

## **ADMINISTRATIVE PANEL DECISION**

Montblanc-Simplo GmbH and Compagnie Financiere Richemont SA v.  
Domain Administrator  
Case No. D2024-1907

### **1. The Parties**

The Complainants are Montblanc-Simplo GmbH, Germany; and Compagnie Financiere Richemont SA, Switzerland (referred both together as the “Complainant”), represented by Corsearch, Inc., United States of America (“United States”).

The Respondent is Domain Administrator, United States.

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

The disputed domain name <montblancvn.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 7, 2024. On May 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the disputed domain name, which differed from the named Respondent (REDACTED FOR PRIVACY (DT)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 8, 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 May 13, 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 May 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 7, 2024.

The Center appointed Ahmet Akgüloğlu as the sole panelist in this matter on June 19, 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**

Compagnie Financiere Richemont SA, commonly known as Richemont, is a Switzerland-based luxury goods holding company founded in 1988. Compagnie Financiere Richemont SA is the parent company of the other Complainant Montblanc-Simplo GmbH.

Montblanc-Simplo GmbH, is a luxury goods manufacturer specializing in writing instruments, watches, jewellery, etc., which has become part of the Richemont Group.

The Complainant, Montblanc-Simplo GmbH, is the owner of several trademark registrations, such as 776208 numbered MONTBLANC trademark, registered on September 1, 1964, in the United States; and 002508380 numbered MONT BLANC trademark, registered on June 6, 2003, before the European Union Intellectual Property Office.

The Complainant, Montblanc-Simplo GmbH, also owns the domain name <montblanc.com> registered on June 1, 1995.

The disputed domain name was registered on February 17, 2016.

The disputed domain name consists of the terms "mont", "blanc", and "vn". As submitted by the Complainant, the disputed domain name was previously redirected to a website that used "MONTBLANC" and the MONTBLANC Design Logo & Stylized Star in a Circle and images, and the website also displayed "Pens" and "Copyright 2022 © Montblanc Vietnam".

#### **5. Parties' Contentions**

##### **A. Complainants**

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

Notably, the Complainants contend that:

(a) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights.

The Complainants argue that there is a likelihood of confusion between the disputed domain name and the Complainants' MONTBLANC trademarks. The Complainants submit that the disputed domain name incorporates the MONTBLANC trademark in its entirety. Additionally, the Complainants mention that the term "vn" indicates a geographical abbreviation for the country Viet Nam and, therefore, is descriptive in its nature and should be eliminated during examination by the Panel. The Complainants also assert that there is a common practice regarding ".com", which is a generic Top-Level Domain ("gTLD"), which should be disregarded under the first element evaluation as it is a standard requirement. The disputed domain name includes the exact copy of the Complainants' trademark with a geographic term and the gTLD suffix ".com".

Therefore, the Complainants contend that the usage of the above-mentioned terms in the disputed domain name is confusingly similar to the Complainant's earlier trademarks.

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainants claim that the Respondent is not commonly known by the disputed domain name. Further, the Respondent is not licensed by the Complainants for the use of MONTBLANC trademarks, and the Complainants did not grant the Respondent any right, authorization, or permission to use the Complainants' MONTBLANC trademarks in a domain name or any other capacity. The Complainants also claim that the disputed domain name was previously resolved to a website that used the Complainants' MONTBLANC and MONTBLANC Design logo (Stylized star within a circle) trademarks to give the impression that it is affiliated with the Complainants. Therefore, the Complainants affirm that the Respondent's use of the MONTBLANC trademark is not in connection with a bona fide offering of goods and services or legitimate noncommercial or fair use. Further, the Respondent has set up the disputed domain name to enable delivery of communication emails as mail exchange ("MX") records. The Respondent may use the disputed domain name to engage in "phishing" as an effort to defraud the Complainants' customers which would not constitute a legitimate right or interest of the Respondent in the disputed domain name. Based on these reasonings, the Complainants assert that they have established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

(c) The disputed domain name was registered and is being used in bad faith.

