

## **ADMINISTRATIVE PANEL DECISION**

Mutuelle Assurance des Commerçants et Industriels de France et des Cadres et Salaries de L'industrie et du Commerce (MACIF) v. Laxhiduaa Ford,

macif-finances.com

Case No. D2024-1678

### **1. The Parties**

The Complainant is Mutuelle Assurance des Commerçants et Industriels de France et des Cadres et Salaries de L'industrie et du Commerce (MACIF), France, represented by IP Twins, France.

The Respondent is Laxhiduaa Ford, macif-finances.com, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <macif-finances.com> is registered with Squarespace Domains II LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 22, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 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 April 25, 2024.

The Center verified that the Complaint 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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 23, 2024.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on May 29, 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**

According to the Complainant, it is a French mutual insurance company and the leader in car insurance in France. The Complainant was founded in 1960 and as an indication of its scale, as of 2018 it had some 5.4 million clients and 10,360 employees, with a turnover in 2021 was more than 6 billion euros.

The Complainant is the owner of the following registered trademarks, among others:

MACIF, figurative, European Union trademark, registration number 18036, registered on April 27, 1998, in class 36;

MACIF, figurative (logo), European Union trademark, registration number 5586681, registered on January 10, 2008, in classes 16, 35, 36, 37, and 45;

MACIF, combined (logo), Institut National de la Propriété Industrielle France, registration number 3437158, registered on August 4, 2006, in classes 9, 16, 35, 36, 37, 38, 39, 41, 42, 43, 44, and 45.

The Complainant is also the registrant of the domain name <macif.com> registered on March 6, 1997, and other domain names related to its trademarks.

Nothing is known about the Respondent except for such contact details as were provided at the time of registration of the disputed domain name by the Respondent on March 1, 2024. The disputed domain name does not resolve to an active website but to a notice stating in French that a website cannot be found.

#### **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 name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name incorporates the Complainant's trademark. The additional word "finances", differences of typographical case and the presence of the generic Top-Level Domain ("gTLD") ".com" are not of significance in the determination of confusing similarity. Internet users would believe the disputed domain name to be associated with the Complainant.

The Complainant says the Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no evidence the Respondent is commonly known by the disputed domain name.

According to the Complainant's enquiries, the Respondent does not own any trademark similar to the Complainant's trademark.

The Respondent has not been granted any permission to use the Complainant's trademark in the disputed domain name.

There is no evidence the Respondent has used or made any preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or evidence that the Respondent has been

making a legitimate noncommercial or fair use of the disputed domain name. The Complainant alleges that the Respondent has evidently been using the disputed domain name illegitimately for the purpose of fraud.

The Complainant notes that its trademark registrations predate the registration of the disputed domain name and that a trademark search would have found those trademarks. All the results of an Internet search for the Complainant's trademark conducted by the Complainant referred to the Complainant. It is for the Respondent to establish any relevant rights or legitimate interests it may have.

The Complainant further contends that the disputed domain name was registered and is being used in bad faith.

The Complainant submits that the Respondent's choice of the disputed domain name cannot have been accidental and the Respondent had the Complainant's name and trademark in mind when registering the disputed domain name. The Respondent was most likely hoping Internet users searching for the Complainant would be led to the Respondent's Internet presence, constituting bad faith.

The Complainant says that by holding the disputed domain name, the Respondent is preventing the Complainant from registering the same. The passive holding of a domain name does not prevent a finding that a respondent has acted in bad faith.

The Complainant doubts the authenticity of the Respondent's identification and contact details.

## **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.

In this instance, the Complainant's European trademark number 18036 is for a figurative or stylised representation of the Complainant's trademark word, which is in distorted form but clearly readable. The other two trademarks submitted are for a different figurative or stylised representation, or logo, in which the Complainant's trademark word is clearly and prominently displayed in white together with a green device, all against a dark blue background.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.10 and section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. 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 terms (here, "finances") 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.

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. 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.

In particular, according to the evidence the disputed domain name is not in any active use and no usages for any bona fide offering of goods or services or any fair or noncommercial purpose have been evident. No evidence suggest that the Respondent, who has provided the name Laxhiduaa Ford but an email address commencing “brunoroyall”, has been commonly known by the disputed domain name.

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

## **C. Registered and Used in Bad Faith**

The Complainant has alleged that “... the Respondent has evidently been making an illegitimate use of the disputed domain name, by creating a large-scale insurance fraud scheme”. The Complainant has not produced any evidence to substantiate any such allegation.

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.

The disputed domain name evidently has not resolved to any active website and the Complainant has not produced evidence there has been any other use such as for email purposes.

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. 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.

Considering these criteria in turn, the Complainant’s trademark is apparently composed of the initials of the principal words Mutuelle, Assurance, Commerçants, Industriels, and France, in the Complainant’s full name. The resulting acronym MACIF is not apparently a word in French or in any language of which the Panel is aware and is to that extent distinctive. The trademark also has the reputation of association with a company of more than 60 years standing with a turnover in recent years in the order of 6 billion euros. The Complainant has produced the results of a Google search for “macif” showing the first three pages out of 11

saved to comprise references solely to the Complainant, although it is noted that the search was made from France where the Complainant is best known. The Panel, acting within its limited powers to consult public databases ([WIPO Overview 3.0](#), section 4.8), searched Google for “macif” from New Zealand, which is more or less antipodal to mainland France and has different languages. The first three pages nevertheless contained results pertaining directly or indirectly to the Complainant with the sole exception of an esoteric biomedical research paper that abbreviated “membrane attack complex inhibitory factor” to MACIF.

The name “macif” has been used in four instances as the name for a large racing yacht (“[www.en.wikipedia.org/wiki/Macif\\_\(disambiguation\)](http://www.en.wikipedia.org/wiki/Macif_(disambiguation))”). It turns out that these yachts were emblazoned in the style and colour scheme of the Complainant’s logo as depicted in trademarks numbers 5586681 and 3437158, presumably reflecting the Complainant’s sponsorship. On balance, the Panel finds the Complainant’s trademark to be practically exclusive to the Complainant and to be distinctive with a reputation within the meaning of the Policy.

The Respondent has not submitted any Response or provided any evidence of actual or contemplated use of the disputed domain name in good faith.

The Respondent’s use of a privacy service is unremarkable and now common practice. Although the Complainant is dubious of the Respondent’s stated name, there is no evidence the name or contact details are false. Nevertheless, the provision of correct contact details by a respondent would not obviate a finding of bad faith.

Given the practical exclusivity of the Complainant’s trademark, it would be difficult to conceive of a good faith use for the disputed domain name by another party that did not conflict with the Complainant’s rights. Furthermore, the incorporation of the word “finances” in the disputed domain name is supportive of a conclusion that the Respondent had the Complainant specifically in mind at the time of acquisition.

To reiterate [WIPO Overview 3.0](#), section 3.3, panelists will look at the totality of the circumstances in each case. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding.

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 <macif-finances.com> be transferred to the Complainant.

*/Dr. Clive N.A. Trotman/*

**Dr. Clive N.A. Trotman**

Sole Panelist

Date: June 5, 2024