

ADMINISTRATIVE PANEL DECISION

Matmut v. Karl Schnurch, EdenMedia

Case No. D2023-4446

1. The Parties

The Complainant is Matmut, France, represented by Nameshield, France.

The Respondent is Karl Schnurch, EdenMedia, Seychelles.

2. The Domain Name and Registrar

The disputed domain name <cematmut.org> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 27, 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, EdenMedia) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 October 31, 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 November 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on December 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 is a French mutual insurance company founded in 1961 under the MATMUT mark, with 4.2 million current members and a turnover of EUR 2,5 billion . The Complainant's MATMUT mark has been recognised as well known by prior UDRP panels. See e.g., *Matmut v. Younes Ousserhir*, WIPO Case No. [D2019-2700](#).

The Complainant owns various registrations for its MATMUT trade mark, including European Union Trade Mark Registration No. 003156098 MATMUT in classes 36, 37, 42, and 44, registered on May 26, 2005.

The disputed domain name was registered on February 4, 2021, and resolves to a parking page with pay-per-click ("PPC") advertisements, some of which are for insurance businesses that compete with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, the Complainant contends that the disputed domain name was registered and used in bad faith for PPC advertisements, taking advantage of the Complainant's reputation to attract users to a confusingly similar domain name for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with

relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation of the complainant's mark, as in this case. [WIPO Overview 3.0](#) at section 2.9.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark (as in this case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1.

The disputed domain name has been used to advertise services competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them. [WIPO Overview 3.0](#) at section 3.5.

The Respondent has a long history of cybersquatting, as evidenced by at least eight prior UDRP cases decided against it as respondent. See e.g., *Eli Lilly and Company v. Karl Schnurch, EdenMedia*, WIPO Case No. [D2022-3826](#); *Blue Cross and Blue Shield Association v. Karl Schnurch, EdenMedia*, WIPO Case No. [D2023-1724](#). This is a further indicator of bad faith.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#) at section 4.3.

The Panel finds that the Complainant has established the third element 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 <cematmut.org> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: January 2, 2024