

ADMINISTRATIVE PANEL DECISION

MBC FZ LLC and MBC IP FZ LLC v. Rachid Elkezazi
Case No. D2023-5250

1. The Parties

The Complainants are MBC FZ LLC and MBC IP FZ LLC, United Arab Emirates (“UAE”), represented by Taylor Wessing LLP, UAE.

The Respondent is Rachid Elkezazi, Morocco.

2. The Domain Name and Registrar

The disputed domain name <mbcvia.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On December 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 18, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on December 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 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 Complaints, 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 Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 23, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on January 24, 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 Complainants MBC FZ LLC (the “First Complainant”) and MBC IP FZ LLC (the “Second Complainant”) are incorporated in the UAE. They are members of the MBC Group, active in the fields of media, broadcasting, and entertainment, operating a number of TV and Internet-based channels with a worldwide audience. The First Complainant is the owner and operator of all MBC channels, holds broadcasting rights to the MBC programming, and is the licensee of the MBC trademark. The Second Complainant is the entity within the MBC Group that owns and manages the IP portfolio of the Group, including the MBC trademark.

The Second Complainant is the owner of numerous trademark registrations for the sign “MBC” (the “MBC trademark”), including the following:

- European Union trademark MBC with registration No. 000844910, registered on March 29, 2005, for services in International Class 41;
- Morocco trademark MBC with registration No. 97-112512, registered on August 9, 2007, for goods and services in International Classes 16, 35, 38, and 41; and
- UAE trademark MBC with registration No. 096007, registered on August 2, 2009, for services in International Class 38.

The Complainants' official website is located at the domain name <mbc.net>, registered in 2001.

The disputed domain name was registered on December 29, 2021. It currently resolves to a parked webpage containing pay-per-click (“PPC”) links. At the time of filing of the Complaint, it resolved to a website that displayed the Complainants' MBC trademark and associated logos and made reference to two MBC programs organizing the “Dream 2023” competition draw. The website offered visitors to participate in the competition draw and asked them to answer certain questions and enter their phone numbers. The website then required visitors to choose from five options, all of which redirected to third-party websites that required visitors to provide their mobile numbers and subscribe to various services, without entering them into a prize draw.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainants state that the disputed domain name is confusingly similar to their MBC trademark, because the dominant element of the disputed domain name “mbc” is identical to this trademark, and the addition of the word “via” does not reduce the confusing similarity of the disputed domain name with the Complainants' trademark. The Complainants submit that the disputed domain name is also confusingly similar to their domain name <mbc.net>.

According to the Complainants, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has no connection with the Complainants and has not been authorized by them to register or use the disputed domain name. The Complainants add that the Respondent has no rights in the MBC trademark or in the Complainants' “Dream” brand assets and materials.

The Complainants emphasize that the Respondent's selection of the disputed domain name is not a coincidence, given the international fame of their MBC trademark and their "Dream TV Show". They point out that the disputed domain name resolves to a website that uses the Complainants' names, trademarks and logos and the name of their "MBC Dream TV Show" and uses elements of their "Dream" brand assets and materials. According to the Complainants, the disputed domain name and the website at the disputed domain name have been created by the Respondent with the intention of diverting Internet users seeking information about the Complainants' "Dream TV Show" by suggesting sponsorship or endorsement by the Complainants, and directing visitors to third-party games websites, where they may unknowingly subscribe to services under the false impression of a connection to the "MBC Dream TV Show". According to the Complainants, this deliberate action is being carried out by the Respondent for financial gain by causing confusion and exploiting the Complainants' trademarks and rights.

The Complainants contend that the disputed domain name was registered and is being used in bad faith. They note that the MBC trademark predates the registration of the disputed domain name by at least 20 years, and submit that the Respondent must have been aware of the Complainants and their "MBC Dream TV Show" when registering the disputed domain name. They point out that the disputed domain name reflects the MBC trademark in its entirety and the website at the disputed domain name uses the same trademark and the Complainants' "Dream" brand assets and materials, which implies affiliation with their "MBC Dream TV Show". According to the Complainants, the Respondent intends to attract Internet users to the website at the disputed domain name to free-ride on the Complainants' reputation and goodwill established in the MBC trademark for commercial gain by creating a likelihood of confusion with the same trademark.

The Complainants maintain that the Respondent has been using the disputed domain name to attempt to attract, for commercial gain, Internet users to the website at the disputed domain name or other gaming websites, by creating a likelihood of confusion with the MBC trademark. They note that the website at the disputed domain name mimicked their own contest website connected to the "MBC Dream TV Show", including the use of MBC trademark, the names and marks of the Complainants' "Dream TV Show" and the Complainants' logo and images. The Complainants add that the website at the disputed domain name invites users to answer some questions in order to enter a prize draw and then redirects them to various third-party websites offering subscription services, none of which is related to the Complainants. According to them, such use of the MBC trademark and the name of the "Dream TV Show" and its elements to support fraudulent and deceptive activities can only result in the tarnishing of the Complainants' brand and damaging their relationship with viewers and users.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural issue – Consolidation of the Complainants

The Complaint was filed by two Complainants.

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.1.

The Complainants request consolidation as they have a common legal interest in the MBC trademark and the “MBC Dream TV Show” and claim being the target of common conduct by the Respondent which has affected their individual legal interests in a similar fashion.

This is sufficient for the Panel to conclude that the Complainants have specific common grievances against the Respondent. The Respondent has not objected to the filing of the Complaint and to the fact that it has been filed by two Complainants jointly, and has not brought to the Panel’s attention any reasons why the admission of two Complainants would not be equitable or procedurally efficient.

Therefore, the Panel accepts the Complaint filed by two Complainants.

6.2. Substantive Issue

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 Complainants have provided evidence that the Second Complainant is the registrant of the MBC trademark. They have also submitted that the Complainants belong to the same corporate group and that the First Complainant is a licensee of the MBC trademark. This is sufficient for a finding that the Complainants have rights in the MBC trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.2.1 and 1.4.

The Panel finds the MBC trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the MBC trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “via”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the MBC trademark 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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.

The disputed domain name is confusingly similar to the Complainants' MBC trademark, and the associated website has prominently displayed the same trademark and contained references to the Complainants' MBC programs organizing the "Dream 2023" competition draw without including any disclaimer of the lack of relationship between the Parties. The website invited visitors to participate in the Dream competition draw and then attempted to redirect them to third-party websites that offered various paid subscription services. The Respondent has thus tried to attract Internet users to its website by exploiting the popularity of the Complainants' MBC trademark to offer third-party services for financial gain. Such activity cannot confer on the Respondent any rights or legitimate interests in the disputed domain name.

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.

As already discussed, the disputed domain name is confusingly similar to the MBC trademark, and the evidence shows that it has been used for a website that displayed the Complainants' MBC trademark and associated logos and made reference to two MBC programs organizing the "Dream 2023" competition draw. This makes it clear that the Respondent is well aware of the Complainants and their entertainment business conducted under the MBC trademark. The Respondent's website offered visitors to participate in a competition draw organized by the Complainants without disclosing the lack of relationship with them, and then attempted to redirect them to third-party websites collecting personal data and offering paid subscription services. Taken together, this supports a conclusion that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the associated website by creating a likelihood of confusion with the Complainants' MBC trademark as to the affiliation with or endorsement by the Complainant of the services offered through the Respondent's website. This supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy. The fact that the disputed domain name currently redirects to a parking webpage does not affect the above conclusion.

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 <mbcvia.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: February 7, 2024