

ADMINISTRATIVE PANEL DECISION

Molson Canada 2005, Coors Brewing Company, Molson Coors Beverage Company v. aerocleanair.com aerocleanair.com
Case No. D2024-3446

1. The Parties

The Complainants are Molson Canada 2005 (the “First Complainant”), Canada; Coors Brewing Company (the “Second Complainant”), United States of America (“United States”); Molson Coors Beverage Company (the “Third Complainant”), United States, represented by Lipkus Law LLP, Canada.

The Respondent is aerocleanair.com aerocleanair.com, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <molsoncoors.link> is registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2024. On August 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 29, 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 Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainants on August 29, 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 September 3, 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 September 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 8, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on October 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 First Complainant is a Canadian company offering popular beer brands, including Molson Canadian. The Second Complainant is an American brewing company responsible for production and marketing of several popular beer brands, notably Coors Light. The First and the Second Complainant merged in 2005 through their holding companies and became the Third Complainant, a global brewing company operating in Canada, the United States, Europe, the United Kingdom and other markets.

The First Complainant is the owner of MOLSON word trademark registered in the United States on January 13, 1959, under the registration number 0672613 for goods in class 32 of International Classification (“IC”). The Third Complainant is the owner of COORS figurative trademark registered in the United States on December 27, 1949, under the registration number 0519209 for goods in class 32 of IC. The Second Complainant is the owner of MOLSON COORS word trademark registered in China on February 14, 2011, under the registration number 8060808 for goods in class 32 of IC. In this decision, the aforementioned trademarks will be collectively referred to as the “MOLSON COORS trademarks”.

The Complainants operate their official website under the domain name <molsoncoors.com> since July 15, 2004.

The disputed domain name <molsoncoors.link> was registered on July 10, 2024. It resolves to an inactive website stating “this site can’t be reached”.

On July 24, 2024, the Complainants have sent a cease-and-desist letter to the Respondent via the email address listed in the Registrar’s Whois database, but received no response.

In this decision, the First Complainant, the Second Complainant and the Third Complainant will be referred to as “the Complainant”.

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:

(i) It has used the MOLSON COORS trademarks continuously since 1948 and 1915 respectively in connection with advertising and sale of their products in the United States, Canada and worldwide. The MOLSON COORS trademarks have been used prominently and the Complainant has expended significant resources on advertising and promotion of its products in a variety of media throughout the world, which makes the MOLSON COORS trademarks well known and famous over a number of years. Moreover, the Complainant contends that its extensive promotional efforts have led to the public associating the MOLSON COORS trademarks with its products since long before the Respondent has registered the disputed domain name;

(ii) The disputed domain name is confusingly similar to the Complainant's MOLSON COORS trademarks. Namely, the disputed domain name incorporates the MOLSON COORS trademarks in their entirety with the addition of generic Top-Level Domain ("gTLD") ".link". For this reason, the disputed domain name carries a high risk of Internet users affiliating it with the Complainant's MOLSON COORS trademarks;

(iii) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the Molson Coors name nor is it using the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Furthermore, the Complainant has not authorized or licensed the Respondent to use or register the disputed domain name which incorporates the MOLSON COORS trademarks; and

(iv) The Respondent has registered and is using the disputed domain name in bad faith. Namely, the Respondent is diverting the Complainant's customers or potential customers seeking information about the Complainant to an inactive website containing a message "this site can't be reached". Moreover, there is no evidence of any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods and services. The Complainant further contends that the Respondent's registration of the disputed domain name was done solely to prevent the Complainant from registering it, either for the purpose of selling the disputed domain name for valuable consideration in excess any out-of-pocket expenses, or as an attempt to generate financial gain by creating a likelihood of confusion with the MOLSON COORS trademarks.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issue - Consolidation of Complainants

Affiliated companies have standing to file complaint under the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.4.1.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. [WIPO Overview 3.0](#), section 4.11.1.

The Complaint was filed by three Complainants. The Complainants are related corporate entities, the First and the Second Complainant merged through their holding companies and became the third Complainant, and as such have a common legal interest sufficient to justify the consolidation. The Respondent has engaged in targeting with respect to each of the Complainants.

This Panel finds that the First, the Second and the Third Complainant jointly comprising the Complainant have a specific common grievance, and it is equitable and procedurally efficient to allow consolidation in the circumstances of this case.

6.2 Substantive Issues

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 3.0](#), section 1.7.

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

The entirety of the MOLSON COORS trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The gTLD “.link” is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The disputed domain name is identical to the Complainant’s MOLSON COORS trademark, as it entirely and exclusively comprises the MOLSON COORS trademark. Consequently, the Panel concludes that the Complainant has met the requirements of paragraph 4(a)(i) of the Policy by proving its rights to the MOLSON COORS mark and demonstrating that the disputed domain name is identical to its MOLSON COORS trademark.

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.

The Respondent is not authorized by the Complainant to use the MOLSON COORS trademarks nor is there indication that the Respondent is known under the disputed domain name. There is no relationship between the Complainant and the Respondent which is apparent from the records, nor does it arise that the Complainant have ever licensed or otherwise permitted the Respondent to use their MOLSON COORS trademarks or to register the disputed domain name.

Furthermore, there is no evidence nor is it otherwise apparent to the Panel that the Respondent uses or is preparing to use the disputed domain name in connection with a bona fide offering of goods or services nor as a legitimate noncommercial or fair use of the disputed domain name.

The nature of the disputed domain name, consisting of the Complainant’s MOLSON COORS trademark indicates the Respondent’s awareness of the Complainant and its MOLSON COORS trademark, and creates a high risk of implied affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests in this case. [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 disputed domain name resolves to an inactive site, containing only a message stating that the “site can’t be reached”.

Considering the circumstances and evidence presented, the Panel considers the Complainant’s MOLSON COORS trademark to be well known. The Panel is of the opinion that it is more likely than not that the Respondent has registered and used the disputed domain name while being aware of the Complainant and their well-known MOLSON COORS trademarks.

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 (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s MOLSON COORS trademark, and the composition of the disputed domain name clearly targeting the Complainant’s trademarks, 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 Respondent’s choice to register a domain name that entirely incorporates the Complainant’s MOLSON COORS trademark, without any authorization from the Complainant, indicates an intent to exploit the Complainant’s established reputation and goodwill. Given the Complainant’s online presence, it is implausible that the Respondent was unaware of the Complainant’s rights to the MOLSON COORS trademark at the time of registration. Additionally, the Respondent’s use of the privacy service to conceal its identity and the passive holding of the disputed domain name, with no apparent evidence of any good-faith use, reinforce the conclusion of bad faith. These factors collectively support the finding that the disputed domain name was registered and is being used in bad faith.

Moreover, the Panel draws adverse inferences from the Respondent’s failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

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 <molsoncoors.link> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: October 25, 2024