

ADMINISTRATIVE PANEL DECISION

Montblanc-Simplo GmbH and Compagnie Financière Richemont SA v.
Alireza Akhavan Saleh
Case No. D2024-1300

1. The Parties

The Complainants are Montblanc-Simplo GmbH, Germany, and Compagnie Financière Richemont SA, Switzerland, represented by Corsearch, United States of America.

The Respondent is Alireza Akhavan Saleh, Denmark.

2. The Domain Name and Registrar

The disputed domain name <montblanc-iran.com> is registered with CSL Computer Service Langenbach GmbH dba Joker.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 2024, 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 (Identity Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainants on April 4, 2024, 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 April 9, 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 April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 7, 2024.

The Center appointed Warwick Smith as the sole panelist in this matter on May 14, 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 Compagnie Financiere Richemont S.A. (“Richemont”) is a Swiss-based luxury goods holding company founded in 1988. It is the parent company of the Complainant Montblanc-Simplo GmbH (“Montblanc”), a manufacturer of luxury goods based in Hamburg, Germany.

Montblanc has had a long association with Denmark, where the Respondent appears to reside. A Danish company acted as Montblanc’s agent there for approximately 70 years, from as early as 1921, initially importing, marketing and distributing MONTBLANC pens in Denmark, and later manufacturing the pens in Denmark.

Montblanc owns word and figurative versions of the trademark and service mark MONTBLANC in many jurisdictions around the world. It is not necessary to refer to all of them. It is enough to refer to the following registrations.

First, Montblanc has been the proprietor of the word mark MONTBLANC in Germany, since July 8, 1910 (registration number 132223). This registration covers “stationery, in particular fountain pens, drawing and painting goods”, in International Class 16.

Secondly, Montblanc is the proprietor of the word mark MONTBLANC in Denmark. This mark was registered on March 22, 1996, under number VR 1996 01825, and it covers a number of goods in International Classes 14, 16, and 18 (including watches and jewellery in Class 14, writing instruments, ink, pens refills and cartridges in Class 16, and small leather goods in Class 18).

The Complainants say that they have spent substantial money, time and effort promoting their MONTBLANC marks, and that the marks now enjoy substantial consumer recognition around the world. The MONTBLANC mark ranks first in Google searches on the expression “Montblanc” – the first link the Internet user finds is a link to the website at the domain name <montblanc.com>, a site owned and operated by the Richemont subsidiary Richemont DNS Inc. that features the Complainants’ fountain pens and other luxury products.

The MONTBLANC brand was launched in Iran (Islamic Republic of) in 1995, and the Complainants say it has since become very popular with fashion enthusiasts in that country. A search on the expression “Montblanc-iran.com” returns, as the first hit, a link to the Complainant Group’s website at the domain name <montblanc.com>.

In addition, the Complainants have a very substantial presence on social media – they have millions of followers on Facebook, Instagram, X, Pinterest and YouTube, where Internet users can follow the Complainants and their MONTBLANC products. The Complainants say that, due to their extensive international use of their distinctive MONTBLANC trademarks, the marks have become internationally well-known.¹

The disputed domain name was registered on October 4, 2023. It does not resolve to any active website.

¹In support, the Complainants produced a number of documents, including an April 9, 2024, screenshot from the website at <https://montblanc-in-denmark.com/>, stating that: The name “Montblanc” needs no introduction in the world of writing instruments and equipment. Since the origin of [Montblanc] in Berlin in 1906, the firm has manufactured and sold a large range of outstanding fountain pens, pencils, and more recently ballpoint pens and roller balls, to discriminating buyers around the globe.

The Complainants have not licensed or otherwise authorized the Respondent to use their MONTBLANC mark, whether in a domain name or otherwise.

5. Parties' Contentions

A. Complainant

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

Specifically, the Complainants contend that the disputed domain name is confusingly similar to the MONTBLANC trademark in which they have rights, and that the Respondent has no rights or legitimate interests in respect of the disputed domain name. They say that the Respondent registered and has used the disputed domain name in bad faith. As the disputed domain name does not resolve to any active website, the Complainants seek to establish bad faith use by relying on the doctrine of bad faith use by "passive holding" of a disputed domain name.²

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a Complainant is required to establish each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is 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 Complainants' 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).

