

## ADMINISTRATIVE PANEL DECISION

Maurten AB v. Hoang Duc and Duc Hoang  
Case No. D2024-0841

### 1. The Parties

The Complainant is Maurten AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondents are Hoang Duc and Duc Hoang, Viet Nam.

### 2. The Domain Name and Registrar

The disputed domain name <maurten.run> is registered with Mat Bao Corporation and the disputed domain name <maurtenvietnam.com> is registered with Hostinger Operations, UAB (the "Registrars").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 26, 2024. On February 28, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On February 29, 2024, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Hoang Duc and Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint for the disputed domain name associated with a different underlying registrant or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on March 8, 2024.

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 Respondent of the Complaint, and the proceedings commenced on March 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 5, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 15, 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 Swedish company founded in 2015 specialized in providing sports fuels for athletes and marathoners, having patented a hydrogel technology to develop carbohydrate-rich and natural sports drinks and energy gels that reduces the risk of gastrointestinal problems and increases performance. The Complainant's official website is available at <maurten.com>.

The Complainant is the owner, amongst others, of the following trademark registrations:

- European Union Trademark Registration No. 018787866 for MAURTEN, filed on November 2, 2022, registered on March 6, 2023, in classes 9, 21, 30, 35, 41 and 45; and
- International Trademark Registration No. 1401151 for MAURTEN, registered on November 19, 2017, in classes 5, 25 and 32.

The disputed domain name <maurten.run> was registered on June 23, 2023, and presently redirects Internet users to the account "Maurten Vietnam – Maurten.run" at the Facebook platform ("www.facebook.com/maurten.run") where the Complainant's products are depicted and the Respondent poses as "Vietnam and Singapore Distributors".

The disputed domain name <maurtenvietnam.com> was registered on November 4, 2023, and presently does not resolve to an active webpage.

At time of filing the Complaint, the disputed domain names resolved to websites depicting the Complainant's trademarks and purportedly offering the Complainant's products, stating that "we are the official distributor of Maurten products in Vietnam and Singapore" and "we are a Maurten distributor from Singapore". Prior to initiating the procedure, the Complainant sent a cease-and-desist letter to the Respondent (Annex 6 to the Complaint) which remains unanswered.

#### **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 asserts to be known as an innovator within sports fuel, having an article from Runner's World indicated that Maurten has "fuelled every World Major Marathon winner since 2017, as well as numerous Olympic gold medallists and world champions."

The Complainant contends that the disputed domain names are subject to common control and the consolidation of multiple Respondents would be fair and equitable to all Parties given that both disputed domain names: (i) were registered within a relatively short period of time; (ii) share the same DNS servers; (iii) incorporate the Complainant's registered trademark in its entirety; (iv) resolved at the time of the filing of the Complaint to identical or only nominally different websites; (v) which incorporated identical e-mail and telephone contact details ([...].@maurten.run) and (vi) indicated "Copyright © 2023 maurten.run".

According to the Complainant, both disputed domain names incorporate the Complainant's well-known MAURTEN trademark in its entirety; the addition of the geographical term "Vietnam" in one of the disputed domain names not preventing a finding of confusing similarity thereof, rather the contrary given the use made of the disputed domain names by the Respondent posing as the Complainant's distributor in Vietnam and Singapore.

As to the absence of rights or legitimate interests, the Complainant argues that no license or authorization of any other kind has been given by the Complainant to the Respondent to use the MAURTEN trademark and the Complainant has found no information indicating that the Respondent is somehow trading under a name corresponding to the disputed domain names; there also never having existed a formal business relationship between the Respondent and the Complainant. Lastly, the Complainant asserts that the Respondent is actively attempting to create the false impression that the disputed domain names are authorized by the Complainant, and that under such circumstances, endorsed by the Complainant.

In what it relates to the bad faith registration and use of the disputed domain names, the Complainant asserts that the Respondent was fully aware of the Complainant and its well-reputed trademark at the time of registration of the disputed domain names as shown by the use made of the disputed domain names in an attempt to falsely appear to represent the Complainant for the Respondent's financial gain.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1 Procedural matter – 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 mere alter egos of each other, 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.

The disputed domain name registrants 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, the Panel notes, as seen above, that both disputed domain names: (i) entirely incorporate the Complainant's MAURTEN trademark; (ii) were registered within a relatively short period of time; (iii) resolved to practically identical websites at the time of the filing of the Complaint; (iv) shared similar contact information; and (v) shared the same DNS.

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 name registrants in a single proceeding, hereby referring to them as the "Respondent".

## 6.2 Substantive matter

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain names:

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

Although the addition of other term ("vietnam") in one of the disputed domain names 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 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.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a prima facie case against the Respondent under the second UDRP element.

In that sense, the Panel notes that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names, indeed stating that no license or authorization of any other kind has been given by the Complainant to the Respondent to use the MAURTEN trademark and also that there has never existed a formal business relationship between the Respondent and the Complainant.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain names or the absence of any trademarks registered by the Respondent corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

Also, according to the evidence submitted by the Complainant, the use made of the disputed domain names in connection websites reproducing the Complainant's trademarks and allegedly offering the Complainant's products and depicting themselves as the distributors of the Complainant's products in Vietnam and Singapore, clearly suggest at least an affiliation with the Complainant which in fact does not exist. Lastly, the lack of any disclaimer in the websites that resolved from the disputed domain names at the time the Complaint was filed indicate that the Respondent was actively attempting to create the false impression that the disputed domain names are linked, endorsed or authorized by the Complainant, what is not true.

The present inactive use of one of the disputed domain names further cannot be characterized as a bona fide offering of goods or services.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain names. The second element of the Policy has also been met.

### **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.

The registration and use of the disputed domain names in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names, not having submitted a response;
- (ii) the well-known status of the Complainant's trademark;
- (iii) the nature of the disputed domain names (reproducing the entirety of the Complainant's trademark), and the Respondent's likely intention to unduly profit from the value of the Complainant's trademark, suggest rather a clear indication of the Respondent's registration and holding of the disputed domain names in bad faith, with the implausibility of any good faith use to which the disputed domain names may be put;
- (iv) the lack of reply to the cease-and-desist letter sent prior to this procedure (Annex 6 to the Complaint);  
and
- (v) the current inactive use of one of the disputed domain names ([WIPO Overview 3.0](#), section 3.3).

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 <maurten.run> and <maurtenvietnam.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: April 29, 2024