



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK- 1700996
Complainant:	AMOREPACIFIC CORPORATION
Respondent:	Yunleng Mercyk
Disputed Domain Name(s):	<memonde.com>

1. The Parties and Contested Domain Name

The Complainant is AMOREPACIFIC CORPOARTION, of 100, Cheonggyecheon-ro, Jung-gu, Seoul, Korea.

The Respondent is Yunleng Mercyk, of Tianheshan HeiBei XingTai.

The domain name at issue is <memonde.com>, registered by Respondent with GoDaddy.com LLC, of 14455 North Hayden Road Suite 219 Scottsdale, AZ 85260 United States.

2. Procedural History

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (ADNDRC) on 27 June 2017, in accordance with the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).

On 27 June 2017, the Hong Kong Office confirmed receipt of the Complaint, and then sent an email to GoDaddy.com LLC (the Registrar of the Domain Name) requesting verification in connection with the relevant information of the Domain Name at issue.

On the same day, the Registrar of the Domain Name confirmed that the Respondent is Yunleng Mercyk and the Domain Name is registered with GoDaddy.com LLC.

On 13 July 2017, the Hong Kong Office sent the Respondent a written notice of complaint which involved a notification that a complaint concerning the Domain Name <memonde.com> was submitted against the Respondent and a requirement to submit a

Response within 20 days from 13 July 2017 (on or before 2 August 2017), and forwarded the Complaint (the Form C and the Annexure to the Complaint) to the Respondent pursuant to the Policy, Article 4 of the Rules and Article 6 of the ADNDRC Supplemental Rules. The formal date of the commencement of the administrative proceeding was 13 July 2017.

On 3 August 2017, the Hong Kong Office confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the Domain Name within the required period of time.

On 9 August 2017, the Hong Kong Office appointed Mr. Jonathan Agmon as the sole Panelist for this Domain Name dispute. And the appointment was accepted by Mr. Jonathan Agmon and the case files were transferred to the Panelist, on the same day.

3. Factual background

The Complainant, AMOREPACIFIC CORPOARTION is one of the largest cosmetic companies in South Korea. The Complainant is ranked as one of the largest global beauty companies. The Complainant has development centers around the world, and produces more than 4000 products.

The Complainant's MAMONDE brand was established in 1995 and significant good will attached thereto. The Complainant has registered MAMONDE as a trademark in various jurisdictions.

The Complainant is the owner of several trademark registrations for the mark MAMONDE. For example: Chinese trademark registration number 4188332, with the registration date of May 14, 2007 and more.

The disputed domain name was registered on June 24, 2015.

Currently, the disputed domain name resolves to a website offering products of the Complainant for sale and is presented as the Complainant's official website.

The Respondent did not submit a response.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is confusingly similar to the Complainant's trademark.
- ii. The Main part of the disputed domain name is the word "memonde," which only differs from the Complainant's MAMONDE trademark by the letter "e" that replaces the letter "a".
- iii. The main consumers group visiting the website under the disputed domain name are non-native English speakers, which can easily confuse between the words "MEMONDE" and "MAMONDE".

- iv. The website under the disputed domain name offers the Complainant's Mamonde brand products for sale, and a significant portion of it has the mark "Mamonde's official website."
- v. The Respondent has no rights or legitimate interest in respect of the disputed domain name.
- vi. The Respondent is not known by the MAMONDE mark, and the Complainant never permitted the Respondent to use the MAMONDE trademark.
- vii. The Respondent has registered and is using the disputed domain name in bad faith.
- viii. The Complainant further argues that based on its reputation, the Respondent should be aware of the existence of the Complainant's MAMONDE trademark before registering the disputed domain name.

B. Respondent

The Respondent did not respond to the Complaint.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Pursuant to the Policy, paragraph 4(a)(i), a complainant must prove that a disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. In line with such requirement, a complainant must prove its trademark or service mark right and the similarity between the disputed domain name and its trademark or service mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant is the owner of several trademark registrations for the mark MAMONDE. For example: Chinese trademark registration number 4188332, with the registration date of May 14, 2007 and more.

The disputed domain name <memonde.com> reproduces the Complainant's MAMONDE trademark with the replacement of the letter "A" with the letter "E" and the gTLD suffix ".com".

