

ADMINISTRATIVE PANEL DECISION

Maxi Miliaan B.V v. Yolanda JStodola, NIL, Dianne JPhillips, NIL, LMichell Cory, NIL, Ellen ABarber, NIL, Shaun CMercer, NIL, Clarice JStone, NIL
Case No. D2023-4466

1. The Parties

The Complainant is Maxi Miliaan B.V, Netherlands (Kingdom of the), represented by Bignon Lebray, France.

The Respondents are Yolanda JStodola, NIL, United States of America, Dianne JPhillips, NIL, United States of America, LMichell Cory, NIL, United States of America, Ellen ABarber, NIL, United States of America, Shaun CMercer, NIL, United States of America, and Clarice JStone, NIL, United States of America.

2. The Domain Names and Registrar

The disputed domain names <au-maxicosi.com>, <buy-maxicosi.com>, <cheap-maxicosi.com>, <deal-maxicosi.com>, <maxicosi-schritte.com>, <maxicosi-shop.com>, and <maxicosi-store.com> (the "Domain Names") are registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 27, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On October 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names 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 October 31, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 20, 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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 3, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on January 10, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Dutch company founded 30 years ago and specialized in the marketing of products for babies. As such, the Complainant commercializes a large variety of strollers, car seats and baby carriers under the trademark MAXI-COSI.

The Complainant has rights in numerous trademark registrations, such as European Union trademark number 002401560 (registered on March 24, 2003) and International trademark number 838787 (registered on October 29, 2004). The Complainant also owns numerous domain names that contain the trademark MAXI-COSI, such as <maxi-cosi.fr> and <maxi-cosi.com>.

The Domain Names have been registered between September 8 and 11, 2023. At the time of filing the Complaint, the Domain Names resolved to websites that mimic the look and feel of the Complainant's official website, copying the Complainant's layout, texts, and trademark. At the time of drafting the Decision, the Domain Names resolved to an error page.

5. Parties' Contentions

A. Complainant

The Complainant argues that the Domain Names are under common control. The Domain Names all wholly incorporate the Complainant's trademark. All were registered under the same domain extension (".com"), using the same registrar. The Domain Names were registered in the same day, except one that was registered three days later. The Domain Names share the same name servers' organization, domain status, and all Domain Names are hosted under the same IP address. Moreover, the Domain Names are composed with the same structure; the Complainant's trademark with a descriptive element added. The structure of the postal address in the contact details of the Domain Names is the same. Finally, the Domain Names all resolve to the same/similar website copying the Complainant's official website.

The Complainant provides evidence of trademark registrations and argues that the Domain Names reproduce identically the Complainant's trademark in its entirety. The addition of descriptive words is not sufficient to prevent a finding of confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Complainant has not authorized the Respondent to use its trademarks in any way. The Respondent has not made any demonstrable preparations to use the Domain Names in connection with a *bona fide* offering of goods or services. The Complainant contends that the Respondent is using the Domain Names to deceive Internet users into believing that the website is owned or operated by the Complainant.

The Complainant argues that the Domain Names were registered and are being used in bad faith as the Respondent must have had knowledge of the Complainant's prior rights when the Respondent registered the Domain Names. Moreover, the Respondent has used the Domain Names to attract, for commercial gain, Internet users to its websites, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural matters - Consolidation of Multiple Registrants

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Domain Names all incorporate the Complainant's trademark, were registered under the same domain extension through the same registrar on the same day (except one Domain Name that was registered few days later). The Domain Names are listed with the same address structure and are hosted under the same IP address. The Domain Names resolved to similar websites that imitated the Complainant's official website.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to as "the Respondent") in a single proceeding.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Names. See [WIPO Overview 3.0](#), section 1.7. The Complainant has established that it has rights in the trademark MAXI-COSI. Each Domain Name incorporates the Complainant's trademark in its entirety, with the addition of a hyphen and a term. The additions, and the exclusion of the hyphen between the word "maxi" and the word "cosi", do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the Domain Names are confusingly similar to the trademark in which the Complainant has rights. The first element of paragraph 4(a) 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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. 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 Domain Names. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services.

As described above, the Respondent has used the Domain Names to resolve to a website imitating the Complainant’s website. Further, also the composition of the Domain Names carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

The composition and use of the Domain Names prove that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The Respondent has failed to provide any evidence of actual or contemplated good faith use of the Domain Names. The use of the Domain Names for a website that imitates the Complainant to attract Internet users, is evidence of bad faith registration and use pursuant to paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Names <au-maxicosi.com>, <buy-maxicosi.com>, <cheap-maxicosi.com>, <deal-maxicosi.com>, <maxicosi-schritte.com>, <maxicosi-shop.com> and <maxicosi-store.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: January 17, 2024