

ADMINISTRATIVE PANEL DECISION

Marlink SA v. Name Redacted¹

Case No. DME2022-0025

1. The Parties

The Complainant is Marlink SA, Belgium, represented by Inlex IP Expertise, France.

The Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <marlink.me> is registered with Hosting Concepts B.V. d/b/a Openprovider (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 28, 2022. On November 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 29, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details and that the disputed domain name is held in the internal account of Registrar. On November 30, 2022, the Center informed the Complainant that the disputed domain name might be available for registration. On December 19, 2022, the Registrar confirmed with the Center that the disputed domain name was not available for registration.

The Center verified that the 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").

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on January 23, 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 is a provider of telecommunication services and particularly cybersecurity in the maritime industry. The Complainant owns a number of trademark registrations for MARLINK such as European Union registration No. 015333487, registered on October 4, 2016, and International registration No. 1309586, registered on July 13, 2016.

The disputed domain name was registered on October 17, 2022, and resolves to a parked website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The trademark MARLINK is distinctive as it has no dictionary meaning. The Second Level Domain ".me" should not be taken into consideration.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark. The Respondent has registered the disputed domain name in the name of the Complainant's Brazilian subsidiary. The disputed domain name is not used in connection with a *bona fide* offering of goods or services nor constitutes a legitimate non-commercial fair use.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. Passive holding as is the case here may indicate bad faith under certain circumstances. The Respondent must have been aware of the Complainant's trademark as the Respondent usurped the identity of the Complainant's subsidiary and MARLINK has been considered a well-known trademark by a prior UDRP panel. An email server has been created in connection with the disputed domain name, which could be used for phishing. The disputed domain name disturbs the Complainant's business.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark MARLINK. The Panel is satisfied that the Complainant has established its ownership of the trademark MARLINK. The disputed domain name incorporates the Complainant's trademark MARLINK in its entirety. The Top-Level Domain ".me" is generally ignored when assessing confusing similarity.

Consequently, the Panel finds that the disputed domain name is identical to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

A complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark, and that the Respondent does not have rights or legitimate interests. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The absence of a substantive response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

Further, prior UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation (see section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have been aware of the Complainant's trademark as it registered the disputed domain name in the name of a subsidiary of the Complainant. The disputed domain name resolves to a parked website enticing visitors to "Buy website hosting", "Add website to your hosting" and "Change domain nameservers". The Panel finds that Internet users would be misled by the disputed domain name into the expectation that they would reach a website operated by the Complainant. Noting the Respondent's failure to provide any good-faith explanation for his registration and use of the disputed domain name, the knowledge by the Respondent of the Complainant's trademark, and the absence of a plausible use of the disputed domain name that would be legitimate (*Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#)), the Panel finds that the use of the disputed domain name in these circumstances does not prevent the Panel's bad faith finding.

Further, prior UDRP panels have recognized that the mere registration of a domain name that is identical to a famous or widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <marlink.me>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: January 30, 2023