



Asian Domain Name Dispute Resolution Centre

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301800
Complainant:	AMP MONACO S.A.M.
Respondent:	KAI YIP CHEUNG
Disputed Domain Name:	<apmmonaco.click>

1. The Parties and Contested Domain Name

The Complainant is APM MONACO S.A.M., of 3 rue de l'Industrie, 9 ETG 98000 MONACO, Monaco.

The Respondent is KAI YIP CHEUNG, of 801 Rainier Ave N #F132, Renton, WA, 98055, United States of America.

The Domain Name at issue is <apmmonaco.click>, registered by Respondent with DYNADOT, LLC, of 210 S Ellsworth Ave #345 San Mateo, CA, 94401, United States of America.

2. Procedural History

On 30 August 2023, pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), approved by the Internet Corporation for Assigned Names and Numbers ("ICANN") on 24 October 1999, the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Rules") approved by ICANN on 28 September 2013 and the Asian Domain Name Dispute Resolution Centre ("ADNDRC") Supplemental Rules to the UDRP and the Rules (the "Supplemental Rules"), effective as of 21 August 2023, the Complainant submitted a Complaint to the Hong Kong Office ("HK Office") of the ADNDRC.

On 31 August 2023, the HK Office sent to the Complainant by email an acknowledgment of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the Supplemental Rules. The HK Office also notified the Registrar of the Complaint by email.

On 1 September 2023, the Registrar replied to the HK Office informing about the identity of the Registrant of the Disputed Domain Name.

On 12 September 2023, the HK Office informed the Complainant that the information of the Respondent in the Complaint was different from the WHOIS information provided by the Registrar. The HK Office also informed the Complainant about a deficiency concerning the format of the Complaint Form. On the same day, the Complainant submitted an amended Complaint to the HK Office.

On 13 September 2023, the HK Office confirmed receipt and forwarded the amended Complaint to the Respondent. The due date of the Response was 3 October 2023. The Respondent did not file a Response and on 4 October 2023, the HK Office informed the Respondent of his default. On the same day, the HK Office appointed André Pohlmann as the sole panelist in this matter.


3. Factual background

The Complainant, APM MONACO S.A.M., has been designing, developing, manufacturing, selling, and marketing the brand “APM MONACO” for jewelry since 1982. The brand “APM” is derived from the founder’s (Ms. Ariane Prette) first letters “A” and “P”; the letter “M” refers to the country “MONACO”. This brand name was originally created by the founder and has a strong significance and high visibility in the marketing activities of the Complainant. The Complainant owns a factory in mainland China and has direct Internet sale channels, such as official website www.apm-monaco.cn/, www.apm.mc/ or www.us.apm.mc, as well as 340 self-operated boutique shops around the world for offline sale.

The Complainant owns a considerable number of registered trade marks consisting of the word elements “APM” or “apm MONACO” (‘the APM and/or apm MONACO trade marks’) around the world for various goods and services in Classes 3, 14, 16, 18, 35, 43 etc., including but not limited to the following:

- International trade mark registration No. 1 042 577 “APM” (word), registration date 11 June 2010 (effective date), with designations to many countries in Europe. The mark is currently valid until 11 June 2030 and covers jewelry, precious stones and timepieces in Class 14.



- International trade mark registration No. 1 280 118 “  ” (fig.), registration date 17 September 2015 (effective date), with designations to Australia, China, Japan, New Zealand, the United States of America and further countries in Europe, America and Asia. The mark is currently valid until 17 September 2025 and covers a wide range of products in Class 14.

The disputed domain name <apmmonaco.click> was registered on 16 January 2023 and resolves to an e-commerce site related to the Complainant's products, displaying the Complainant's trade marks and copyrighted images. It seeks to give the impression that it is an official store of the Complainant, selling official APM and apm MONACO jewelry products. According to the information given on the website, the Respondent can be contacted at the e-mail address “support@apmmonaco.click” and at a physical address in Houston, Texas, United States of America. The Complainant does not operate any business at the address in Texas which is shown on the Respondent's website.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Respondent registered the Disputed Domain Name, incorporating the entirety of the Complainant's apm MONACO trade mark plus the TLD <click>. The Disputed Domain Name is thus identical to the Complainant's trade mark and carries a high risk of implied affiliation. Furthermore, the Disputed Domain Name resolves to an Internet site related to the Complainant's products. The website shows the Complainant's APM and apm MONACO trade marks. The public is likely to conclude that the website associated with the Disputed Domain Name actually belongs to the Complainant or at the very least, is closely connected with or authorized by the Complainant. The Disputed Domain Name will create the misapprehension that the Respondent is authorized by the Complainant to offer its products or services via the Disputed Domain Name, which will result in a risk of confusion by the relevant public.
- ii. The address used by the Respondent for the registration of the Disputed Domain Name and the contact information in the content of the Disputed Domain name are not related to the Complainant in any way. There is no evidence that the Respondent has been commonly known by the Disputed Domain Name or has acquired any rights in a trade mark or trade name corresponding to the Disputed Domain Name. Moreover, there is no evidence that the Respondent has acquired any trade mark or trade name rights corresponding to the Disputed Domain Name. The Complainant has no relationship with the Respondent whatsoever and has never authorized the Respondent to use its trade marks or to register the Disputed Domain Name.
- iii. The Complainant spent great efforts on advertising the brand apm MONACO, which can be shown on the official Facebook account "www.facebook.com/apmmonacojewellery" with 1.8 million followers. The trade marks APM and apm MONACO have been used by the Complainant no later than 2015, well before the registration of the Disputed Domain Name in January 2023. The Respondent shall have been aware of the Complainant's brand reputation. The Respondent is plagiarizing the Complainant's official website's format, picture and wording etc. The Disputed Domain Name and the Complainant's marks, and, together with the website content, resolves to a copycat version of the Complainant's website (displaying the Complainant's figurative trademark and copyrighted images), which enhances the risk of confusion. The Complainant has its own factory and direct sale channels. It holds a 'no discount policy' globally for the sake of market positioning. The Respondent's offering for sale is 80% off, which is far lower than the market's normal price. The source of these low-price products is unknown. The activities of the Respondent under the disputed Domain Name put in danger the Complainant's good will and reputation created under the trade marks APM and apm MONACO.
- iv. The Respondent is suspected of maliciously registering multiple domain names containing the whole trade mark of the Complainant to conduct the impersonating unfair activities (for example, "apmmonaco.shop"). The

