

ADMINISTRATIVE PANEL DECISION

Xiaomi Inc. v. Tanveer Ahmed, Nexter international
Case No. D2024-4503

1. The Parties

The Complainant is Xiaomi Inc., China, represented by Greenberg Traurig LLP, United States of America (“U.S.” or “United States” or “USA”).

The Respondent is Tanveer Ahmed, Nexter international, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <miusastore.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 November 1, 2024. On November 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 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 (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 November 5, 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 November 7, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2024.

The Center appointed Catherine Slater as the sole panelist in this matter on December 5, 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 Chinese company that develops and produces consumer electronics as well as related software, home appliances and automobiles. By 2023, the Complainant's smartphones accounted for approximately 13% of the global smartphone market and its annual revenue from smartphones alone amounted to approximately USD 21 billion.

The Complainant operates its primary website at "www.mi.com" and, in the U.S., at "www.mi.com/us".

The Complainant owns a large portfolio of trademark registrations in numerous jurisdictions for the mark MI (both plain and stylized) and various marks containing MI. The Complainant's registrations include:

- International Registration No. 1331842 (stylized word mark) registered on April 14, 2016;
- United States Registration No. 4558000 (stylized word mark) registered on July 1, 2014.

These two registrations are referred to in this decision as the "MI Trademark".

The Respondent is an individual based in Pakistan. The Respondent registered the disputed domain name on April 1, 2023.

At the date of the Complaint, the evidence shows that the disputed domain name resolved to a website (the "Respondent's Website") which included the following content:

- At the top of the page, a banner stating, "Fast Delivery within 4 to 6 days all over USA";
- In the header section, the MI Trademark;
- Under the header section, a large picture of a tablet labelled as the Complainant's product;
- Under that picture, a heading in large typeface stating, "Featured Products – MI Official Website";
- The remainder of the page containing largely pictures of products (mainly electronic devices), all of which are labelled as if they are the Complainant's products and each labelled with a price in dollars;
- Towards the end of the page, a heading stating, "Explore Xiaomi Official Website";
- In the footer section, the MI Trademark with the word "Xiaomi" and contact details including an email address for customer support ending "[...]@miusastore";
- At the bottom of the page, a copyright notice reading "Copyright © 2024 XIAOMI. All Rights Reserved".

The evidence submitted shows that the Complainant successfully petitioned the Registrar to suspend the Respondent's Website. The Panel infers that this is the reason that, at the time of writing this Decision, the disputed domain name does not resolve to an active website.

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 confusingly similar to the MI Trademark since it incorporates that trademark in full and merely adds the generic terms "usa" and "store"

which terms are directly related to the nature of the Complainant's business and therefore actually increases the likelihood of confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Respondent is not commonly known by the disputed domain name, has not been authorized, licensed or otherwise permitted by the Complainant to register and/or use the disputed domain name and is not using nor has prepared to use the disputed domain name in connection with a bona fide offering of goods or services. Indeed, the Complainant contends that the Respondent is using the disputed domain name to offer goods in a manner that is not bona fide by diverting internet traffic to its own "imposter website" which claims to be "official", mimics the "look and feel" of the Complainant's website and offers the Complainant's products alongside products that are counterfeit.

The Complainant further contends that the Respondent intentionally registered and is using the disputed domain name to attract, for commercial gain, Internet users to its website where it impersonates the Complainant and offers for sale the Complainant's products alongside counterfeit products. The Complainant contends that the Respondent had actual knowledge of the MI Trademark because of the fame of that mark.

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 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, "usa" and "store", 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.

The Complainant's prima facie case shows how the Respondent was actually using the disputed domain name. The evidence establishes that the disputed domain name was linked to a website that, because of its content as noted above, was likely to give consumers the impression that it is was a website owned by or affiliated with the Complainant and was likely to attract customers on that inaccurate basis. See [WIPO Overview 3.0](#) at section 2.5:

"Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry."

And further, at section 2.5.1:

"Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

Applying those principles to this matter, it is noted that the disputed domain name consists of the MI Trademark with additional terms that merely suggest it is an online store in the U.S. and that the Respondent's Website was impersonating, or at least suggesting sponsorship or endorsement, by the Complainant. In these circumstances, the Panel does not consider that such use was bona fide.

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 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.

It is inconceivable that, at the time of registration of the disputed domain name, the Respondent was unaware of the Complainant and/or its MI Trademark. The knowledge of the Respondent is demonstrated by the fact that after registration, the Respondent pointed the disputed domain name to a website that used the Complainant's name, used the MI Trademark (in the same stylization as used by the Complainant itself), claimed to be an "official website" and offered for sale the Complainant's products and/or counterfeits of the same. In short, the Respondent targeted the Complainant by registering the disputed domain name for the purpose of impersonating (or at least giving the impression of a connection with) the Complainant which, as discussed below, amounts to "bad faith use" .

The Panel therefore finds that the disputed domain name was registered in bad faith.

Paragraph 4(b)(iv) of the Policy sets out an example circumstance that amounts to use in bad faith as follows:

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

As noted above, the Respondent used the disputed domain name for a website which falsely gave Internet users the impression that it was the Complainant’s official online store in the U.S. market and in so doing the Respondent used the disputed domain name to intentionally attempt Internet users to the Respondent’s Website, by creating a likelihood of confusion with the Complainant’s mark (the MI Trademark) as to the source, sponsorship, affiliation or endorsement of the Respondent’s Website. The Panel therefore finds that the disputed domain name has been used in bad faith in accordance with the circumstances set out in paragraph 4(b)(vi) 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 <miusastore.com> be transferred to the Complainant.

/Catherine Slater/

Catherine Slater

Sole Panelist

Date: December 19, 2024