

ADMINISTRATIVE PANEL DECISION

Movado Group, Inc. v. Client Care, Web Commerce Communications Limited Case No. D2024-0857

1. The Parties

The Complainant is Movado Group, Inc., United States of America (“United States”), represented by Cooley LLP, United States.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <mvmtcanada.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2024. On February 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 29, 2024, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 2024, 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 on March 4, 2024.

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 of the Complaint, and the proceedings commenced on March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 26, 2024.

The Center appointed Shwetasree Majumder as the sole panelist in this matter on April 2, 2024. 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 Movado Group, Inc., a premier watchmaker under its several brands including MOVADO, MVMT and MVMT bowtie design. The Complainant owns several trademark registrations worldwide for MVMT, among which are:

- Canadian Registration No. TMA980295 for MVMT word mark, registered on September 11, 2017;
- Canadian Registration No. TMA1037960 for MVMT word mark, registered on July 9, 2019;
- Canadian Registration No. TMA1039677 for MVMT Bowtie design, registered on July 10, 2019;
- US Registration No. 4895539 for MVMT word mark, registered on February 2, 2016; and,
- US Registration No. 5059593 for MVMT Bowtie design, registered on October 11, 2016.

The Complainant's websites are "www.mvmt.com" and "www.mvmtwatches.com". The Complainant's first domain name <mvmtwatches.com>, was registered on March 5, 2013 and it redirects to the Complainant's main business website "www.mvmt.com". The Complainant's second domain name <mvmt.com> was first created on September 13, 2001.

According to the Whois records, the disputed domain name was registered on November 8, 2023, and is a website purportedly selling products such as watches, sunglasses and bracelets under the Complainant's mark MVMT and MVMT and bowtie design.

As disclosed by the Registrar, the Respondent is apparently based in Malaysia. Otherwise, no information is known about the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that disputed domain name is confusingly similar to its famous trademark MVMT. The Complainant argues that its trademark MVMT is reproduced identically within the disputed domain name, in highly visible and recognizable position and hence the first element is satisfied. The Complainant contends addition of "canada" does nothing to change the confusingly similarity and in fact simply makes it appear as though the Respondent's website it is the Canadian version of the Complainant's website.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name. The Respondent it is not commonly known by the disputed domain name, and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The Complainant further argues that the Respondent has stolen photos and text from the Complainant's website "www.mvmt.com" and is using Complainant's MVMT and MVMT and Bowtie design marks, prominently to make it appear as though the online store hosted at the disputed domain name is an authentic and authorized store, when it is not.

The Complainant asserts that its trademark MVMT is a well-known trademark. The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark MVMT is well known. The Complainant argues that given the well-known character of its trademark MVMT, the Respondent knew or should have known of its existence when they registered the disputed domain name.

The Complainant contends that the Respondent has created a copycat website on the disputed domain name. Thus, the Respondent registered the disputed domain name for creating confusion with the Complainant's trademark and to divert or mislead Internet users.

B. Respondent

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

6. Discussion and Findings

As per paragraph 5(f) of the Rules where a respondent does not submit a response, in the absence of exceptional circumstances, the panel shall decide the dispute based upon the Complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response. A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy. Under paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements required by a preponderance of evidence:

- 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 respect of the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#) section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "canada" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity such as sale of alleged counterfeit goods or impersonation/passing-off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The term “canada” in the disputed domain name is a suffix to the Complainant’s trademark MVMT. Hence, the disputed domain name may be mistaken by the Internet users as the Complainant’s Canadian business website. Therefore, the composition of the disputed domain name carries a risk of implied affiliation to the Complainant and its trademark which cannot constitute fair use, particularly given the ultimately commercial use to which the disputed domain name is being put.

In absence of a response from the Respondent and its conduct of selling the Complainant’s products through a copycat website, the Panel cannot see how the Respondent can have rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent is using the disputed domain name misleadingly to divert consumers to the Respondent’s website for commercial gain and to falsely create an association with the Complainant. The Panel is of the of view that registration of the disputed domain name is an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark MVMT.

The Respondent is not the Complainant’s authorized seller or distributor. Further, the Respondent does not claim to be a reseller of the Complainant’s products under the mark MVMT or MVMT and bowtie design.

Panels have held that the use of a domain name for illegal activity such as sale of alleged counterfeit goods or impersonation/passing-off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the

record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Finally, the Panel notes that the Respondent is a renowned "serial" cybersquatter which further reinforces the Panel's bad faith finding.

The Panel finds that the Complainant has established the third element 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 <mvmctcanada.com> be transferred to the Complainant.

/Shwetaree Majumder/

Shwetaree Majumder

Sole Panelist

Date: April 16, 2024