Respondent just changed the “shop” to “click”, using the same format of the website content. The status of apmmonaco.shop is now redirecting to “apmmonaco.click”. The Respondent has deliberately concealed its true identity on the Disputed Domain Name website in an attempt to confuse Complainant with Internet users. Moreover, the Respondent registered and has used the Disputed Domain Name with actual knowledge of the Complainant, its business and its mark and the intention to use the huge discount to attract, for illegal commercial gain, Internet users to its website by creating a confusion with the Complainant’s mark as to source, sponsorship, affiliation, or endorsement of the Respondent’s website. Taking into account all circumstances, the Respondent is suspicious of applying the confusingly similar Disputed Domain Name in bad faith to earn illegal commercial gain with the attention to disrupt the complainant’s business and damage the brand’s reputation.

- v. The Complainant requests that the disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

The 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 or Confusingly Similar to the Complainant’s Trade Marks

The Complainant has provided evidence of its trademark registrations for, and rights in, the APM and apm MONACO trade marks.

The Complainant’s apm MONACO mark is reproduced entirely in the disputed domain name. The Panel therefore finds that the disputed domain name is identical to the Complainant’s apm MONACO mark. The inclusion of the generic Top-Level Domain (“gTLD”) “.click” does not remove the identity with the Complainant’s apm MONACO trade mark as the gTLD is merely a technical requirement for domain name registrations.

The first element of paragraph 4(a) of the Policy has been satisfied.

B) Rights and Legitimate Interests of the Respondent

The Panel finds that the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name. There is no evidence that the Respondent is commonly known by the

Disputed Domain Name. The Respondent does not appear to use the Disputed Domain Name for a legitimate noncommercial or fair use, without intent for commercial gain. The Respondent's conduct of:

(i) blatant use of the Complainant's APM and apm MONACO trade marks on the website as well as attempt to pass off the website as the Complainant's official website; and

(ii) purporting to offer and sell jewelry under the Complainant's registered APM and apm MONACO trade marks despite not being licensed or authorized by, or being affiliated to, the Complainant, are all evidence of the Respondent's lack of rights and legitimate interests in the Disputed Domain Name. Such use of the Disputed Domain Name for an illegal activity can never confer rights or legitimate interests on the Respondent (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), section 2.13.).

Once a Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect of the Disputed Domain Name (See WIPO Jurisprudential Overview 3.0, section 2.1.). The Respondent did not submit a Response to the Complaint, nor has he provided any explanation or evidence to show he has rights or legitimate interests in the Disputed Domain Name. The Respondent has therefore failed 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.

The second element of paragraph 4(a) of the Policy has been satisfied.

C) Bad Faith

A Complainant has the burden of proving that the Respondent registered and is using the Disputed Domain Name in bad faith. Paragraph 4(b) of the Policy states that:

"For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [the respondent has] registered or [the respondent has] acquired the 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 trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [its] 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 trademark 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 [its] web site 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] web site or location or of a product or service on [the respondent's] web site or location."

The Complainant's APM and apm MONACO trade marks have been registered in most of the European countries since 2010 and throughout the world including countries like Australia, China, Japan, New Zealand, and the United States of America since 2015. Given the long-standing use of the Complainant's APM and apm MONACO trade marks, the appearance of the Respondent's website, and how the disputed domain name is being used by the Respondent, it is evident that the Respondent was well aware of and specifically targeted the Complainant and its APM and apm MONACO trade marks. The element "APM" is inherently distinctive for jewelry. It cannot be any coincidence that the logo used on the Respondent's



website ^{MONACO} is identical to the apm MONACO trade mark registered and used by the Complainant for many years. Moreover, the layout of the website using the disputed Domain Name is almost identical to the layout and design of the Complainant's Internet sites. Furthermore, the jewelry products offered by the Respondent look like the products sold by the Complainant under his websites. The Respondent is not an authorized reseller of the Complainant. The Respondent's attempt to pass off the goods sold from the Respondent's website as the Complainant's and ride off the reputation and goodwill of the Complainant has not been disputed by the Respondent. The disputed domain name is identical to the Complainant's apm MONACO trade mark, which the Panel finds demonstrates a blatant attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. For all those reasons, the Panel takes the view that bad faith under paragraph 4(b)(iv) of the Policy was sufficiently demonstrated.

The third element of paragraph 4(a) of the Policy has been satisfied.

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 <apmmonaco.click> be transferred to the Complainant.



André Pohlmann
Panelist

Dated: 17 October 2023