

ADMINISTRATIVE PANEL DECISION

Meri Meri, Inc. v. Isaac West, Zoe Ashton, Anna Bryant, and Riley Reynolds Case No. D2024-0140

1. The Parties

The Complainant is Meri Meri, Inc., United States of America (“United States”), represented by Hinckley, Allen & Snyder, LLP, United States.

The Respondents are Isaac West, Zoe Ashton, Anna Bryant, and Riley Reynolds, all located in Italy.

2. The Domain Names and Registrar

The disputed domain names <merimeriaustralia.com>, <merimericanada.com>, <merimerifrance.com>, <merimeriisrael.com>, <merimerijapan.com>, <merimerimexico.com>, and <merimeriportugal.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 17, 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 (Alibaba.com Singapore E-Commerce Private Limited) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file a separate complaint for the disputed domain names associated with different underlying registrants or alternatively, or demonstrate that the underlying registrants are in fact the same entity and/or that the disputed domain names are under common control. The Complainant filed an amendment to the Complaint on the same day.

The Center verified that the Complaint together with the amendment to the 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 23, 2024. In accordance with the Rules, paragraph

5, the due date for Response was February 12, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 15, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on February 20, 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, Meri Meri, Inc., is a provider of luxury party supplies for all of life's celebrations, such as party tableware, seasonal decorations, and heirloom-quality children's gifts and costumes. The Complainant affirms it sells its products in 69 countries and through over 5,000 shops and online stores. The Complainant has offices in Reno, Nevada in the United States and in Cheltenham in the United Kingdom. In 2022, the Complainant had global revenues of USD 35,000,000 and spent approximately USD 2,000,000 on marketing and advertising.

The Complainant is, inter alia, the owner of the following trademark registrations:

- United States trademark registration number 5,468,337 for the MERI MERI (word) trademark registered on May 15, 2018, covering goods in class 16 (paper party decorations). First use in commerce January 1, 2017;

- International trademark registration number 1774163 for the MERI MERI (word) trademark registered on November 10, 2023, covering goods and services in classes 4, 16, 21, 25, 28, and 35.

In addition, the Complainant promotes its products through its website at "www.merimeri.com".

The disputed domain names were all registered on November 9, 2023, and all redirect to websites that mimic the look and feel of the Complainant's website, display the Complainant's MERI MERI trademark as well as copyrighted imagery of the Complainant's products, and purportedly offer for sale the Complainant's products.

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.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the MERI MERI trademark, that the Respondents have no rights or legitimate interests in respect of the disputed domain names, and particularly that the disputed domain names were registered and are being used in bad faith to redirect Internet users to websites that intentionally mimic the overall look and feel of the Complainant's website homepage, located at "www.merimeri.com", in an apparent attempt to confuse consumers into believing the disputed domain names and the related websites are associated with the Complainant. In addition, the Respondents have used a privacy shield to conceal their identity.

B. Respondents

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

6. Discussion and Findings

6.1. Consolidation of Multiple Respondents

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 mainly for the reasons below:

- 1) all of the disputed domain names were registered on the same day within the space of approximately the same hour;
- 2) all of the disputed domain names are registered with the same Registrar;
- 3) all of the disputed domain names follow an identical naming pattern in which they consist of the Complainant's MERI MERI trademark followed by a country name;
- 4) the email addresses for all of the Respondents follow the same structure (i.e., [name followed by two numbers]@“cxtmail.com”);
- 5) the postal addresses for all of the Respondents are incomplete and consist only of a city and a country, and the listed city and country are the same;
- 6) the content of the websites hosted at the disputed domain names is nearly identical;
- 7) consolidation of the proceedings would be fair and equitable to all Parties.

The Respondents did not comment on the Complainant's request.

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 disputed 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, owing to the fact that the registrants of the disputed domain names are located in the same city, the fact that the naming pattern of the disputed domain names is identical, the fact that all of the disputed domain names were registered on the same day and within the space of the same hour, the fact that the composition of the email addresses for all four Respondents follows the same structure, and the fact that the content of the websites hosted at all the disputed domain names is virtually identical and mimics the Complainant's website, the Panel finds on the balance of probabilities that the disputed domain names are under common control.

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 names registrants (referred to below as “the Respondent”) in a single proceeding.

6.2. Substantive Issues

In order for the Complainant to obtain a transfer of the disputed domain names, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 Complainant's trademark and the disputed domain names. [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 Complainant's trademark is incorporated entirely and recognizable within the disputed domain names. Accordingly, 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, "australia", "canada", "france", "israel", "japan", "mexico" and "portugal" 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 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.

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 name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

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. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent was aware of the Complainant's trademark registrations and rights to the MERI MERI trademark when it registered the disputed domain names. MERI MERI is not a common or descriptive term. The disputed domain names contain the Complainant's registered MERI MERI trademark in its entirety, without any authorization or approval, and this is the only distinctive component of the disputed domain names.

The disputed domain names were registered almost four decades after the Complainant started using its MERI MERI trademark in 1985, and several years after it was registered. In addition, owing to the use of all of the disputed domain names to redirect to websites mimicking the Complainant's official website by displaying the Complainant's trademark and copyrighted images, it is very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks and domain name when registering the disputed domain names. Therefore, it is more likely than not that the Respondent, when registering the disputed domain names, had knowledge of the Complainant's earlier rights to the MERI MERI trademark.

Further, by using the disputed domain names, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Moreover, panels have held that the use of a domain name for illegal activity, here alleged to be used to mislead Internet users into believing they are visiting authorized websites of (or linked to) the Complainant, i.e., claimed impersonation/passing off, constitutes bad faith ([WIPO Overview 3.0](#), section 3.4). Having reviewed the record, the Panel finds that the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 names <merimeriaustralia.com>, <merimericanada.com>, <merimerifrance.com>, <merimeriisrael.com>, <merimerijapan.com>, <merimerimexico.com>, and <merimeriportugal.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: March 5, 2024