

ADMINISTRATIVE PANEL DECISION

Magna International Inc. v. anilx cols

Case No. D2024-0047

1. The Parties

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

The Respondent is anilx cols, Åland Islands, Finland.

2. The Domain Names and Registrar

The disputed domain names <indiamagna.com>, <magnacto.com>, <magnaito.com>, and <magnartx.com> are registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 10, 2024. On January 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 10, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2024, 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 January 18, 2024.

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 January 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 13, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on February 19, 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, Magna International Inc., is a global automotive supplier, with manufacturing facilities in Canada, the United States of America (“United States”), and elsewhere in the world. It had global sales in 2022 of over USD 37.8 billion, and is listed and traded on the Toronto Stock Exchange in Canada and the New York Stock Exchange in the United States. The Complainant is a major global employer, employing over 170,000 employees worldwide. The Complainant owns a significant global portfolio of trade mark registrations that consist of or comprise MAGNA including Canadian trade mark registration TMA303870 for MAGNA registered on June 21, 1985, and European Union trade mark registration 011330529 for MAGNA registered on April 12, 2013. The Complainant also owns trade mark registrations for its combined MAGNA word and logo mark and in particular Indian trade mark registration 2274130 registered on January 30, 2012. The Complainant also owns the domain name <magna.com> which it registered in 1991 and from which it has operated a website since at least 2001 and it has a significant social media online presence.

The disputed domain name <indiamagna.com> was registered on August 19, 2023, and each of the other three disputed domain names were registered on October 3, 2023. The disputed domain names each resolve to identical web pages that feature a representation of the Complainant’s combined MAGNA word and trade mark logo and provide a facility for Internet users to log in and to register by entering their identification and private details or to be taken by hyperlink from the “APP” icon on each web page to another page which purports to provide the download of a “Magna app”.

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 names.

It submits that each of the disputed domain names wholly incorporate the Complainant’s MAGNA trade mark and that each disputed domain name is therefore confusingly similar to the Complainant’s mark. It says that the addition of the random letters “ito” (magnaito.com), “cto” (magnacto.com), “rtx” (magnartx.com) or of the geographic and descriptive term “india” (indiamagna.com) does not prevent a finding of confusing similarity.

The Complainant argues that there has never been any relationship between the Complainant and the Respondent, and that the Respondent is using the disputed domain names to impersonate the Complainant which cannot confer rights or legitimate interests.

In terms of bad faith, the Complainant says that it has provided considerable evidence of the significant rights that it enjoys in the MAGNA trade marks and that those marks have acquired significant reputation in the United States, Canada, and elsewhere well before the registration of any of the disputed domain names. In light of this reputation and the Complainant’s prior registration and use of its own very similar domain names featuring the MAGNA trade mark and given the nature of the Respondent’s repeated and continuing fraudulent activities attempting to pose as the Complainant (including use of the Complainant’s trade marks on the Respondent’s website or App), it must be concluded according to the Complainant that the Respondent had knowledge of the Complainant’s MAGNA trade marks at the time of registration of each of the disputed domain names.

In relation to use in bad faith, the Complainant submits that by registering and using a series of disputed domain names which are confusingly similar to the Complainant's well-known MAGNA trade marks, the Respondent has attempted to take advantage of the goodwill in those trade marks in an attempt to exploit, for commercial gain, Internet users who are likely to believe there is some connection between the Respondent's fraudulent solicitations and fake "Magna" website and App and the use of the disputed domain names is disruptive to the Complainant, as third parties are likely to be confused into believing that the Respondent's activities are affiliated with, or sponsored by, the Complainant, when that is not the case and that this is disruptive to the Complainant under paragraph 4(b)(iii) of the Policy.

The Complainant also submits that the Respondent's conduct fulfills the requirements of paragraph 4(b)(iv) of the Policy in that the Respondent has used each of the disputed domain names as described above, to confuse and divert Internet users to its own website for its own commercial purposes, whether that relates to fraudulently obtaining funds or phishing for users' personal information.

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

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 entirety of the mark is reproduced within each of the disputed domain names. Accordingly, each of the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, such as "india" or the letters "ito", "cto", "rtx" 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 disputed domain names and the mark 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 in relation to each of the disputed domain names.

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 Respondent lacks rights or legitimate interests in the disputed 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 disputed domain names such as those enumerated in the Policy or otherwise.

The Complainant has submitted that there has never been any relationship between the Complainant and the Respondent whatsoever. It has noted that each of the disputed domain names were registered recently (August 2023 and October 2023) and has alleged that the Respondent is making a fraudulent use of the websites to which each of the disputed domain names resolve (whether to obtain funds or for the purposes of "phishing") and is attempting to masquerade as if it is the Complainant, or is authorised by it, including by using the Complainant's combined MAGNA word and logo mark on each website. The Respondent has made no explanation of its conduct and the Panel notes that the use of the Complainant's combined MAGNA word and logo mark on each website and its obvious attempt to make the websites to which each disputed domain name resolves and the APP to which they link, look as if they are the Complainant's or are affiliated with the Complainant, is not bona fide conduct and is not consistent with it having rights or legitimate interests in the disputed domain names.

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.

In the present case, the Panel notes that the Respondent registered each of the disputed domain names many years after registration of the Complainant's MAGNA trade mark. The Complainant's worldwide business is very substantial and it has developed a significant reputation, including online, in connection with its MAGNA mark. In circumstances that each of the disputed domain names resolves to a website featuring the Complainant's registered combined MAGNA word and logo mark it is more likely than not that at the time of registration of each of the disputed domain names the Respondent was well aware of the Complainant's business and MAGNA trade mark.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

In this case the Respondent has used each of the disputed domain names, containing a recognisable version of the Complainant's trade mark to intentionally attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's MAGNA mark and diverting them in each case to a website which contains the Complainant's combined MAGNA word and logo mark. This website enables Internet users to enter their personal details and also to follow a link to an App which is presented using the logo element of the Complainant's combined trade mark.

Both the websites and the App and the circumstances of this case appear to be very similar to those described in *Magna International Inc. v. anilx cols*, WIPO Case No. [D2023-3745](#), concerning the domain name <magnatob.com> in which phishing/hacking scams were deployed by the Respondent as well as schemes to defraud Internet users of money by requesting the deposit of funds as a purported investment in the company. While in the current case there is no actual evidence from victims of the Respondent's

scheme in relation to the disputed domain names, the Complainant has provided evidence of emails dated in late August 2023 from concerned members of the public suggesting that the phishing/hacking scam is being carried through the domain name <magnatob.com> in the Complainant's name, all of which is undoubtedly for the commercial benefit of the Respondent.

Overall, the Panel finds that the Respondent has used the disputed domain name to create a likelihood of confusion with the Complainant's trade marks in the terms required by paragraph 4(b)(iv) of the Policy and that this is evidence of the registration and use of each of the disputed domain names in bad faith. Moreover, the Panel notes that the section 3.4 of the [WIPO Overview 3.0](#) and finds that the use of the disputed domain names for possible phishing activities through impersonation constitutes bad faith.

The Panel therefore 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 names <indiamagna.com>, <magnacto.com>, <magnaito.com> and <magnartx.com> should be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: March 4, 2024