

ADMINISTRATIVE PANEL DECISION

Marlink SA v. lamar link

Case No. D2023-4745

1. The Parties

The Complainant is Marlink SA, Belgium, represented by MIIP - MADE IN IP, France.

The Respondent is lamar link, Saudi Arabia.

2. The Domain Name and Registrar

The disputed domain name <Imarlink.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 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 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 18, 2023.

The Center appointed David Stone as the sole panelist in this matter on December 26, 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 Belgium-based provider of smart network solutions, combining satellite communications, terrestrial telecoms, and digital solutions to connect remote operations.

The Complainant owns a number of trade marks, including the following (the “Marks”).

- MARLINK: European Union registration number 015333487 registered on October 4, 2016, in international class 38.
- MARLINK: International registration number 1309586 registered on July 13, 2016, in international class 38 and in force in Algeria, the Republic of Korea, Mexico, and Viet Nam.
-  MARLINK: International registration number 1306931 registered on June 28, 2016, in international class 38 and in force in Japan, Norway, Singapore, and the United States of America.

The Complainant is also the owner of the domain name <marlink.com>, which was registered on May 10, 1996, and is the address of the Complainant’s official website.

The disputed domain name was registered on August 14, 2023. When the Complaint in these proceedings was filed, the website associated with the disputed domain name was classified as “suspicious” by the Complainant’s Internet security systems, and access to it was blocked. On the date of this decision, the website displays written content in Arabic that describes the services of “Lamar Link Company for Commercial and Administrative Business Services” (machine-translated). According to the website, this is “[a] company that grew up in the world of business services with its uniqueness and deep knowledge of the renewed needs of companies and institutions. We provide integrated support and solutions to challenges in the business sector” (machine-translated). The website also contains a number of images of buildings featuring on their frontages a logo containing the word “LMARLINK”. The website does not appear to provide any specific information about the history of this company or its date of establishment. It indicates that the company has a place of business in Riyadh, Saudi Arabia, but it does not provide a street address. With one exception the hyperlinks it contains, some of which purport to connect to social media and are represented by well-known icons for Facebook, Twitter, Snapchat, and Instagram, lead to different areas of the same webpage, open new versions of the same site or do not work at all. The exception is a link to an external WhatsApp chat site.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Marks. The disputed domain name fully incorporates the text of the Marks, and differs from this text only in the addition of the generic Top-Level Domain (“gTLD”) “.com” and the letter “l”. Neither addition suffices to distinguish the disputed domain name from the Marks.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Respondent, whether under the name “lamar link” or any other, has no registered trade mark right in respect of the word “lmarlink”, and any right arising from registration of the disputed domain name post-dates the Complainant’s registration of the Marks. Furthermore, there is no business or legal relationship between the Complainant and the Respondent, and the Respondent is not authorized to use the Marks in any way. The Complainant also contends that the apparently suspicious nature of the Respondent’s website is an indication that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Marks are well known around the world, and an Internet search for the text of the Marks produces hundreds of thousands of results, the highest-ranked of which all relate to the Complainant. The Respondent must have been aware of the Marks and can have registered the disputed domain name only to

confuse Internet users and exploit the Complainant's reputation. The Complainant also believes that, owing to the suspicious nature of the Respondent's website, there is a risk of malware associated with the disputed domain name, and notes that the distribution of malware is an indicator of bad-faith use. Finally, and along the same lines, the Complainant points out that email servers associated with the disputed domain name have been activated, and that there is therefore a risk of phishing, which fraudulent activity is an indicator of use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to succeed:

- (i) that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

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 Marks and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

On the basis of 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 that the entirety of the text of the Marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the generic Top-Level Domain ".com" and the letter "l", may bear on assessment of the second and third elements, the Panel finds that the addition of these terms does not prevent a finding of confusing similarity between the disputed domain name and the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8 and 1.11; *Marlink SA v. Obabko Nikolay Vladimirovich*, WIPO Case No. [D2019-2371](#).

On the basis of the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the criteria that determine whether a domain name registrant has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, the respondent's 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; or
- (ii) the respondent (as an individual, business or other organisation) has been commonly known by the disputed domain name, even if the respondent has acquired no trade mark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the trade mark or service mark at issue.

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.

Having reviewed the available record, 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.

