

ADMINISTRATIVE PANEL DECISION

MakeMyTrip (India) Private Limited v. Jemima Joseph Case No. DCO2022-0120

1. The Parties

The Complainant is MakeMyTrip (India) Private Limited, India, represented by Sim And San, Attorneys At Law, India.

The Respondent is Jemima Joseph, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <makemytrips.co> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2022. On January 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2023, 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 January 10, 2023, 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 January 10, 2023.

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 January 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2023. The Respondent sent three email communications to the Center. The first was sent on January 23, 2023, the second on January 26, 2023, and the third on February 8, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on February 21, 2023. 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 was incorporated in 2000 and is one of the largest travel companies in India with presence in other countries and territories, including in the United States, the United Arab Emirates, Mauritius, European Union, Australia, and the United Kingdom, amongst others. Since August 2000, the Complainant has continuously used the MAKEMYTRIP mark for all its business activities.

Starting with airline ticket booking services, presently, the Complainant, through its primary website and mobile phone platforms, offers an extensive range of travel services and products, both in India and abroad. The Complainant's services include, in particular, booking of air tickets, rail and bus tickets, hotel reservations, car hire, domestic and international holiday packages.

The Complainant makes substantial investment in advertising and promotional activities and has received numerous accolades and recognitions in its industry.

The Complainant owns trademark registrations for MAKEMYTRIP, such as the following:

- the Indian trademark registration No. 2149947, MAKEMYTRIP (word), filed and registered on May 25, 2011, for services in International Class 39; and
- the United States trademark registration No. 4836848, MAKEMYTRIP (word), filed on May 7, 2015 and registered on October 20, 2015, for services in International Classes 39 and 43.

The Complainant (directly or through its founder) owns numerous domain name registrations for or including its trademark MAKEMYTRIP such as <makemytrip.com> created on May 8, 2000 (the main website), <makemytrip.ae>, <makemytrip.net>, <makemytrip.jp>, <makemytripdeals.com>, <makemytripbus.com> or <makemytripflights.com>.

The disputed domain name was registered on July 14, 2022, and, at the time of filing the Complaint, according to Annex 18 to Complaint, it was used in relation to a website offering travel services in various territories including India, and the content was provided in English language. At the time of this decision, the disputed domain name does not resolve to an active page ("403 Forbidden Access to this resource on the server is denied!").

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to its well-known trademark, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

In its communication sent on January 23, 2023, the Respondent claimed in particular that its “website is relatively new and is yet to gain any popularity” and that, in order to solve the dispute, it would “like to make a reasonable offer price of USD 50,000” to transfer the disputed domain name to the Complainant. Since the Complainant declined such proposal, the Respondent further mentioned in its email of February 26, 2023, followed by the third communication of February 8, 2023 that it will “shut down our current website and repurpose it with different content or sell this domain to any other interested parties (...)” also reiterating the sale offer mentioned in its first email, for the same value.

6. Discussion and Findings

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the MAKEMYTRIP trademark.

The disputed domain name incorporates the Complainant’s trademark in its entirety with an additional final letter “s”. However, such addition does not prevent a finding of confusing similarity as the Complainant’s trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name or that a domain name consisting of a misspelling of the complainant’s trademark (*i.e.*, typosquatting) does not prevent a finding of confusing similarity. See sections 1.8 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Further, it is well established in decisions under the Policy that the “.co” Top-Level Domain (“TLD”), being a technical requirement for registering Internet domain names, may typically be disregarded for the purpose of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark MAKEMYTRIP, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark MAKEMYTRIP, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant’s contentions and has not come forward with any explanation and relevant evidence to rebut the Complainant’s *prima facie* case.

According to the records before it, the Respondent has used the disputed domain name in connection with a website providing services similar to those offered by the Complainant, including in India where the Complainant was providing services under its MAKEMYTRIP trademark and corresponding website for about two decades.

Furthermore, the nature of the disputed domain name, comprising the Complainant’s trademark in its entirety (in this case with an additional final letter), creates a risk of user confusion.

Moreover, the Panel notes that the Respondent has offered the disputed domain name for sale for USD 50,000 and, once the Complainant declined such proposal, the Respondent stated that it would shut down the website and “repurpose it with different content or sell this domain to any other interested parties”. Currently, the disputed domain name does not resolve to an active page.

For these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds trademark rights in MAKEMYTRIP since 2000 and domain name registration since 2002. The Panel is satisfied with the evidence provided that the Complainant’s trademark MAKEMYTRIP gained reputation in its industry and on the relevant territories where the Complainant is providing services. See also *MakeMyTrip (India) Pvt. Ltd. v. Raj Kumar / PrivacyProtect.org*, WIPO Case No. [D2012-0691](#).

The disputed domain name was registered in 2022 and reproduces the Complainant’s trademark and domain name with a slight alteration and is used to promote similar services.

From the available record, the Panel finds that the disputed domain name was registered by the Respondent in bad faith, with knowledge of the Complainant and targeting its trademark.

At the time of filing the Complaint, the disputed domain name resolved to a page providing services competing to those of the Complainant.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant’s trademark and the website operated under the disputed domain name provides similar services to those of the Complainant, including in India where the Complainant is well-known, and has no disclaimer, indeed in this Panel’s view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to

the Complainant, for its commercial gain. Furthermore, this activity is likely to disrupt the Complainant's commercial activity.

Also, in its communications sent to the Center after the commencement of the present proceeding, the Respondent stated that its website is new and is yet to gain any popularity but still offered to sell the disputed domain name for the amount of USD 50,000. Further, after the Complainant's refusal of such proposal, the Respondent suggested that it would be willing to sell the disputed domain name to any other interested party. Consequently, based on all the documents before it, the Panel also finds that the Respondent has registered the disputed domain name primarily for the purpose of selling or otherwise transferring the domain name registration to the Complainant or its competitors for an amount likely in excess of the documented out-of-pockets costs.

The Respondent has not provided any substantial response in the present proceedings in order to put forward any arguments in its favor and apparently provided false or incomplete contact details in the Whois. Such facts, together with all the other elements in this case, in the eyes of this Panel, supports a finding of bad faith behavior.

The fact that the disputed domain name currently does not resolve to an active page does not prevent a finding of bad faith.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <makemytrips.co> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: March 7, 2023