

## **ADMINISTRATIVE PANEL DECISION**

Muuto A/S v. Manlidy, GNN

Case No. D2023-1613

### **1. The Parties**

The Complainant is Muuto A/S, Denmark, represented by Aera A/S, Denmark.

The Respondent is Manlidy, GNN, Singapore.

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

The disputed domain name <muutohome.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2023. On April 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 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 (WhoisSecure, WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 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 on April 18, 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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on May 15, 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 Danish company based in Copenhagen, Denmark, which is specialized in the manufacture and sale of furnishings and interior designs since its foundation in 2005. The Complainant's products include furniture, works of art and other decorative accessories which are sold in more than 50 countries worldwide.

The Complainant owns numerous registrations for the nominal trademark MUUTO and MUUTO (Devise) in many jurisdictions, covering furniture and interior design, including the following:

- Danish Trademark Registration No. VR 2012 02062 MUUTO, registered on August 21, 2012, in classes 8, 11, 20, 21, 24, 35 and 42;
- Danish Trademark Registration No. VR 20050 2112 MUUTO (Devise), registered on June 10, 2005 in classes 11, 14, 20, 21, 24, 25 and 42;
- International Trademark Registration No. 1158527 MUUTO, registered on November 2, 2012, in classes 11, 20, 21, 24 and 35;
- International Trademark Registration No. 881199 MUUTO (Devise), registered on September 13, 2005 in classes 11, 20, 21 and 24.

Also, the Complainant owns and maintains a website under the domain name <muuto.com> which it uses to promote the sales of its products and services.

The disputed domain name <muutohome.com> was registered on February 17, 2023, and resolves to a webpage which offers products similar to those offered by the Complainant.

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

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

The Complainant claims that the disputed domain name is confusingly similar to its trademark MUUTO in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The Complainant is not in any way affiliated with the Respondent or the disputed domain name, nor has it permitted the use of its trademark MUUTO in any way.

There is no evidence to conclude that the Respondent owns any service marks that reflect the disputed domain name and nothing in the records suggests that the Respondent is commonly known by the disputed domain name.

The Respondent is using the disputed domain name for a website imitating the Complainant's website <muuto.com>.

The Respondent has been using the Complainant's trademark, designs, product names and environmental pictures on the website to which the disputed domain name resolves in order to attract customers and make the fraudulent website look legitimate.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's MUUTO trademarks.

The disputed domain name incorporates the Complainant's trademark MUUTO in its entirety with the addition of the term "home", which does not prevent a finding of confusing similarity. Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name - as it occurs in this case - the addition of a term would not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark MUUTO in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

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

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry.” Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

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

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trademark MUUTO mentioned in section 4 above (Factual Background) when it registered the disputed domain name on February 17, 2023. By that time, the Complainant had long ago registered and intensely used the trademark MUUTO.

By registering the disputed domain name that includes the Complainant’s trademark MUUTO in its entirety the Respondent was targeting the Complainant and its business. The addition of “home” only contributes to confuse Internet users and leads them to think that the relevant website belongs to or is endorsed by the Complainant with the intention to capitalize on the fame of the Complainant’s trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no explanation for the Respondent’s choice of the disputed domain name, the nature of the disputed domain name, the imitation of the Complainant’s website to offer unauthorized goods which compete with those offered by the Complainant, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4 (a)(iii) of the Policy have been fulfilled.

## 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 <muutohome.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: May 29, 2023