Arguably, the content of the Respondent’s website might constitute evidence that the disputed domain name is to be used in connection with a *bona fide* offering of goods or services, but on balance, the Panel concludes that this is not the case. Although the Respondent’s website now contains a description of a company providing “commercial and administrative business services”, the Complainant has adduced evidence that, prior to the Respondent becoming aware of the Complaint against it, the disputed domain name resolved to, or was associated with, content that was considered suspicious by the Complainant’s security software. Furthermore, while the Panel acknowledges that it has assessed the present textual content of the website using a machine translation from Arabic to English, said content consists of highly generic language and does not seem to contain any verifiable information on the history or the legal, regulatory or registration status of the company. Of the several links the site contains, only one has any effect other than to redirect the user around within the same page or open a new instance of the same site, and that one links to a chat website. Other icons that appear to be links to external social media sites are not links at all – they do not resolve to any active pages.

In addition, the site contains images of a number of large buildings each featuring, judging by relative scales, a massive logo containing the word “Imarlink”. Examination of these images leads the Panel to believe that they are not genuine, but are instead manipulated images of buildings on which the logo has been superimposed. This opinion is strengthened by the fact that clicking on one of the images brings up what the Panel takes to be its filename: “Silver logo mockup on modern building”. The section of the Respondent’s site containing contact information includes a map of Riyadh on which an Internet user would expect to find a marker indicating the location of the company’s premises, and which might be used to verify the existence of those premises, but no such marker is provided, and the contact information contains no street address.

Finally, and crucially, the Respondent has not attempted to refute any of the Complainant’s contentions. If the Respondent was in the process of developing a legitimate business using LMARLINK as a name or brand, and was building a website to support and advertise that business, the Panel can see no reason why it would not have explained that in a response to the complaint in these proceedings. The Panel concludes that the Respondent’s entire website is, more likely than not, a mock-up designed to give an impression of legitimate activity where none exists as a pretext for potentially illegal activity, given the previous Internet security warnings associated with the disputed domain name, which evidently does not confer rights or legitimate interests in favor of the Respondent.

On the basis of the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out the non-exhaustive criteria for bad faith. Generally, for the purposes of the Policy, bad faith constitutes registration and use of a domain name in order to:

- (i) sell, rent or transfer the domain name to the trade mark owner (or a competitor thereof) for a profit;
- (ii) prevent the trade mark owner from registering its trade mark in a domain name, provided that the respondent is engaged in a pattern of such conduct;
- (iii) disrupt the business of a competitor; or
- (iv) divert Internet traffic for commercial gain.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. Relevant factors include (i) the content of the website to which the domain name resolves, including any changes in such content and the timing thereof; and (ii) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name. [WIPO Overview 3.0](#), section 3.2.1.

As contended by the Complainant, and confirmed in a decision by a previous panel, the Marks are well known. *Marlink SA v. Contact Privacy Inc., Customer 1245005519 / Roberts Matthew, marl Link LLC*, WIPO Case No. [D2019-1653](#). The Panel therefore finds that the Respondent was or at least ought to have been aware of the Marks. Furthermore, although the Respondent's website suggests the existence of a company doing business using the name or brand LMARLINK, in the Panel's opinion this is not genuine and was probably created by the Respondent in order to make the Respondent's use of the disputed domain name seem legitimate. Specifically, the Panel finds that the website was set up as a pretext for the use of the disputed domain name in furtherance of illegal activity such as phishing, which is further supported by (i) the prior Internet security warnings associated with accessing the website at the disputed domain name, (ii) the Respondent provided incomplete address information to the Registrar, and; (iii) the Respondent's failure to file a response or refute the Complainant's claims

The Panel finds the website's content does not confer on the Respondent any rights or legitimate interests in the disputed domain name, and, given that the Respondent ought to have known of the Marks, the Panel can conceive of no credible, good-faith reason why the Respondent should have registered the disputed domain name. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith. *Marlink SA v. Contact Privacy Inc., Customer 1245005519 / Roberts Matthew, marl Link LLC*, WIPO Case No. [D2019-1653](#).

On the basis of the available record, 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, <Imarlink.com>, be transferred to the Complainant.

/David Stone/

David Stone

Sole Panelist

Date: January 9, 2024