

ADMINISTRATIVE PANEL DECISION

Majid Al Futtaim Properties LLC v. Matajer Investment and Trading
Development Co LLC
Case No. DAE2022-0005

1. The Parties

The Complainant is Majid Al Futtaim Properties LLC, United Arab Emirates (“UAE”), represented by Talal Abu Ghazaleh Legal, Egypt.

The Respondent is Matajer Investment and Trading Development Co LLC, UAE.

2. The Domain Name and Registrar

The disputed domain name <matajer.ae> is registered with AE Domain Administration (.aeDA) (“the Registry”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2022. On November 2, 2022, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On November 3, 2022, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 7, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was November 27, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on November 28, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on December 8, 2022. 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 limited liability company registered in Dubai on February 4, 1994. It is a subsidiary of Majid Al Futtaim Holding LLC, which has operations in 15 countries and employs more than 40,000 people. The Complainant is a developer of shopping malls, hotels, and mixed-use community projects in the Middle East and North Africa. It is presently the owner and operator of 29 shopping malls, 13 hotels, and five mixed-use communities, and has further developments underway.

The Complainant states that it began its use of the “Matajer” brand in connection with the operation of the “Matajer Al Quoz” mall, opened in 2011, with other similarly named malls opening in 2012. The Complainant has now expanded said brand into a neighborhood retail concept. The Complainant provides information relating to its various “Matajer” shopping malls via the website “www.matajersharjah.com”, the corresponding domain name for which was registered on May 10, 2016.

The Complainant’s affiliated joint-venture company, Sharjah Holding Co. J.S.C. (“Sharjah Holding”) owns various trademark registrations for MATAJER. For example, Sharjah Holding owns Bahrain Registered Trademark No. 87486 for the device and word mark MATAJER (in English and Arabic), registered on January 23, 2013, in Class 36 (insurance, financial affairs, monetary affairs, and real estate affairs). The Complainant itself owns registered trademarks such as M MATAJER AL RAHMANIYA, and MATAJER AL MUSALLA that do not require to be further described here.

The disputed domain name was registered on March 7, 2007. It was most recently renewed on March 7, 2022 for one year. According to the Registry, the disputed domain name was originally registered to a private individual in Abu Dhabi but the contact information was updated and the registrant name changed to that of the Respondent on September 29, 2019.

Little is known regarding the Respondent, which judging by its name appears to be a limited company. The Respondent appears to have supplied a partially incomplete address in Abu Dhabi to the Registrar. The Panel does not know, for example, whether the original registrant of the disputed domain name is an officer in the Respondent company. The Complainant does not mention whether it searched the appropriate official register for the existence of this company.

According to a screenshot produced by the Complainant, the disputed domain name points to a page on the website at “www.infotechmc.com”, which states “Our website is coming very soon”. The Complainant states that the said website relates to a company based in UAE named Infotech Electromechanical LLC. A profile of the said company produced by the Complainant indicates that the said company is headquartered in Abu Dhabi, that it has between 200 and 500 employees, and that it specializes in manpower, oil and gas, construction, and interior design among others. Its relationship to the Respondent, if any, is not clear.

5. Parties’ Contentions

A. Complainant

In summary, the Complainant contends as follows:

Identical or confusingly similar

The Complainant’s affiliate is the owner of the MATAJER registered trademarks. Relationship documents show that Sharjah Holding’s shareholders are subsidiaries of the Complainant. The Complainant enjoys a substantial degree of public recognition and worldwide reputation in the “Matajer” brand and engages in related marketing and advertising, extending to social media such as YouTube, Facebook, Twitter, and Instagram. Accordingly, the Complainant has established both registered and unregistered rights in the MATAJER trademark. The disputed domain name is identical to such mark, and confusingly similar to the M MATAJER AL RAHMANIYA, and MATAJER AL MUSALLA marks.

Rights or legitimate interests

There is no evidence that the Respondent owns any trademark rights in any way related to the disputed domain name. The Respondent is not affiliated with the Complainant in any way. The Complainant has never authorized or licensed the Respondent to use the MATAJER trademark, nor to seek the registration of a corresponding domain name. The Respondent has no prior rights or legitimate interests in the disputed domain name since the Complainant's operation of the "Matajer" brand dates back to 2011 through the operation of "Matajer Al Quoz", the protection of the MATAJER trademark dates back to June 23, 2011, and the Complainant's ownership of <matajersharjah.com> dates back to 2016. The Complainant's said brand has been in use for many years before the Respondent registered the disputed domain name. The Respondent is not commonly known in the market by the disputed domain name and a Google search with the query "Matajer" produced no hit related to the Respondent. The Respondent has used the disputed domain name to redirect to a third party website, which is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. No rights or legitimate interests may be conferred on the Respondent by virtue of such redirection.

