

ADMINISTRATIVE PANEL DECISION

Mavic Group v. Mnde Yudeio, Jbcge Ybee
Case No. D2023-2079

1. The Parties

The Complainant is Mavic Group, France, represented by Plasseraud IP, France.

The Respondents are Mnde Yudeio, China, and Jbcge Ybee, China.

2. The Domain Names and Registrar

The disputed domain names <cyclingmavic.com>, <mavicbikeparts.com>, <mavicsale.com>, and <mavicsale.store> are 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 10, 2023. On May 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 12, 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 May 17, 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 May 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 9, 2023.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on July 6, 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 French company, founded in 1889, that designs and manufactures bicycle components and parts, as well as accessories and related apparel. Its products are sold online and through retail stores in more than 60 countries around the world.

The Complainant owns a portfolio of MAVIC-formative trademarks which are protected in more than fifty countries for bicycle components, accessories and related apparel products and footwear and for retail store services.

Examples of its registrations for the word mark MAVIC include:

International Trademark No. 652566, registered December 14, 1995;
China Trademark No. 14299210, registered September 7, 2015; and
Canada Trademark No. TMA353344, registered March 17, 1989.

The Complainant also owns a portfolio of MAVIC-formative domain names including <mavic.com> and <mavic.bike>, dating back to 1995.

The disputed domain names were registered as follows:

<cyclingmavic.com>	May 21, 2022 by Mnde Yudeio
<mavicsale.com>	May 21, 2022 by Mnde Yudeio
<mavicsale.store>	June 5, 2022 by Jbcge Ybee
<mavicbikeparts.com>	June 5, 2022 by Jbcge Ybee

The disputed domain names resolve to online stores which display content from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant submits that it is the owner of well-established rights in the trademark MAVIC based on use and registration in Europe and other countries where it carries on business. The disputed domain names are confusingly similar to the Complainant's registered trademark, as they are virtually identical except for the addition of descriptive words which do not diminish the likelihood of confusion.

With respect to the absence of rights or legitimate interests, the Complainant submits that the Respondents have engaged in a scheme to deceive users who access their websites, which have been designed to have the look and feel of the Complainant's retail website. The Complainant asserts that the Respondents have never been authorized to engage in this conduct or to adopt a confusingly similar domain name. It further submits that the Respondents are not making a *bona fide* offering of services but rather are using the disputed domain names to divert unknowing users who are deceived by the associated websites. The Complainant submits that it has put forward clear *prima facie* evidence of the absence of rights or legitimate interests.

With respect to bad faith, the Complainant relies on evidence of the Respondents' impersonation scheme and look-alike websites, to establish abusive registration and use of the disputed domain names. Based on this misconduct, the Complainant submits that there is sufficient evidence to support a finding of bad faith.

As a preliminary matter, the Complainant seeks consolidation of the proceedings against the four disputed domain names owned by the two named respondents in this matter. By way of submissions, the Complainant relies on a number of factors which indicate the disputed domain names are under common control, including: (1) the same or similar contact details for the two respondents including identical

telephone numbers, email addresses using the same domain name, and identical Hong Kong, China, postal codes; and (2) the use of virtually identical fraudulent websites associated with the four disputed domain names.

In the circumstances, also noting the Respondents' silence on the matter, the Panel is satisfied that the test for consolidation is met in accordance with WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.11.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) The disputed domain names are identical or confusingly similar to the trademark or service mark in which the Complainant has rights;
- (ii) The Respondents have no rights or legitimate interest in respect of the disputed domain name; and
- (iii) The domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant clearly holds relevant ownership rights in the trademark MAVIC, as demonstrated by the registered trademarks enumerated in paragraph 4.

