

ADMINISTRATIVE PANEL DECISION

Magna International Inc. v. kwoni smith
Case No. D2023-2106

1. The Parties

The Complainant is Magna International Inc., Canada, represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is kwoni smith, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <magnainternationalgroup.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 11, 2023. On May 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 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 May 25, 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 May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. The Respondent sent an email communication to the Center on May 31, 2023. The Respondent did not file any formal Response. Accordingly, the Center notified the commencement of panel appointment process on June 22, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on July 19, 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, Magna International Inc., is a global automotive supplier, with manufacturing facilities in Canada, in the United States of America, and other countries. The Complainant owns the following trademarks:

Trademark	Reg. No.	Jurisdiction	Reg. Date
MAGNA INTERNATIONAL	TMA1044837	Canada	July 26, 2019
MAGNA INTERNATIONAL	TMA1044833	Canada	July 26, 2019
MAGNA INTERNATIONAL	TMA1058005	Canada	October 8, 2019
MAGNA INTERNATIONAL	TMA1044827	Canada	July 26, 2019
MAGNA INTERNATIONAL	TMA1058024	Canada	October 8, 2019
MAGNA INTERNATIONAL	017877044	European Union	September 7, 2018
MAGNA INTERNATIONAL	UK00917877044	United Kingdom	September 7, 2018

The Complainant also owns the domain name <magna.com>, registered on February 1, 1991, which corresponds to its website and prominently features the MAGNA trademarks and promotes the Complainant's businesses.

The disputed domain name was registered on March 18, 2023 and does not resolve to any active website. However, the Respondent has created email addresses under this disputed domain name, through which it sent emails to third parties impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant argues that its trademark is reproduced in the disputed domain name in its entirety and that it is still to be considered confusingly similar to the Complainant's MAGNA INTERNATIONAL.

The Complainant informs that it has taken screenshots of the Respondent's emails impersonating the Complainant, to show the Respondent's attempt to mislead Internet users, impersonating the Complainant's actual employees, and to take advantage of the Complainant's reputation and goodwill.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant further contends that the Respondent has contacted their customers by sending them emails impersonating the Complainant.

Moreover, the Complainant stresses that the Respondent is not commonly known by the disputed domain name, as well as it is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant states that the Respondent does not have prior rights over the trademark MAGNA INTERNATIONAL and has not been authorized the registration and use of the disputed domain name, nor the use of it trademark by the Respondent.

Additionally, the Complainant informs that its trademark registrations for MAGNA INTERNATIONAL and domain name <magna.com> predate the registration of the disputed domain name.

The Complainant also argues that the Respondent has clearly registered the disputed domain name to target the Complainant's brand and that the registration of the disputed domain name was therefore conducted in bad faith. Finally, the Complainant mentions that the use of the disputed domain name is clearly in bad faith, as the Respondent presented itself as the Complainant.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent sent an email to the Center on May 31, 2023, informing that the Complaint filed against the disputed domain name was received and that his attorneys were briefed, and they would respond shortly. No further official reply to the Complainant's contentions was made.

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove 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 was used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of trademark registrations for MAGNA INTERNATIONAL in different countries.

The disputed domain name incorporates the Complainant's trademark MAGNA INTERNATIONAL in its entirety. As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The addition of the element "group" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark and domain name, since the registered trademark MAGNA INTERNATIONAL is totally recognizable within the disputed domain name.

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark MAGNA INTERNATIONAL.

B. Rights or Legitimate Interests

The Panel finds the Complainant has made out a *prima facie* case of this element, and the burden of

production of evidence shifts to the Respondent. The Respondent has not submitted any evidence or counterarguments to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademarks or to register domain names containing the Complainant's trademark MAGNA INTERNATIONAL.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute, the Respondent has made 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.

Given the Complainant's ownership and use of the domain name <magna.com>, the nature of the disputed domain name is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#). The additional element suggests that the disputed domain name is connected to the Complainant.

Furthermore, the Complainant has provided evidence that the disputed domain name was used in connection with a fraudulent practice leading the users into believing that the Complainant is behind it. Such use can never confer rights or legitimate interests onto the Respondent. See section 2.13 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the Complainant has made out an unrebutted *prima facie* case and the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark MAGNA INTERNATIONAL and the domain name <magna.com> are used and have been registered by the Complainant and predate the registration date of the disputed domain name.

The Respondent has no rights or legitimate interests in the disputed domain name.

This Panel finds that the disputed domain name reproduces the trademark MAGNA INTERNATIONAL in its entirety with an apparent intention to confuse and/or deceive consumers/Internet users.

It is clear to the Panel that the Respondent's intention with the registration of the disputed domain name was to impersonate the Complainant in a fraudulent email scheme whereby the Respondent emailed some of the Complainant's customers impersonating actual employees of the Complainant in order to commit fraud.

This confirms that the disputed domain name was registered and used in bad faith by the Respondent.

For the above reasons, the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name was registered and was 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 <magnainternationalgroup.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: August 2, 2023