

ADMINISTRATIVE PANEL DECISION

MIROVA v. HENRI MARCEL, HM FINANCE

Case No. D2024-2442

1. The Parties

The Complainant is MIROVA, France, represented by MIIP MADE IN IP, France.

The Respondent is HENRI MARCEL, HM FINANCE, France.

2. The Domain Name and Registrar

The disputed domain name <mirova-adm.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2024. On June 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 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 the same day.

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 June 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 10, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on July 11, 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 French company affiliate to a well-known company specialized in the banking and financial sector.

The Complainant owns several registered trademarks incorporating the word "Mirova" (the "MIROVA Trademarks"):

- the European Union (word) mark MIROVA No. 010787307, registered on September 10, 2012, for products and services in classes 16, 35, and 36;
- the European Union (semi-figurative) mark  No. 011123726, registered on January 14, 2013, for products and services in classes 16, 35, and 36;
- the International (word) mark MIROVA No. 1146522, registered on August 14, 2012, for services in classes 35 and 36.

The Complainant is also the owner of two domain names incorporating the MIROVA Trademarks:

- the domain name <mirova.com> registered on October 14, 2009; and
- the domain name <mirova.fr> registered on March 7, 2012.

The disputed domain name was registered on May 16, 2024, and resolves to an error page.

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 and highly similar to its prior MIROVA Trademarks. The Complainant submits that the disputed domain name wholly incorporates the MIROVA Trademarks with the addition of a hyphen and of the three letters "adm" which may stand for "market activity" ("activité de marché" in French) or "administration". The Complainant stands that these additions do not bring any distinctiveness since the MIROVA Trademarks are the distinctive and dominant component of the disputed domain name and the addition of the descriptive element "adm" does nothing to prevent a finding of confusing similarity.

Then, the Complainant submits the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant underlines the Respondent has no rights in the name "mirova-adm" and did not file or registered any trademark incorporating it. The Complainant contends that there is no business or legal relationship between the Complainant and the Respondent, and the latter was not authorized nor licensed to use the MIROVA Trademarks. The Complainant further explains that the disputed domain name is not used and resolves to an error page which is evidence that the Respondent has no rights

or legitimate interest in the disputed domain name. The Complainant stands that this is further evidenced by the fact that the Respondent is not commonly known under the name “mirova-adm” and that it appears the Respondent does not engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of good and services. On the contrary, the Complainant considers the Respondent registered the disputed domain name to take unfair advantage of the Complainant’s reputation.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant submits that the MIROVA Trademarks are well known in France and abroad and enjoy a wide reputation, at least in the financial sector. The Complainant contends that the choice of the disputed domain name cannot be a hazard since it has no meaning, and that the Respondent’s sole purpose was to create confusion in the public’s mind. Then the Complainant highlights that when it registered the disputed domain name, the Respondent used a privacy service in order to hide its identity and avoid being notified of a UDRP proceeding and gave fake contact details. The Complainant underlines that the Respondent has made no active use of the disputed domain name beside activating MX records. The Complainant submits that it can be legitimately suspected that the Respondent was intentionally attempting to take advantage of the MIROVA Trademarks in order to generate profits with email services attached to the disputed domain name.

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.

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

Although the addition of other terms here, “adm”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Indeed, it appears the Respondent has not received any authorization from the Complainant to use the MIROVA Trademarks in any manner. Moreover, the Panel finds that the Respondent is not commonly known by the disputed domain name.

In addition, the nature of the disputed domain name (including the MIROVA Trademarks in their entirety with the addition of an abbreviation which is, more likely than not, related to the Complainant’s activities) also impersonates or at least suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 is not making any use of the disputed domain name which resolves to an error page. The Panel also notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the well-known MIROVA Trademarks. Given the distinctiveness of the MIROVA Trademarks, and their reputation and the activation of MX records, the Panel considers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s trademarks, and with the intent to impersonate the Complainant and confuse Internet users.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, the Respondent’s concealing its identity and use of false contact details, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under 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 <mirova-adm.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: July 23, 2024