

ADMINISTRATIVE PANEL DECISION

Man Group plc v. Domain by Proxy LLC / Carolina Rodrigues
Case No. D2022-0707

1. The Parties

The Complainant is Man Group plc, Jersey, represented by Dehns, United Kingdom.

The Respondent is Domain by Proxy LLC, United States of America / Carolina Rodrigues, Panama.

2. The Domain Name and Registrar

The disputed domain name <mangrouplc.net> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2022. On March 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 3, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 2022 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 March 9, 2022.

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 March 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 8, 2022.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on April 14, 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

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is an international investment management group of companies headquartered in Jersey.

The Complainant is the owner of a large trade mark portfolio including the following trade mark:

- Chinese Trade Mark MAN GROUP PLC, registration No. 5722826, registered on November 28, 2013.

The Domain Name was registered on October 25, 2021. At the time of the Complaint and of the Decision, the Domain Name either triggered a security alert whereby access to the associated website is blocked or redirected to various webpages either containing pay-per-click ("PPC") links (including one targeting the Complainant's business) or websites requesting the disclosure of personal data.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is identical to the MAN GROUP PLC trade mark (which is also the Complainant's exact corporate name) in which the Complainant has rights as the Domain Name incorporates the entire MAN GROUP PLC trade mark. The Complainant also contends that the addition of the gTLD ".net" does not change the overall impression of the Domain Name being connected to the trade mark MAN GROUP PLC of the Complainant.

The Complainant asserts that upon carrying a trade mark search for the standalone terms "man", "man group", "man group plc" or "mangrouplc", it did not find any trade mark applications or registrations submitted or owned by the Respondent. The Complainant also points to the use of the Domain Name which either triggers a security alert or redirects to different webpages including webpages displaying hyperlinks related to the Complainant's core business or requesting Internet users to disclose their personal data, to conclude that such use is clearly not *bona fide* or for a legitimate commercial purpose. The Complainant also submits that the Respondent is not commonly known by the Domain Name.

Turning to registration in bad faith, the Complainant considers that the Respondent registered the Domain Name in a manner which, at the time when the registration took place, took unfair advantage of the Complainant's rights and also that the Domain Name was registered for the purpose of unfairly disrupting the business of the Complainant. As for use in bad faith, the Complainant alleges that the Domain Name is being used in a manner which takes unfair advantage of, and infringes, the Complainant's rights and in a manner which intentionally attracts, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trade marks. Finally, the Complainant refers to the fact that the Respondent has the same name ("Carolina Rodrigues") as the respondent in numerous previous decisions under the Policy and where the overwhelming majority of the respective panels found in favour of the respective complainants. Thus, the Complainant concludes that the Respondent has registered and is using the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order to prevail the Complainant must substantiate that the three elements of paragraph 4(a) of the Policy have been met, namely:

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

In the case of default by a party, as is the case here, paragraph 14(b) of the Rules makes it clear that if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

In the absence of a Response from the Respondent whereby the Respondent did not object to any of the contentions from the Complainant, the Panel will have to decide on the basis of the Complaint and supporting Annexes.

A. Identical or Confusingly Similar

In light of the evidence provided by the Complainant, the Panel is satisfied that the Complainant has substantiated that it holds valid trade mark rights in MAN GROUP PLC, which is reproduced in its entirety in the Domain Name.

The second point that has to be considered is whether the Domain Name is identical or confusingly similar to the trade mark MAN GROUP PLC in which the Complainant has rights.

At the second level, the Domain Name solely consists of the Complainant's MAN GROUP PLC trade mark (which is also the exact corporate name of the Complainant) in its entirety.

Then there is the addition of the gTLD ".net". As is generally accepted, the addition of a gTLD such as ".net" is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test.

Thus, the Panel finds that the Domain Name is identical to the trade mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out relevant circumstances that could demonstrate that a respondent has rights or legitimate interests in a domain name, namely:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [the respondent's] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to [the respondent] of the dispute, [the respondent's] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) [the respondent] (as an individual, business, or other organization) ha[s] been commonly known by the domain name, even if [the respondent] ha[s] acquired no trade mark or service mark rights; or

(iii) [the respondent] is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.”

Numerous previous panels have found under the UDRP that once a complainant makes a *prima facie* showing that the registrant does not have rights or legitimate interests in the domain name, the burden of production shifts to the respondent to rebut the showing by providing evidence of its rights or interests in the domain name.

Having reviewed the Complainant’s assertions and evidence, the Panel is satisfied that the Complainant has made a *prima facie* showing that the Respondent does not have rights or legitimate interests in the Domain Name.

The current and past use of the Domain Name either triggers a security alert whereby access to the associated website is blocked or redirects to various webpages either containing PPC links (including one targeting the Complainant’s business) or websites requesting the disclosure of personal data. Such use of the Domain Name cannot be considered *bona fide*, legitimate or fair.

The Complainant has also confirmed that the Respondent does not own any trade mark rights corresponding to the Domain Name. Finally, there is no indication that the Respondent is commonly known by the Domain Name.

Furthermore, the nature of the Domain Name which is identical to the Complainant’s trade mark carries 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](#)”).

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a number of relevant non-exhaustive circumstances, which can be deemed to constitute evidence of registration and use of a domain name in bad faith, namely:

- (i) circumstances indicating that [the respondent has] registered or acquired [a disputed] 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 trade mark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name; or
- (ii) [the respondent has] registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.

Given the circumstances described in the Complaint and the documentary evidence provided by the Complainant, the Panel finds that the Domain Name was registered in bad faith.

The Domain Name reproduces the exact MAN GROUP PLC trade mark of the Complainant and this cannot be a coincidence.

The term MAN GROUP PLC is not a descriptive or common term and corresponds to the exact trade mark and also corporate name of the Complainant. This is confirmed by the results obtained when carrying out a Google search for the term “man group plc” so the fact that the Respondent decided to register the Domain Name reproducing this term strongly suggests that the Respondent had the Complainant’s trade mark in mind and targeted it specifically.

This is even more likely given the overall circumstances including (i) the goodwill of the Complainant and its trade marks, (ii) the fact that the Domain Name was registered relatively recently and many years after the registration of the trade mark MAN GROUP PLC and (iii) the apparent pattern of abusive registrations on the part of the Respondent.

Thus, the Panel finds that the Domain Name was registered in bad faith.

As for use of the Domain Name in bad faith, given the circumstances described in the Complaint, the documentary evidence provided by the Complainant and the brief verification carried out by the Panel of the website associated with the Domain Name, the Panel is satisfied that the Domain Name is used in bad faith.

The use of the Domain Name which either triggers a security alert whereby access to the associated website is blocked or redirects to various webpages either containing PPC links (including one targeting the Complainant’s business) or websites requesting the disclosure of personal data clearly demonstrates the Respondent’s bad faith in using the Domain Name, in an effort to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s trade mark.

The fact that the Respondent chose not to object to the Complainant’s assertions can only reinforce the Panel’s view that the Domain Name is used in bad faith.

Finally, this is further supported by the fact that the Respondent deliberately chose to conceal its identity by means of a privacy protection service, which, in the circumstances, is an additional indication of the Respondent’s bad faith and its intent to use the Domain Name in a way which may be abusive or otherwise detrimental to the Complainant and its rights.

Thus, the Panel finds that the Domain Name is being used in bad faith.

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 Domain Name <mangrouplc.net> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: April 20, 2022