

ADMINISTRATIVE PANEL DECISION

M and M Direct Limited v. eee qeqe, dasdhuighjbvbjhbjb, Domain Admin, Whoisprotection.cc, Geneviève DEMANGE, xinxin chen, 士大夫 阿斯顿, Pranvera Grislin, an L, asdasdaasas, Paul Y Cisneros, a I, Anna Vancini Vancini, Li Xin, 4242, 2424
Case No. D2024-1655

1. The Parties

The Complainant is M and M Direct Limited, United Kingdom, represented by Konexo, Eversheds Sutherland (International) LLP, United Kingdom.

The Respondents are eee qeqe, dasdhuighjbvbjhbjb, China, Domain Admin, Whoisprotection.cc, Malaysia, Geneviève DEMANGE, United States of America (“United States”), xinxin chen, United States, 士大夫 阿斯顿, United States, Pranvera Grislin, China, an L, asdasdaasas, United States, Paul Y Cisneros, United States, a I, China, Anna Vancini Vancini, United States, Li Xin, China, 4242, 2424, United States.

2. The Domain Names and Registrars

The disputed domain names <mandmdirect-gb.shop>, <mandmdirect-outlet.shop>, <mandmdirect-salida.shop>, and <uk-mandmdirect.shop> are registered with Web Commerce Communications Limited dba WebNic.cc.

The disputed domain name <mandmdirect-ie.shop> is registered with NameSilo, LLC.

The disputed domain names <mandmdirectoutlet.shop>, <mandmdirect-outlets.shop>, <mandm-directs.shop>, <mandmdirects.shop>, <mandmdirect-uk.shop>, and <uk-mandmdirec.shop> are registered with Dynadot Inc.

The disputed domain name <mandm-direct.shop> is registered with Gname.com Pte. Ltd.

The disputed domain name <uk-mandmdirect.com> is registered with Key-Systems GmbH.

Web Commerce Communications Limited dba WebNic.cc, NameSilo, LLC, Dynadot Inc, Gname.com Pte. Ltd, and Key-Systems GmbH are separately and collectively referred to below as the “Registrar”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2024. On the same day, the Center transmitted by email to the Registrar requests for registrar verification in connection with three disputed domain names, namely <uk-mandmdirect.shop>, <mandmdirects.shop> and <mandm-direct.shop>. On April 19, April 20, and April 22, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for these disputed domain names, which differed from the named Respondent (Not known) and contact information in the Complaint.

The Complainant filed a first amended Complaint in English on April 23, 2024, in which it requested to add ten new disputed domain names to the current proceeding, namely <uk-mandmdirec.shop>, <mandmdirect-uk.shop>, <mandmdirects.shop>, <mandmdirect-outlet.shop>, <mandmdirect-outlets.shop>, <mandmdirect-gb.shop>, <uk-mandmdirect.com>, <mandmdirect-salida.shop>, <mandmdirect-ie.shop> and <mandmdirectoutlet.shop>. On April 30, 2024, the Center transmitted by email to the Registrar requests for registrar verification in connection with the newly added disputed domain names. On April 30, May 1, and May 2, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the ten newly added disputed domain names that differed from the named Respondent (Not known) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 8, 2024, with the registrant and contact information of the nominally different underlying registrants disclosed by the Registrar.

The Complainant filed the second amended Complaint in English on May 13, 2024. On the same day, the Center informed the Parties, in Chinese and English, that the language of the registration agreement for one disputed domain name (<mandm-direct.shop>) is Chinese. On May 15, 2024, the Complainant requested that English be the language of the proceeding. The Respondents did not submit any comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaints 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”). The Center sent an email regarding consolidation to the Parties on May 28, 2024.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint in English and Chinese, and the proceedings commenced on May 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on June 25, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on July 8, 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 discount retailer of branded and own label clothing and footwear. Founded in 1987, it adopted its current name in 2006. It holds trademark registrations in multiple jurisdictions, including the following:

- European Union trademark registration number 006679559 for M AND M DIRECT, registered on January 22, 2009;
- United Kingdom trademark registration number UK0906679559 for M AND M DIRECT, registered on January 22, 2009;
- Chinese trademark registration number 19215605 for M AND M DIRECT, registered on April 14, 2017;

- United States trademark registration number 6,208,836 for M AND M DIRECT, registered on December 1, 2020; and
- United Kingdom trademark registration number UK00003895710 for a series of three semi-figurative M and M marks (the “M and M logo”), registered on June 30, 2023.