The mere change of the letters "e" and "a" and the addition of the gTLD suffix ".com" also referred to as typo-squatting, does not have the capacity to distinguish the disputed domain name from the Complainant's MAMONDE registered trademark and is disregarded when comparing the disputed domain name with the Complainant's trademark. See *Volkswagen AG v. Todd Garber*, WIPO Case No. D2015-2175; *Dassault (Groupe Industriel Marcel Dassault) v. Ma Xiaojuan*, WIPO Case No. D2015-1733; *Lego Juris A/S v. Chen Yong*,

WIPO Case No. D2009-1611; *Dr. Ing. H.c. F. Porsche AG v. zhanglei*, WIPO Case No. D2014-0080.

The Panel therefore finds that the disputed domain name <memonde.com> is confusingly similar to the Complainant's registered marks. Accordingly, the Complainant has proven the element required by the Policy, paragraph 4(a)(i).

B) Rights and Legitimate Interests

Once the Complainant establishes a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition (“WIPO Overview 3.0”), paragraph 2.1.

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Panel finds that the Complainant has established a *prima facie* case in this regard, *inter alia*, due to the fact that the Complainant has not licensed or otherwise permitted the Respondent to use the Complainant's trademarks or a variation thereof and the evidence presented indicates that the Respondent is not engaged in a bona fide offering of goods or services.

The Respondent has not submitted any substantive Response to the Complaint and did not provide any explanation or evidence to show any rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C) Bad Faith

The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy. The Complainant has submitted evidence that shows that the Respondent registered the disputed domain name long after the Complainant registered its trademark. According to the evidence filed by the Complainant, the Complainant has owned a registration for the MAMONDE trademark since at least the year 2007. It is suggestive of the Respondent's bad faith in these particular circumstances that the trademark, owned by the Complainant, was registered long before the registration of the disputed domain name (*Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

Also, the website under the disputed domain name redirects Internet users to a website offering for sale products of the Complainant, and stating that the website is the Complainant's official website. Previous UDRP panels have found that “[a] likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site” (Edmunds.com, Inc. v. Triple E Holdings Limited, WIPO Case No. D2006-1095). To this end, prior UDRP

panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The Respondent registered a domain name that is slightly different from the Complainant's trademark such that he switched the letter "a" with the letter "e" in the Complainant's trademark MAMONDE resulting in a nearly indistinguishable disputed domain name - <memonde.com>. Such practice of letter switching in a domain name has been widely termed as a form of typosquatting. This practice is designed to lead Internet users who make typographical errors to the Respondent's website, instead of the Trademark owner's website. Typosquatting can be regarded as evidence of bad faith registration and use of the disputed domain name, especially when the circumstances show that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, 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. In this case, the Respondent provided Internet users with further misleading information by stating that the website under the disputed domain name is an "official website" of the Complainant and by offering the Complainant's products for sale therein. Such practice falls squarely within the Policy's paragraph 4(b)(iv) and is clear evidence of bad faith registration and use of the disputed domain name.

This type of letter switching typosquatting is also evidence of bad faith registration and use of the disputed domain name because the website under the disputed domain name is directed to Internet users whose English is not a native language, in this case Chinese. English non-native speakers are more likely to confuse the disputed domain name with the Complainant's trademark. Therefore, the use of English letter switching typosquatting directed at non-English speaking Internet users is also evidence of bad faith registration and use of the disputed domain name.

Having regard to the evidence, the Panel finds that the disputed domain name was registered and is being used by the Respondent with knowledge of the Complainant and in bad faith with the intent to mislead Internet users and to create an impression of an association with the Complainant and profit therefrom. The Respondent's actions therefore constitute bad faith.

Based on the evidence that was presented to the Panel, including the Complainant's registered trademark, the use of a near identical version of the Complainant's trademark in the disputed domain name, the use of the Complainant's trademark in the website operated under the disputed domain name, the reference to the website under the disputed domain name as an "official website" of the Complainants and the Respondent's failure to answer the Complaint, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

6. 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 <memonde.com> be transferred to the Complainant.

Jonathan Agmon
Panelists

Dated: August 14, 2017