The test for confusing similarity is described as a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name" in [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the disputed domain names are confusingly similar to the Complainant's registered trademark. The disputed domain names include the entirety of the distinctive MAVIC mark with the addition of the terms "cycling", "sale" and "bike parts". This variation does not prevent a finding of confusing similarity under the first element. The Complainant's trademark is clearly recognizable within the disputed domain names ([WIPO Overview 3.0](#), section 1.8). See *Gustav Magenwirth GmbH & Co. KG v. xieg bohk*, WIPO Case No. [D2022-4891](#).

The Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Although the Policy places on the Complainant the burden of proof to establish the absence of rights or legitimate interests, the practice now recognizes that it is often sufficient for a Complainant to make out a *prima facie* case, which then shifts the burden of production to the Respondent to bring forward evidence to demonstrate the relevant rights or interests. Where the Respondent fails to produce such evidence, the Complainant will be deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

The Complainant has established a plausible *prima facie* case by bringing forward evidence and submissions on the following points: (1) the Respondents have never been associated in any way with the Complainant nor have they ever been authorized to use the MAVIC mark; (2) there is no evidence that either of the Respondents has been commonly known by the disputed domain names; (3) the disputed domain names prominently feature and reproduce the distinctive MAVIC mark in order to mislead and lure consumers to sites for commercial advantage.

The Complainant has also provided detailed evidence of the Respondents' flagrant misconduct in misappropriating the Complainant's trademark and creating fake online stores (associated with the disputed domain names) which copy content from the Complainant's website, all of which is in furtherance of a scheme to deceive users. The documentary evidence shows misappropriation of product images and the Complainant's trademark and logo in the Respondents' copycat online retail stores. As a result of complaints from consumers, the Complainant conducted several investigations and ordered products from the Respondents' websites, none of which were ever delivered in spite of full payments being made to the Respondents. Fraudulent conduct of this nature is highly probative in connection with this issue. "Panels have categorically held that the use of a domain name for illegal activity (e.g., [...] impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent." ([WIPO Overview 3.0](#), section 2.13.1.) The totality of the evidence clearly establishes a *prima facie* case of the absence of rights or legitimate interests on the part of the Respondents.

In the absence of any response from the Respondents, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the disputed domain names constitute abusive registration and use in bad faith in order to take advantage of the significance of MAVIC as a well known trademark. The Respondents clearly set out to target the Complainant and to deceive users into believing that their copycat websites, associated with the confusingly similar disputed domain names, were in fact websites of the Complainant. The Respondents' websites were cunningly designed to have the appearance of legitimate virtual shops for the MAVIC line of products at discount prices, including the replication of the Complainant's distinctive MAVIC trademark in multiple places as well as the reproduced product images. As set out above in paragraph 6.B, the fraudulent nature of the Respondent's conduct is confirmed by their practice of accepting orders and purchase funds from unwitting consumers, with no intention of ever delivering the goods.

Other indicia of bad faith include the use of an outdated oval-shaped logo with the MAVIC mark, which remains part of the complainant's registered portfolio but is no longer used for its websites or products. The Panel notes the existence of a corresponding design registration in China (where the Respondents reside), as set out in paragraph 4 above. There is no doubt that the Respondents were fully aware of the Complainant's trademark rights in executing their fraudulent scheme. The nature of the disputed domain names – particularly the combination of the distinctive MAVIC component with terms directly relevant to the Complainant's cycling business and products – also supports this conclusion.

[WIPO Overview 3.0](#), section 3.4 recognizes this type of use of deceptive impersonation websites as probative evidence of bad faith (see *Magna International Inc. v. Stefan Polisky*, WIPO Case No. [D2021-0875](#)).

Accordingly the Panel finds that the Respondents have intentionally attempted to attract for commercial gain internet users to their websites by creating a likelihood of confusion with the Complainant's MAVIC mark, as to the source, sponsorship, affiliation or endorsement of the websites and products offered on them, under paragraph 4(b)(iv) of the Policy.

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 names <cyclingmavic.com>, <mavicbikeparts.com>, <mavicsale.com>, and <mavicsale.store> be transferred to the Complainant.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: July 17, 2023