Montblanc has shown that it has rights in respect of the word mark MONTBLANC (as registered proprietor of that mark, in numerous jurisdictions), for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. There does not appear to be evidence of any MONTBLANC mark registered by Richemont, and the Panel did not find Richemont listed as the owner of any MONTBLANC mark in the WIPO Global Brands database. However, that is not fatal to Richemont's claims to rights in the MONTBLANC mark, as the Complainants have sufficiently shown that Montblanc is a wholly-owned subsidiary of Richemont, and a number of WIPO panels have held that a complainant who is the parent or subsidiary company of the trademark rights holder has a sufficient "right" in the mark for the purposes of paragraph 4 (a) (i) of the Policy.³ The Panel is

²Developed by UDRP panels in a line of cases over the years, beginning with *Telstra Corporation Ltd v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

³[WIPO Overview 3.0](#), Section 1.4, referring to *Grupo Televisa S.A., Televisa S.A. de C.V., Estrategia Televisa S.A. de C.V., Videoserpel Ltd v Party Night Inc. a/k/a Peter Carrington*, WIPO Case No. [D2003-0796](#), *Spherion Corporation v Peter Carrington d/b/a*

accordingly satisfied that both Complainants have shown sufficient rights in the MONTBLANC word mark for the purposes of paragraph 4(a)(i) of the Policy.

The entirety of the MONTBLANC word mark is reproduced within the disputed domain name, and the Panel finds that that mark is recognizable within it. Accordingly, the disputed domain name is confusingly similar to the Complainants' MONTBLANC mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms in the disputed domain names (in this case, the “- iran”) may bear on the assessment of the second and third elements in some cases, the Panel finds the addition of that term does not prevent a finding of confusing similarity between the disputed domain name and the MONTBLANC 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 respect of the disputed domain name.

B. Rights or Legitimate Interests

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 name. While paragraph 4(c) of the Policy provides a non-exclusive list of three circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name, none of those circumstances appear to apply in this case. There is nothing to suggest that the Respondent might be commonly known by the disputed domain name (paragraph 4(c)(ii)), and there is nothing to suggest that the Respondent might have taken advantage of the “safe harbor” defenses at subparagraph 4(c)(i) or subparagraph 4(c)(iii) – both subparagraphs apply only where the respondent has made some use of the domain name, or at least (in the case of subparagraph 4(c)(i)) can show that it has made demonstrable preparations to use the domain name in connection with some bona fide offering of goods or services. There is nothing of that sort here – the Respondent appears to have made no active use of the disputed domain name, and without more that cannot provide a basis for a claim to a right or legitimate interest.⁴

The Respondent has thus 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 Panel finds the second element of the Policy has been established.

Party Night Inc. WIPO Case No. [D2003-1027](#), and *Teva Pharmaceutical USA Inc. v US Online Pharmacies*, WIPO Case No. [D2007-0368](#).

⁴Previous UDRP panels have held that using a disputed domain name to host an inactive website or one that lacks any substantive content does not constitute a bona fide offering of goods or services, or a legitimate noncommercial or fair use, pursuant to paragraphs 4(c)(i) or 4(c)(iii) of the Policy - *Skyscanner Ltd v Whois Guard Protected, whoisGuard Inc. / petrov petya*, WIPO Case No. [DCC2020-0003](#), and *Instagram LLC v Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#).

C. Registered and Used 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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name in this case does not prevent a finding of bad faith. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes that the first of those factors is present in this case - the Complainants enjoy a substantial, worldwide reputation in the MONTBLANC trademarks, which are distinctive of the Complainants and their products. The second and fourth factors are also present. The Respondent has failed to submit a response or provide any evidence of actual or contemplated good faith use, and it is difficult to conceive of any good faith use to which the Respondent might now put the disputed domain name. The Complainants' MONTBLANC products have been marketed in Iran since 1995 and the evidence in the record provided by the Complainants' shows that they have become very popular in that country with a particular, fashion-conscious, segment of the market. Furthermore, a Google search on the disputed domain name returned as the first hit a link to the Complainants' principal website for the online promotion of their MONTBLANC products. In those circumstances, many Internet users would inevitably but mistakenly assume that any website at the disputed domain name would be a website owned or authorized by one of the Complainants, directed to the Iranian market. Having considered those factors, with all of the other facts disclosed by the record, the Panel is satisfied that the "passive holding" doctrine applies, and that the disputed domain name was registered and has been (passively) used in bad faith.

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 <montblanc-iran.com> be transferred to the Complainants. ⁵

/Warwick Smith/

Warwick Smith

Sole Panelist

Date: May 28, 2024

⁵The Complainants have asked that the disputed domain name be transferred to "the Complainant", rather than designating one of the two Complainants as the requested transferee. Montblanc is the registered proprietor of the relevant rights in the MONTBLANC mark, but Richemont also has rights in that mark, and both the joinder of Richemont as a Complainant and the wording of the request for relief suggest that the relief sought is in fact sought by both Complainants. The Panel will proceed accordingly.