The above trademark registrations remain current. The Complainant has also registered the domain name <mandmdirect.com> that it uses in connection with a website where it offers clothing and footwear for sale. Its website prominently displays the M and M logo.

The Respondents are variously named as individuals, a privacy service, or combinations of letters or numbers. Many of their contact details are manifestly false.

The disputed domain names were registered on the dates and in the names shown below:

Registration date	Disputed domain name	Registrant name
April 11, 2024	<mandmdirect-outlet.shop>	a l
April 11, 2024	<mandmdirects.shop>	Pranvera Grislin
April 11, 2024	<mandm-direct.shop>	eee qeqe, dasdhuighjbvbjhjb
April 12, 2024	<mandmdirect-uk.shop>	an L, asdasdaasas
April 13, 2024	<mandmdirectoutlet.shop>	an L, asdasdaasas
April 13, 2024	<uk-mandmdirec.shop>	士大夫 阿斯頓
April 16, 2024	<uk-mandmdirect.shop>	Domain Admin, Whoisprotection.cc
April 16, 2024	<mandm-directs.shop>	Geneviève DEMANGE
April 18, 2024	<mandmdirect-gb.shop>	Anna Vancini Vancini
April 18, 2024	<mandmdirect-outlets.shop>	Paul Y Cisneros
April 19, 2024	<mandmdirect-salida.shop>	Li Xin
April 19, 2024	<uk-mandmdirect.com>	4242 2424
April 19, 2024	<mandmdirect-ie.shop>	xinxin chen

All but three disputed domain names formerly resolved to websites in English that purportedly offered clothing or footwear for sale at heavily discounted prices displayed in GBP or EUR. The websites reproduced material from the Complainant’s website, including product photographs, “About Us” text, the Complainant’s “M and M” logo, or all of the above. The websites were accessible from mobile phones. Three disputed names (<mandmdirects.shop>, <uk-mandmdirec.shop>, and <mandmdirect-outlets.shop>) were passively held.

According to evidence on the record, from April 16, 2024 onwards the Complainant received dozens of complaints from Internet users who had ordered clothing on websites associated with the disputed domain names in the mistaken belief that they were operated by the Complainant.

At the time of this Decision, five disputed domain names (<mandmdirects.shop>, <mandm-direct.shop>, <mandmdirect-uk.shop>, <mandmdirectoutlet.shop>, and <mandmdirect-ie.shop>) resolve to the same or similar websites in English purportedly offering for sale a third party brand of clothing. The other eight disputed domain names do not resolve to any active website; rather, they are passively held.

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 identical or very closely similar to the Complainant's M AND M DIRECT trademark.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents are not connected to or authorized by the Complainant in any way. Ten disputed domain names resolve to websites that copy the Complainant's website. The other three are passively held.

The disputed domain names have been registered and are being used in bad faith. The disputed domain names were registered and used in bad faith to intentionally attract, for commercial gain, Internet users to the websites, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's websites.

B. Respondents

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

6. Discussion and Findings

6.1 Preliminary Issues

A. Consolidation: Multiple Respondents

The second amended Complaint was filed in relation to 12 nominally different domain name registrants. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. It alleges that the disputed domain names were registered by the same entity or that the websites to which they resolve are subject to common control.

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 that two disputed domain names share the same registrant name (<mandmdirect-uk.shop> and <mandmdirectoutlet.shop>), two disputed domain names share the same email contact address (<mandmdirects.shop> and <mandmdirect-outlets.shop>), and the registrant names for three others are apparently random strings of letters or numbers (<mandm-direct.shop>, <mandmdirect-outlet.shop>, and <uk-mandmdirect.com>). All the disputed domain names were registered within 10 days of each other, containing the M AND M DIRECT trademark, (albeit misspelt in one case) and following a naming pattern (generally incorporating a geographical reference, a retail term, the letter "s" or some combination of these). Ten disputed domain names resolved to similar websites. In view of these circumstances, the Panel is persuaded that all disputed domain names are likely under common control or, indeed, are registered by the same person or entity.

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 (referred to below as "the Respondent") in a single proceeding.

B. Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar confirmed that the Registration Agreements for 12 disputed domain names are in English, while the Registration Agreement for one disputed domain name (<mandm-direct.shop>) is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main argument is that the disputed domain name <mandm-direct.shop> resolved to a website in English, from which it can be inferred that the registrant of that disputed domain name is able to communicate in that language.

Paragraph 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties.

