

ADMINISTRATIVE PANEL DECISION

AMINA Corp v. luo xin
Case No. D2022-4326

1. The Parties

The Complainant is AMINA Corp, France, represented by Coblence Avocats, France.

The Respondent is luo xin, China.

2. The Domain Name and Registrar

The disputed domain name <muaddise.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2022. On November 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 amendment to the Complaint in English on November 21, 2022.

On November 21, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On November 21, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceedings commenced on November 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 19, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on December 27, 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 company active in the fashion industry, and is specializing in the sale of women's shoes and accessories (leather goods, jewelry, and etc.). The Complainant offers its products under the brand AMINA MUADDI. The Complainant's products are particularly offered online, via the website hosted at its official domain name <aminamuaddi.com> (registered since March 9, 2017). The Complainant also provides evidence that it maintains an online presence through its social media accounts, including its official Instagram accounts.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for AMINA MUADDI (word and device marks) in a large number of jurisdictions around the world, including in China, where the Respondent is located, see particularly International Trademark Registration No. 1371021, for the word mark AMINA MUADDI, registered on July 27, 2017, designating jurisdictions including China and Japan; and International Trademark Registration No. 1494572, for the device mark AM, registered on April 11, 2019, designating jurisdictions such as China and the European Union.

The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain name by the Respondent, which is September 29, 2022. The Complainant submits evidence that the disputed domain name directed to an active website, which was operated as an e-commerce website selling and offering AMINA MUADDI-branded products to Internet users. However, on the date of this decision, the disputed domain name directs to an inactive webpage.

The Complainant also provides evidence that it first attempted to settle this proceeding amicably through its formal notice sent to the hosting provider of the disputed domain name on November 10, 2022.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for AMINA MUADDI, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant particularly claims that its trademarks are used intensively and are well-regarded in the fashion industry, and provides printouts of its official website and of its marketing materials. Moreover, the Complainant provides evidence that the disputed domain name was linked to an active website, operating as an e-commerce website. In this context, the Complainant claims in its Complaint that the Respondent was unlawfully using the Complainant's trademarks and also claimed in its formal notice to the hosting provider of the disputed domain name that the Respondent was also abusing its official product images likely protected by copyright. The Complainant argues that the Respondent intentionally attempted to attract, for commercial gain, Internet users to the website to which the disputed domain name resolved, by creating a likelihood of confusion with the Complainant's trademarks. The Complainant essentially contends that such use does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amendment to the Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and in English and in a timely manner to present his comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters and that the website linked to the disputed domain name (before it was taken offline) contained words and phrases in English and not in Chinese; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- c) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in the mark AMINA MUADDI, based on its use and registration of the same as a trademark in various jurisdictions.

Further, as to confusing similarity of the disputed domain name with the Complainant's marks, the Panel finds that the disputed domain name consists of the combination of two elements, namely the "muaddi" part of the Complainant's AMINA MUADDI trademark, followed by the letters "se". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing" (see also *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). The Panel concludes that the disputed domain name contains a dominant part of the Complainant's trademark, namely "muaddi", which remains easily recognizable in the disputed domain name. The Panel furthermore refers to the [WIPO Overview 3.0](#), section 1.15, which states "In some instances, panels have however taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name". Accordingly, having regard to the website which the Respondent hosted at the disputed domain name, the Panel confirms that the

Respondent was clearly seeking to target the Complainant's AMINA MUADDI trademark by his registration and use of the disputed domain name as the website clearly displayed the Complainant's AMINA MUADDI trademark. The Panel also agrees with the Complainant that the letters "se" are a commonly used geographical abbreviation for the country of Sweden, which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks (see [WIPO Overview 3.0](#), section 1.8). Finally, the Panel notes that the applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making a legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, reviewing the facts of this proceeding, the Panel notes that the disputed domain name directed to a webpage which showed a clear intent on the part of the Respondent to obtain unlawful commercial gains from misleading Internet users by using the Complainant's AMINA MUADDI trademark in the disputed domain name, in order to purportedly offer AMINA MUADDI-branded products for sale to such Internet users. Furthermore, the Panel has also taken into account the Complainant's evidence from which it is clear that the Respondent prominently displayed the Complainant's AMINA MUADDI marks and used the Complainant's own product images likely protected by copyright, thereby misleading Internet users into believing that the Respondent is at least licensed by, or affiliated with the Complainant or its AMINA MUADDI trademarks. The Panel finds that the aforementioned use by the Respondent does not confer any rights or legitimate interests in the disputed domain name on the Respondent.

However, the Panel notes that on the date of this decision, the disputed domain name directs to an inactive webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#), and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the intensive use which the Complainant made of its prior registered trademarks and given the Complainant's strong online presence, the Panel finds that the registration of the disputed domain name clearly and consciously targeted the Complainant's prior registered trademarks for AMINA MUADDI. The Panel deducts from these efforts to consciously target the Complainant's prior registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. Moreover, even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned registered trademarks in AMINA MUADDI and used these extensively, including in the Respondent's jurisdiction, China. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the

disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant has provided evidence that the disputed domain name directed to a webpage used by the Respondent as an e-commerce website for purported AMINA MUADDI-branded products. Such website clearly displayed the Complainant's trademark AMINA MUADDI on the home page, without the authorization of the Complainant, and prominently used the Complainant's official product images (thereby likely violating its copyrights) throughout such website. The Panel concludes that this means that the Respondent intentionally attracted Internet users for commercial gain to the website at the disputed domain name, by creating consumer confusion between the disputed domain name and the Complainant's trademarks (see paragraph 4(b)(iv) of the Policy).

However, on the date of this decision, the disputed domain name links to an inactive website. In this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding". The Panel has reviewed all elements of this case, and attributes particular relevance to the following elements: the fact that the disputed domain name contains a dominant part of the Complainant's trademark for AMINA MUADDI, the intensive use of these trademarks made by the Complainant and its strong online presence and the implausibility of any good-faith use to which the disputed domain name may be put by the Respondent. In these circumstances, the Panel considers that the passive holding of the disputed domain name by the Respondent constitutes use of the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish his good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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, <muaddise.com>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: January 10, 2023