close and obvious similarity with the MAKEMYTRIP mark. The Complainant submits that the Respondent is “pornosquatting”, by attempting to take unfair advantage of Internet users who are seeking to find the Complainant’s website and type an incorrect address by redirecting them to a pornographic website. The Complainant adds that the Respondent is using the disputed domain name for commercial gain, as is evidenced by its website containing PPC links to other pornographic websites.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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**

The Complainant has demonstrated that it has registered trademark rights in respect of the mark MAKEMYTRIP. The disputed domain name differs from that trademark only insofar as the term “make” in the trademark is replaced with “making” in the disputed domain name. This alteration does not prevent the Complainant’s trademark from being recognizable within the disputed domain name and the Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

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

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. In particular, as further discussed below, the Panel finds that the Respondent has used the disputed domain name misleadingly to divert Internet users to pornographic websites, which cannot constitute legitimate use of the disputed domain name. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

The Panel finds the Complainant’s MAKEMYTRIP trademark to be distinctive in nature and to have gained a substantial degree of public recognition in connection with travel services. The disputed domain name is highly similar to the Complainant’s trademark and the Respondent has offered no explanation for its registration and use of the disputed domain name. In the circumstances, the Panel readily infers that the

Respondent registered the disputed domain name in the knowledge of the Complainant's trademark and with the intention of taking unfair advantage of that trademark by causing confusion among Internet users.

The Panel finds the disputed domain name to be inherently deceptive, as inevitably suggesting to Internet users that it has some legitimate connection with the Complainant's MAKEMYTRIP trademark and its legitimate website at "www.makemytrip.com". Further, the Respondent has used the disputed domain name to resolve to a website containing pornography and PPC links to other pornographic websites, which it is to be assumed are revenue-generating. The Panel finds in the circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

## **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, <makingmytrip.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: April 19, 2023