The Complainants submit that the Respondent has registered the disputed domain name in bad faith, given that the Respondent fails to make an active use of the disputed domain name. Additionally, considering the worldwide reputation of the Complainants and their trademarks and the fact that the disputed domain name incorporates the trademark as a whole, it is clear that the Respondent has knowledge of the Complainants and their trademarks. Moreover, the Complainants underline that the Respondent's activation of MX records for the disputed domain name indicates that the Respondent is capable of engaging in phishing activity through email distribution. Considering the mentioned elements, the Complainants submit that the Respondent has acted in bad faith when registering and using the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that the complainant prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (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 Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

### **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.

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. It is uncontested to the Panel that the Complainant also has rights to MONTBLANC trademark as a result of acquired reputation throughout the usage of the trademark globally.

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.

The disputed domain name is composed of MONTBLANC", "vn," and ".com". The disputed domain name includes the Complainant's MONTBLANC trademark in its entirety. When a domain name wholly incorporates a complainant's registered mark that is sufficient to establish confusing similarity for purposes of the Policy. (See *Montblanc Simplo GmbH, Compagnie Financiere Richemont SA v. Privacy Service Provided by Withheld For Privacy Ehf / Ieyr Raich*, WIPO Case No. [D2022-3318](#)).

The Panel also ignored the gTLD since it is viewed as a standard registration requirement and suggested as disregarded under the first element similarity test. (See [WIPO Overview 3.0](#), section 1.11.1.)

Although the addition of other terms "vn" 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.

It is accepted by the Panel that the Complainant has not licensed nor authorized the use of its trademark to the Respondent, and the Panel finds no indication that the Respondent is commonly known by the disputed domain name and the Respondent has not submitted any response to the Complaint in terms of any rights or legitimate interests in the disputed domain name or the registered MONTBLANC trademarks. There is no evidence that either the Respondent's activity through the disputed domain name constitutes fair use or the Respondent's is making legitimate noncommercial or fair use of the disputed domain name. The composition of the disputed domain name, coupled with its use for a website reproducing the Complainant's MONTBLANC logo in such a prominent manner along with Complainant's images, would carry a risk of implied affiliation with the Complainant. The Panel notes the disclaimer on the website at the disputed domain name stating that "Montblanc ® is an exclusive brand owned by Montblanc International GmbH" and that the "website only provides reference information to illustrate products and is in the information updating stage, waiting for e-commerce licensing". However, the fact that the website at the disputed domain name includes such a disclaimer, and that the website may be only of an informative nature, does not alter the Panel's conclusion.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name primarily for the purpose of use with the intention to attract Internet users for commercial gain by creating a likelihood of confusion which is an indicator of bad faith according to the paragraph 4(b)(iv) of the Policy.

The disputed domain name was registered years later than the Complainant's <montblanc.com> domain name in 1995 and the MONT BLANC trademark registration in 1964 in United States. A domain name that includes a well-known trademark is suggestive of the respondent's bad faith. (See *PJ Hungary Szolgáltató Korlátolt Felelősségű Társaság v. Web Commerce Communications Limited, Client Care*, WIPO Case No. [D2022-1345](#).)

According to the evidence provided by the Complainant, it is understood by the Panel that the disputed domain name used to resolve to a webpage with Complainant's registered trademarks which appears to be confusingly similar to the Complainant's official webpage. The Panel is in the idea that the Respondent has intentionally registered the disputed domain name in order to attract Internet users due to the Complainant's recognition. The Respondent even used the Complainant's official product images and the MONT BLANC trademark within the associated website explicitly in order to create a likelihood of confusion in the eyes of the consumers. (See *Kabushiki Kaisha Toshiba d/b/a Toshiba Corporation v. Telephone Island*, WIPO Case No. [D2004-0711](#)). The disclaimer on the website at the disputed domain name does not alter the Panel's finding, particularly noting that the composition of the disputed domain name and the website carries a risk of implied affiliation. While the Panel considers that the disclaimer is not particularly prominent, nor clear, the Panel also notes that the disclaimer is under the Respondent's control, who could remove it or change it at any time.

Currently, it is understood by the Panel that the disputed domain name resolves to a Pay-Per-Click advertising webpage. Therefore, the Panel notes that the Respondent also registered the disputed domain name for the purpose of attracting Internet users for commercial gain by creating a likelihood of confusion which is an indicator of bad faith according to the paragraph 4(b)(iv) of 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 name <montblancvn.com> be transferred to the Complainant.

*/Ahmet Akgülođlu/*

**Ahmet Akgülođlu**

Sole Panelist

Date: July 3, 2024