

ADMINISTRATIVE PANEL DECISION

MISTRAL AI v. TRAN ANH QUan

Case No. DAI2024-0042

1. The Parties

The Complainant is MISTRAL AI, France, represented by Blanche Avocats, France.

The Respondent is TRAN ANH QUan, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <mistraltoken.ai> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 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 June 4, 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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 2, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on July 16, 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, a European leader in generative artificial intelligence founded in early 2023 is the owner of the trade mark MISTRAL AI registered, inter alia, as French trade mark registration number 4970012 filed on June 16, 2023 and registered on November 10, 2023, designating products and services in classes 9, 35 and 42 for software and related services. The Complainant uses a stylized M logo for which it applied for registration as a French trade mark on March 28, 2024. It owns a number of domain names including <mistral.ai> and <mistralai.com>, the latter registered on April 14, 2023.

The disputed domain name registered on December 10, 2023 has been used for a web site purporting to offer cryptocurrency services using the Complainant's MISTRAL AI mark in its logo form with the Complainant's stylized M logo in its masthead. The site also contains significant material copied from the Complainant's web site and links to the Complainant's web site so as to appear to be affiliated with the Complainant. The Complainant acted via the Respondent's web hosting company to have this web site taken down in April 2024.

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 registered in 2023 is confusingly similar to the Complainant's trade mark containing it in its entirety with the addition of the descriptive word "token", which does not prevent confusing similarity between the disputed domain name and the Complainant's mark for the purposes of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name, is not commonly known by it, and is not authorised by the Complainant.

The web site connected with the disputed domain name used the Complainant's trade mark in its logo form as a masthead and material copied from the Complainant's own web site to offer fraudulent cryptocurrency services misrepresenting that it is owned by or affiliated with the Complainant which was compounded by links to the Complainant's actual web site. This was deceptive impersonation and is not a bona fide offering of goods or services or legitimate noncommercial or fair use. It is registration and use in bad faith in actual knowledge of the Complainant's rights and business.

The Respondent provided an incorrect and/or incomplete email address and no physical address details other than the name of a city in the registration details associated with the disputed domain name, which is a further indication of bad faith.

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, "token" 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.

There is no evidence that the Respondent is commonly known by the disputed domain name and he is not authorised by the Complainant.

The use of the disputed domain name to offer allegedly fraudulent cryptocurrency services using the Complainant's mark in its logo form with the Complainant's M device mark, material copied from the Complainant's site, and linking to the Complainant's site was deceptive and confusing and so was not a bona fide offering of goods or services. It was commercial and so was not legitimate noncommercial or fair use.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 has used the disputed domain name for a web site purporting to offer cryptocurrency services using the Complainant's MISTRAL AI mark in its logo form with the Complainant's stylized M logo in its masthead, copying material from the Complainant's web site, and linking to it. The use of the Complainant's logo and stylised M mark shows that the Respondent was aware of the Complainant and its rights, business, and services. Accordingly, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark, thereby disrupting the Complainant's business.

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 held that the use of a domain name for illegal activity, here impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Further, the Respondent has provided a nonfunctional e mail address and incomplete physical address details for the registration details for the disputed domain name, which in this case is an additional indication of bad faith.

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 <mistraltoken.ai> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: July 16, 2024