The Respondent is generating monetary revenue through automatically redirecting online users to a third party website using the goodwill of the famous MATAJER mark to generate such revenue. It would be an incredible coincidence for the Respondent to register the disputed domain name other than to take advantage of the Complainant's rights. Given the global fame of the Complainant's brands, there is no use to which the disputed domain name could be put that would confer any legitimate interest upon the Respondent. The Respondent is not an authorized dealer, distributor or licensor of the Complainant. The disputed domain name misleads users and such a domain name does not confer rights or legitimate interests in favor of the Respondent. Merely registering a dictionary word or phrase does not automatically confer rights or legitimate interests upon the Respondent. The Respondent's selection of the ".ae" Top-Level Domain which is the geographical region where the Complainant's brand is a leading brand supports a finding that the disputed domain name was registered to take advantage of the Complainant's mark and that the Respondent lacks rights or legitimate interests in the disputed domain name.

Registered or used in bad faith

The disputed domain name was registered in bad faith because it is implausible that the Respondent was unaware of the Complainant's "Matajer" brand when it registered the disputed domain name because the Complainant has been operating such brand since 2011. The Complainant's MATAJER trademark is well known throughout the world and in the UAE specifically. The disputed domain name is so obviously connected with a well-known trademark that bad faith is clear. The Respondent must have had the Complainant's said mark in mind when registering the disputed domain name because it is widely known and associated exclusively to the Complainant, and the Respondent is also based in the UAE where the Complainant's mark is a leading brand. As the Respondent must have known of the Complainant's rights, the aim of registering the disputed domain name was to take advantage of the confusion between it and any potential complainant rights. The Respondent acted in opportunistic bad faith when registering the disputed domain name as it is so obviously connected with the Complainant's services and must have been registered with a deliberate intent to create an impression of association with the Complainant.

The Respondent has used the disputed domain name to redirect to an inactive website. This evinces use in bad faith. The Respondent presumably attracts commercial gain through redirecting traffic to this third-party website. As the Respondent has made no active use of the disputed domain name, its purpose was to block the Complainant from registering the disputed domain name itself and to use the disputed domain name to disrupt the business of the Complainant and/or to use it for commercial gain.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 6(a) of the Policy have been satisfied:

- (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 or is being used in bad faith.

A. Identical or Confusingly Similar

The first element of the Policy functions as a standing element in which the Complainant must demonstrate that it has rights in a trademark which is identical or confusingly similar to the disputed domain name when compared to it, typically on a straightforward side-by-side basis. The country code Top-Level Domain (“ccTLD”) “.ae” is generally disregarded in such comparison.

The Complainant claims rights in the MATAJER mark standing alone by way of a registered trademark owned by a joint venture company in which it is a participant. Section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) notes that a trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint¹. The Complainant has produced evidence of its affiliation with Sharjah Holding, the owner of the MATAJER trademark described in the factual background section above, by way of the Complainant’s consolidated financial statement, which lists its interest in Sharjah Holding, together with the commercial licenses of its subsidiaries, and the trading license of Sharjah Holding, which demonstrate that said subsidiaries are two of Sharjah Holding’s three partners to the extent of a 50% ownership. In these circumstances, it is not necessary to look beyond the MATAJER mark at the others owned by the Complainant directly, which feature the MATAJER element along with other words, or to consider the Complainant’s alleged unregistered trademark rights in said mark.

The registered mark in which the Complainant claims rights as noted in the factual background section above is a device and word mark, featuring the word MATAJER in both transliterated English and Arabic, together with a design of multi-colored interlocking shapes. The Panel is satisfied that the design elements may be severed from the word component, and that the Arabic word may be disregarded for the purposes of the comparison process, as a non-internationalized domain name such as the disputed domain name contains ASCII characters only. Accordingly, the Panel compares the non-Arabic word component of the trademark concerned with the Second-Level Domain of the disputed domain name and finds these to be identical.

The Respondent did not engage with the administrative proceeding and thus took no objection to the Complainant relying in part upon a trademark owned by its affiliate or to any of the Complainant’s other submissions on this topic.

In all of these circumstances, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights, and accordingly, that the Complainant has carried its burden in respect of paragraph 6(a)(i) of the Policy.

¹ The Panel notes that while there are minor differences between the .ae Policy and the UDRP, where appropriate, it draws on consensus views expressed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

B. Rights or Legitimate Interests

The requirements of paragraph 6(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's finding in connection with registration and use in bad faith, it is unnecessary for the Panel to address the issue of the Respondent's rights or legitimate interests in the disputed domain name.

C. Registered or is Being Used in Bad Faith

Paragraph 6(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration or use of a domain name in bad faith:

"i) circumstances indicating that you have registered or you have acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name Registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Domain Name; or

ii) you have Registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that you have engaged in a pattern of such conduct; or

iii) you have Registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

iv) by using the Domain Name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 web site or location or of a product or service on your web site or location".

