

## **ADMINISTRATIVE PANEL DECISION**

Magna International Inc. v. anilx cols, and Jackson Michael  
Case No. D2023-5023

### **1. The Parties**

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

The Respondents are anilx cols, Åland Islands, and Jackson Michael, American Samoa, United States of America.

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

The disputed domain names <magnaapp.com>, <magnabtob.com>, and <magnaios.com> (the “Domain Names”) are registered with CloudFlare, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On December 5, 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 Respondents (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 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 December 7, 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 Respondents of the Complaint, and the proceedings commenced on January 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 24, 2024.

The Center appointed Gregor Vos as the sole panelist in this matter on January 26, 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 by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a global automotive supplier that was founded in 1957. The Complainant employs over 170,000 employees and operates in 28 countries on five continents.

The Complainant is the owner of inter alia the following trademark registrations (the "Trademarks"):

- European Union Trade Mark registration No. 011330529 for the wordmark MAGNA, registered on April 12, 2013;
- United States of America Trade Mark registration No. 1837713 for the wordmark MAGNA, registered on May 31, 1994.

The Domain Names were registered on August 19, 2023. At the time of filing of the Complaint, the Domain Names resolved to websites impersonating the Complainant and on which a fake mobile application with the Trademarks were offered to download. Also, the Complainant has provided evidence that the Domain Names have been used to impersonate the Complainant's employees to commit fraud by inviting individuals to transfer money to fake accounts that are used in a scamming scheme.

#### **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 Domain Names.

Notably, the Complainant first contends that the Domain Names are confusingly similar to its Trademarks, since they incorporate the Trademarks in their entirety with the mere addition of the letters "ios", "app" and "btob" respectively that refer to a mobile operating system, a mobile application and which are random letters.

Second, the Complainant states that the Respondents have no rights or legitimate interests in the Domain Names. The Respondents have never received authorization from the Complainant to use the Trademarks in the Domain Names and are not commonly known by the Domain Names. Also, the Respondents are not making a legitimate noncommercial or fair use of the Domain Names. On the contrary, the Complainant contends that the Respondents used the Domain Names for fraudulent activities.

Finally, according to the Complainant, the Respondents were undoubtedly aware of the Trademarks when registering the Domain Names. This is confirmed by the fact that the Respondents have attempted to impersonate the Complainant.

##### **B. Respondent**

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

#### **6. Preliminary Procedural Issue: Consolidation of Multiple Domain Names and the Respondents**

The Panel will first deal with the question of whether the different domain name disputes should be consolidated in single proceedings.

The consolidation of multiple domain name disputes under paragraph 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised over the disputed domain names or the websites to which the domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.

Indicia of common control have been found based on commonalities in registrant information, such as shared administrative or technical contacts and shared postal or email addresses, as well as other circumstances in the record indicating that the respondents are related or that a sufficient unity of interests otherwise exists that they may be essentially treated as a single domain name holder for purposes of paragraph 3(c) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.11.2; *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

In the present case, the Panel finds that the consolidation of the domain name disputes is justified. First, all Domain Names incorporate the Trademarks in their entirety. Second, all Domain Names are registered with same Registrar and all Domain Names have been registered on August 19, 2023. Third, all Domain Names are registered using the same telephone number and e-mail address. Fourth, all Domain Names resolve to websites that display identical fraudulent content. Finally, the Respondent has not objected to consolidation of the domain name disputes.

Therefore, the Panel finds, having regard to all relevant circumstances, that the Domain Names are under common control and that it is procedurally efficient and fair and equitable to all Parties when the domain name disputes are consolidated.

## **7. 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Trademarks are recognizable within the Domain Names. Accordingly, the Domain Names are confusingly similar to the Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "ios", "app" and "btob" respectively may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Names and the Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondents lack rights or legitimate interests in the Domain Names. The Respondents have 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 such as those enumerated in the Policy or otherwise.

In particular, Panels have held that the use of a domain name for illegal activity, here impersonating the Complainant for the purpose of fraudulent activities and setting up a phishing scam, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

This fraudulent practice of the Respondents has been confirmed in an earlier Panel decision involving the Complainant and the Respondent anilx cols that regarded the domain name <magnatob.com> (*Magna International Inc. v. anilx cols*, WIPO Case No. [D2023-3745](#)). The Panel expressly refers to the findings made by the Panel in that decision.

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.

Panels have held that the use of a domain name for illegal activity, here impersonating the Complainant for the purpose of fraudulent activities and setting up a phishing scam, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the Domain Names constitute bad faith under the Policy. The Panel expressly refers to the findings made by the Panel in the aforementioned earlier Panel decision (*Magna International Inc. v. anilx cols*, WIPO Case No. [D2023-3745](#)).

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 Domain Names <magnaapp.com>, <magnatob.com> and <magnaaios.com> be transferred to the Complainant.

/Gregor Vos/

**Gregor Vos**

Sole Panelist

Date: February 9, 2024.