

**ARAB CENTER FOR DISPUTE RESOLUTION  
(ACDR)**

**P.O. BOX 921 100  
AMMAN 11192 JORDAN**

**Administrative Panel Decision  
MBC FZ IP LLC Vs. Edwin Wegner  
Case number A2017-0002**

**1- The Parties:**

The Complainant is MBC FZ IP- LLC, a company incorporated in Dubai – represented by Al Tamimi & Co., Dubai, United Arab Emirates “UAE”

The Respondent is Edwin Wegner - Aachen, DE.

**2- The Domain Name and Registrar:**

The disputed domain name (mbc7elm.com), is registered with PSI-USA, Inc. (the “Registrar”)

**3- Procedural History:**

The Complaint was filed electronically with Arab Center For Dispute Resolution (the "Center") on 3 October 2017. The Center transmitted a request for verification in connection with the disputed domain name to the Registrar on 3 October 2017. On 4 October 2017, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the Registrant of the domain name and providing the contact details.

After reviewing the Complaint by the Center for administrative compliance, the Center found that the Complaint satisfies the legal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and Arab Center For Dispute Resolution “ACDR” Supplemental Rules (the "Supplemental Rules").

The Center formally notified Respondent of the Complaint, and the proceedings commenced on 9 October 2017. In accordance with the Rules, paragraph 5, the due date for response was 29 October 2017. However, the Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on 29 October 2017.

The Center appointed Deema Abu Zulaikha as the sole panelist in this matter on 6 November 2017. The Panel finds that it was properly constituted and established. 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 major Arab television and radio broadcaster. Its name "MBC" is an acronym for Middle East Broadcasting Center. It was launched in London in 1991 and moved its headquarters to Dubai in 2002. The Complainant is broadcasting through 11 television channel and 2 radio stations and it is also the proprietor of many trademarks containing the acronym MBC in stylized form which are registered in many countries including Middle East, EU and USA.

The Complainant is the owner of many domain names including by way of example [www.mbc.net](http://www.mbc.net) and the trademark "MBC" is the main component of them. In addition, the TV show (El Helm or Dream) is one of the Complainant's TV shows which has an average hit of 1 million viewers for the live segment draw.

The disputed domain name ([www.mbc7elm.com](http://www.mbc7elm.com)) was registered on 18 July 2017.

#### **5- Parties' Contentions:**

##### **A- Complainant:**

The Complainant stated that MBC is the owner of many trademarks consisting of the acronym "MBC" which had been registered along with the word "7elm" by the Respondent as a domain name.

The Complainant declares that the disputed domain name ([mbc7elm.com](http://mbc7elm.com)) is an exact reproduction of the Complainant's trademark MBC and the use of the name of its TV show (El Helm) increases the level of confusion.

In addition, the Complainant's trademarks are well-known TMs and the registration of an identical or confusingly similar domain name will enhance the likelihood of confusion between the disputed domain name and the Complainant's trademarks.

Moreover, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the domain name is not the name of the Respondent nor is similar to the name under which the Respondent holds the domain name registration. As well as, there is no indication that the Respondent has been commonly known by the disputed domain name.

The Respondent uses the Domain Name for directing internet users to Respondent's blog and to intentionally use the fame of MBC and its TV show by adopting content for which MBC owns Intellectual Property rights.

Additionally, the Complainant contends that the disputed domain name has been registered and is being used in bad faith by the Respondent. Provided the famous and distinctive reputation of

the trademark MBC, the Respondent was likely to have had knowledge of the well-known trademark. This suggests that the Respondent acted with bad faith.

B- Respondent:

The Respondent did not submit any response to the Complaint.

#### **6- Discussion and Findings:**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant owns or 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.

The Complainant bears the burden of proof on each of these elements even if the Respondent did not present a response to the Complaint.

##### *A. Identical or Confusingly Similar Trademark*

The Complainant is the owner of wide range of trademarks including the acronym “MBC” and the Panel notices that the only difference between the Complainant’s TM and the disputed domain name is the use of the word “7elm”. At the same time, the use of this word increases the level of confusion, as it is a reproduction of a TV show produced and broadcasted through one of the Complainant’s channels.

For purposes of deciding if the disputed domain name is identical or confusingly similar to Complainant’s trademark “MBC”, the evaluation of identity or confusing similarity is covered by the aspects of comparison between both of them.

Here, the Panel concludes that the disputed domain name (mbc7elm.com) is confusingly similar to the Complainant's trademark “MBC” and considers the disputed domain name a complete reproduction of the Complainant's trademark.

In light of the above, the Panel finds that the first requirements of paragraph 4(a)(i) of the Policy has been fulfilled by the Complainant.

##### *B. Rights or Legitimate Interests*

According to paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name. At the same time, the Complainant shall establish his complaint on the prima facie case claiming that the Respondent has no prior rights or legitimate interests in the domain name in order to consider the availability of second requirement of paragraph 4(a)(ii) of the Policy.

Based on the evidence and the submissions of the Complainant, the Panel concludes and accepts the arguments of the Complainant that the Respondent has not received the Complainant's consent to use the trademarks as part of the domain name. In addition, the Respondent is not legitimately using the domain name for non-commercial or fair use and the method of using it, cannot be characterized as bona fide.

Finally, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

*C. Registered and Used in Bad Faith*

Based on the provided claims, the Complainant's trademark had been used 16 years before of registering the disputed domain name. In addition, it created and broadcasted the El Helm TV show 3 years before the registration of mbc7elm.com.

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.

The Panel finds that the Complainant's allegations rely on the fourth element of the above mentioned. The use of the Arabic name of the TV show which produced originally by the Complainant beside the reproduction of the Complainant's TM "MBC" can be considered as an implied intention to show the public a relation between the disputed domain name and the Complainant's trademark which can attract the ordinary users to visit the website. The Panel notices that this combination of both words (MBC) and (7elm) is not a coincidence and cannot be used to deny the prior knowledge of the trademark MBC and the TV show by the Respondent.

In addition, the Complainant submitted an evidence of displaying photos of the TV show (El Helm) and encouraging internet users to participate in a quiz, which appear on the website of the Respondent. Such an action supports the finding of bad faith availability as it takes advantage of the potential confusion between the Domain Name and Complainant's name.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith. The Panel considers that the Respondent had prior knowledge of Complainant's trademarks and registered the disputed domain name without authorization.

The Panel also finds that the third requirement of paragraph 4(a)(iii) of the Policy has been met by the Complainant.

**7- Decision:**

Having established all three elements required under the Policy, and in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name (mbc7elm.com) be transferred to the Complainant.



Deema Abu Zulaikha  
Sole Panelist  
Date: 19 November 2017