In general terms, for bad faith registration to be made out under the Policy, some form of targeting of the Complainant's rights must be demonstrated and at least the fact that the Respondent had the Complainant or its rights in mind at the point when it registered the disputed domain name. It is on this matter that the Complaint overlooks fundamental issues arising from the facts and circumstances of this case. The name of the registrant and the Respondent, apparently a limited company name, corresponds to the use of the word "matajer" in the disputed domain name. The Panel is unaware of whether there are any records for such a company or, if so, when it was incorporated. The Panel is also unaware of whether the original registrant of the disputed domain name might be linked in some way to such company, for example, if it had operated an unincorporated business which it then decided to incorporate. If so, this would mean that the disputed domain name has been held in an unbroken chain of ownership since 2007 and that the Respondent's use of "matajer" in the disputed domain name would thus predate the Complainant's trademarks.

In any event, the Complainant would have the Panel believe that the Complainant's MATAJER mark is now so well-known in the UAE that the Respondent must have sought to take advantage of that fact when it became the registrant of the disputed domain name in 2019. If so, the Panel would also have to believe that the Respondent's company name was specifically designed to conceal its *mala fides* in targeting the Complainant's mark. There is no evidence before the Panel which would justify reaching those conclusions. The Panel also notes the findings of the panel in *Majid Al Futtaim Properties LLC v. Ayman Bajnaid*, WIPO Case No. [D2022-4130](#), in which the present Complainant was also the complainant and relied upon the same rights. The panel in that case noted that "matajer" is a term which, when transliterated/translated ("متاجر"), means "shops" in Arabic. The Panel adds that the online translation engines which it has consulted since reviewing that case suggest that the word may also be transliterated/translated into related words, such as "store" or "market"². This provides a plausible reason as to why a registrant in an Arabic-speaking

² With regard to the Panel conducting limited factual research into matters of public record, such as consulting relevant publicly available websites including online dictionaries, see section 4.8 of the [WIPO Overview 3.0](#).

country such as the Respondent may have selected the name for its company name and for the disputed domain name in good faith, without necessarily seeking to target the Complainant's rights.

Turning to the question of use in bad faith, the Panel finds the present use of the disputed domain name to be curious but not necessarily demonstrative of use in bad faith in and of itself. The website associated with the disputed domain name is in the course of construction but the company that is said by the Complainant to be behind this site appears to be a substantial business engaged in human resources, oil and gas, and other related activities which are unlikely to cause any confusion with the Complainant's mark. There is no obvious commercial benefit apparent to the Panel in the Respondent's present use of the disputed domain name that could be seen to be taking unfair advantage of, or be unfairly detrimental to, the Complainant's rights. It should be remembered in accordance with the findings of the panel in *Majid Al Futtaim Properties LLC v. Ayman Bajnaid, supra*, that the translated/transliterated word "matajer" ("متاجر") can mean "shops" or "market", thus lending itself to a variety of commercial uses that would not necessarily denote the Complainant's mark or its particular business activities. This fact alone suggests that consumer confusion should not arise, and that it is probably not the Respondent's intention to cause such confusion or to obtain a commercial benefit thereby.

The Complainant might have conducted more research which could have assisted the Panel in its determination on this particular question. For example, the Complainant appears to have conducted no research either into the past use of the disputed domain name, before or after 2019, or into whether the Respondent company exists on an official commercial register in the UAE. Likewise, there is no evidence that the Complainant has made any direct inquiries with the company which it states is the operator of the holding page website to which the disputed domain name currently points. Is this company a successor to the Respondent company? Is it an affiliate? Does the said company have any connection to a prior use of the "Matajer" name? Is there some connection to the original registrant of the disputed domain name? Does the website operator deny all knowledge of, and any affiliation with, the Respondent and/or the disputed domain name? The Panel does not know the answer to any of these questions.

Had the Complainant made these or similar investigations, it is conceivable that it might have uncovered evidence suggesting that there may be some form of bad faith use of the disputed domain name taking place. In the absence of any such evidence, and similar to the findings of the panel in *Majid Al Futtaim Properties LLC v. Ayman Bajnaid, supra*, it is reasonable to infer on the balance of probabilities that there may be an innocent good faith motivation behind the present use of the disputed domain name that is connected both to the Respondent's company name, and to the meaning of the transliterated/translated word "matajer" ("متاجر").

The Complainant has the burden of proof regarding registration or use in bad faith under the Policy. On the limited record before the Panel, the issue of use in bad faith remains sufficiently finely balanced that the Panel considers that the Complainant has failed to carry that burden.

In all of these circumstances, the Complaint fails on the third element of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: December 22, 2022