



Arab Center
For Dispute Resolution

ADMINISTRATIVE PANEL DECISION

MBC FZ LLC and www.mbc3games.net

Case No. A2017-0001

1. The Parties

The Complainant is MBC FZ-LLC a company incorporated in the UAE, represented by Al Tamimi & Co.

The Respondent is Sami Daoud with an address in Ben-Rashed – Jerusalem according to the whois and registrar information, represented by himself.

2. The Domain Name and Registrar

The disputed domain name is mbc3games.net registered with Godaddy.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the Arab Center for Dispute Resolutions (ACDR) on May 29th, 2017. On June 6th, 2017, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 18th, 2017, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 ACDR 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 June 22nd, 2017. In accordance with the Rules, paragraph 5, the due date for Response was July 11th, 2017. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 22nd, 2017.

The Center appointed Charles Shaban as the sole panelist in this matter on July 11th, 2017. 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 the Arab world's largest television broadcaster and a pioneer in Satellite broadcasting, with a well-known name and trademarks in the UAE and Arab region. Launched in London in 1991 and moved their headquarter to Dubai in 2002. They hold the trademark registrations for MBC and MBC3 in many countries around the world. The Complainant's trademarks registered starting from the year 2007 in some countries.

The complainant is the owner of a number of domain names that contains MBC, including mbc3.net that was registered in June 2004 and launched its portal that is dedicated for children entertainment.

The disputed domain name mbc3games.net was registered in July, 2014.

5. Parties' Contentions

A. Complainant

The complainant is the Arab leader's television and Satellite broadcaster, with online presence with many domain names that have their trademarks



MBC and MBC3.

The complainant managed to build a well-known name that is recognized by the different age groups of people who live in the Arab region and beyond.

The Complainant is the holder of the domain name mbc3.net since June, 2004 with a portal dedicated to children and contains many games that became popular among many children (average hits of million users each month).

The disputed domain name are confusingly similar to the Complainant's trademark, even though it contains an additional generic descriptive word (Games) which does not sufficiently distinguish the disputed domain name from the Complainant's trademark. Rather it may add to the confusion because it describes what the users will find on the website.

The Respondent seems an individual who registered the domain name in July 2014 and launched similar games on the website to confuse users that they are dealing with MBC or an affiliated firm especially that the games infringe on MBC3 games without authorization.

When MBC knew about this website on March 2017 they sent legal notice to the respondent requesting him to cease and desist from infringing upon MBC trademarks but did not receive any reply.

When the ACDR sent this case to the respondent for his reply per the UDRP rules, again the respondent did not reply.

Based on the above, the disputed domain name was registered and are being used in bad faith and no response even to eliminate this assumption.

B. Respondent

The Respondent did not reply to the Complainant's legal notice or ACDR

notice of this dispute.

6. Discussion and Findings

As per UDRP policy used in this dispute, and mainly Paragraph 4(a) of the Policy requires the Complainant to prove all three of the following elements to be entitled to the relief sought: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant is the holder of trademark registrations for MBC and MBC3. The disputed domain name incorporates the Complainant's trademark in its entirety, and adding to it a generic and descriptive term "Games". In the Panel's view, the difference between "MBC3.net" and "MBC3games.net" is insignificant since adding the generic term "Games" might heighten rather than diminish confusion especially it is descriptive. Thus, the Panel finds that the differences between the disputed domain name and the Complainant's trademark are insufficient to avoid a finding of confusingly similar under the first element of the Policy.

In accordance with the findings above, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark within the meaning of Policy paragraph 4(a)(i), and the first element of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

The Complainant has asserted that no permission to register the disputed domain name has been granted to the Respondent. Moreover, the

Complainant has stated that the Respondent has no rights of its own or legitimate interests in the disputed domain name, which incorporates the Complainant's trademark.

Having considered the submissions of the Complainant, and in the absence of any response from the Respondent, the Panel infers that the Respondent is not authorized to use the Complainant's trademark in the disputed domain name. Neither does the Panel find any other indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. Rather, the Complainant has submitted evidence that the Respondent has been using the disputed domain name for similar activities and using the same known games of the complainant.

In the light of what is stated above, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this case with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

The disputed domain name was registered in 2014, which is after the Complainant's first trademark registration in 2007 and 10 years after the Complainant's domain name. The fact that the Respondent has deliberately chosen a domain name that is confusingly similar to the Complainant's trademark while knowing the complainant well-known trademark, domain name and line of business shows that the Respondent must have had knowledge of the Complainant's prior rights.

According to the Complainant's information, the disputed domain name as stated before shows the evidence provided by the Complainant that the Respondent has been using website associated with the disputed domain name, creating the impression of being affiliated with the Complainant. These circumstances strongly suggests that the disputed domain name was registered and is being used with the intention of attracting customers



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for commercial gain by creating a likelihood of confusion with the Complainant's trademark which is confusingly similar to the Respondent's website and contents.

The Panel finds that the disputed domain name was registered and is being used in bad faith. The third element of the Policy is thus fulfilled.

7. Decision

For the foregoing reasons, and in accordance with paragraph 4(i) of the UDRP Policy, the Panel orders that the disputed domain name "mbc3games.net" be transferred to the Complainant.

Charles Shaban

Sole Panelist

Date: July 23rd, 2017