The Panel observes that the Complaint and first and second amended Complaints were filed in English. All but one of the Registration Agreements for the disputed domain names are in English, and the Panel has found in Section 6.1A that the disputed domain names are likely under common control, or registered by the same person or entity, from which it can be inferred that the registrant of the disputed domain name <mandm-direct.shop> can also understand English. That inference is confirmed by the fact that that disputed domain name resolves to a website in English. Accordingly, the Panel considers that requiring the Complainant to translate the Complaint would create an undue burden and delay.

Therefore, the Panel determines that the language of this proceeding is English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the M AND M DIRECT trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

Twelve disputed domain names wholly incorporate the M AND M DIRECT mark, in some cases with a hyphen. One disputed domain name (<uk-mandmdirec.shop>) incorporates a misspelling of that mark, omitting only its final “t”. All disputed domain names contain other elements, variously, a geographical reference (“gb”, “ie”, or “uk”), a retail term (“outlet” or “salida”, meaning “outlet” in Spanish), the letter “s”, a

hyphen, or some combination of the above. Despite these additions, the mark (albeit misspelt in one case) remains clearly recognizable within all the disputed domain names. The only additional element in each disputed domain name is a generic Top-Level Domain (“gTLD”) extension (in most cases “.shop” but in one case “.com”) which, as a standard requirement of domain name registration, may be disregarded in the assessment of identity or confusing similarity for the purposes of the Policy. Accordingly, the Panel finds all the disputed domain names confusingly similar to the Complainant’s M AND M DIRECT mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, 1.9, 1.10, and 1.11.1.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain names incorporate the Complainant’s M AND M DIRECT mark (albeit misspelt in one case). Ten disputed domain names resolved to websites that reproduced material from the Complainant’s website, including product photographs, “About Us” text, the Complainant’s “M and M” logo, or all of the above. They purportedly offered for sale clothing and footwear of the same type as the Complainant. The Complainant submits that the Respondent is not connected to or authorized by it in any way. Three disputed domain names are passively held. The Panel does not consider either of these uses to be in connection with a bona fide offering of goods or services, nor is either a legitimate noncommercial or fair use of disputed domain names for the purposes of the Policy.

Further, the Respondent’s names are listed in the Registrar’s Whois database as shown in Section 1 above. Nothing on the record indicates that the Respondent has been commonly known by any of the disputed domain names.

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.

Based on the record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] web site or location.”

The list of circumstances in paragraph 4(b) of the Policy is non-exhaustive, hence other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the disputed domain names were registered in 2024, years after the registrations of the Complainant's M AND M DIRECT mark, including in the United States and China, where the Respondent is ostensibly based. The disputed domain names incorporate that mark (albeit misspelt in one case). The disputed domain names were registered within 10 days of each other and most have resolved to websites that reproduced material from the Complainant's website, including product photographs, "About Us" text, the Complainant's "M and M" logo, or all of the above. In view of these circumstances, the Panel finds that the Respondent had the Complainant and its M AND M DIRECT mark in mind when it registered the disputed domain names.

As regards use, ten disputed domain names have resolved to websites that reproduced material from the Complainant's website and purportedly offered for sale clothing and footwear of the same type as the Complainant. The evidence on the record includes numerous instances of actual customer confusion. In view of these circumstances, the Panel finds that, by using these ten disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the associated websites by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's associated websites or of the products on the Respondent's associated websites within the terms of paragraph 4(b)(iv) of the Policy.

According to the evidence on record, three disputed domain names did not resolve to an active website prior to the filing of the Complaint but were passively held. However, given that they were registered at the approximately the same time as the other disputed domain names and follow the same naming pattern, the Panel finds it more likely than not that they were intended for use in connection with the same type of website, in bad faith. The Panel considers that the passive holding of these disputed domain names does not prevent a finding of bad faith under the circumstances of this case.

The Panel notes that the use of most disputed domain names has now changed, and that five now resolve to websites in English offering for sale a third-party brand of clothing while the rest are passively held. These changes in use do not alter the Panel's conclusion; if anything, they may indicate an attempt to conceal the targeting of the Complainant and, as such, constitute a further indication of bad faith.

Therefore, the Panel finds that the Complainant has established the third element of the Policy with respect to all disputed domain names.

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 <mandmdirect-gb.shop>, <mandmdirect-ie.shop>, <mandmdirect-outlet.shop>, <mandmdirectoutlet.shop>, <mandmdirect-outlets.shop>, <mandmdirect-salida.shop>, <mandm-direct.shop>, <mandm-directs.shop>, <mandmdirects.shop>, <mandmdirect-uk.shop>, <uk-mandmdirec.shop>, <uk-mandmdirect.com>, and <uk-mandmdirect.shop> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: July 20, 2024