



ARAB CENTER FOR DISPUTE RESOLUTION

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

**Administrative Panel Decision
Trade Winds Ent. LLC Vs. Almutarjim Legal Translation
Case number A2021-0022**

1- The Parties:

The Complainant is Trade Winds Ent. LLC, a company incorporated in Oman – represented by Antoine C. Barbour, Muscat – Sultanate of Oman “Oman”

The Respondent is ALMUTARJIM LEGAL TRANSLATION - Badriya Al Fahdi, Muscat, Oman.

2- The Domain Name and Registrar:

The disputed domain name (**almutarjim.net**) is registered with Enom.com. (the “Registrar”)

3- Procedural History:

The Complaint was filed electronically with Arab Center For Dispute Resolution (the "Center") on 21 August 2021. The Center transmitted a request for verification in connection with the disputed domain name to the Registrar on 9 September 2021. On 27 September 2021, 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 28th of September 2021. In accordance with the Rules, paragraph 5, the due date for response was 18th of October 2021. However, the Respondent did not submit any response.

The Center appointed Deema Abu Zulaikha as the sole panelist in this matter on 20 October 2021. The Panel finds that it was properly constituted and established after requesting additional documents, which the last one received on 9th of November 2021. 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 an Omani based company registered under No. 1011564. The Complainant claims that it registered the domain name (almutarjim.com) on 2000 and own the trademark (Al Mutarjim) in English and Arabic, which had been filed under No. 25481 on 12th of May 2001 and registered on 29th of April 2006 .

The Complainant is the owner of other domain names:

- 1- almutarjim.om
- 2- المترجم.عمان

The Complainant had a partnership with the Respondent in 2016 and the agreement had been terminated during 2018.

The disputed domain name (www.almutarjim.net) was registered on 9 September 2020.

5- Parties' Contentions:

A- Complainant:

The Complainant stated that its company is the owner of a trademark which is consisting of the word ALMUTARJIM in English and Arabic.

The Complainant declares that the disputed domain name (almutarjim.net) had been registered on 2020 by the Respondent to exploit the commercial reputation of the Complainant in the field of transliteration and translation.

In addition, the Complainant's trademark (Almutarjim) is identical of the disputed domain name in a way that will enhance the confusion among the consumers between the disputed domain name and the Complainant's trademark.

Moreover, the Complainant states that the Respondent registered a domain name (almutarjim.com.om) which had been terminated by the Telecommunication Regulatory Authority in Oman (TRA). Based on the Compliant, the partnership agreement signed on 1 September 2021 had been mutually terminated on 19th June 2018.

Additionally, the Complainant contends that the disputed domain name has been registered and is being used by the Respondent to mislead consumers and direct them to the website of the Respondent while the Respondent is fully aware of the ownership of the trademark at the time of registering the disputed domain name.

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 trademark Almutarjim in English and Arabic which had been registered in Oman under No. 25481 and duly renewed until 2031. The Panel finds that the Complainant's trademark is identical to the disputed domain name (almutarjim.net) without any kind of differences. The registration of the domain, which is identical with the trademark will increase the level of confusion.

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 submitted by the Complainant, the Panel finds that the Complainant and the Respondent entered into a partnership agreement on 2016, which had been later terminated by mutual approval and signed a termination agreement on 2018. The termination agreement stated that both parties shall return the ownership of assets offered in the partnership agreement. Accordingly, the Panel concludes that the Respondent is no longer allowed to own or has the right to use the trademark (Almutarjim). In addition, the Respondent registration of the disputed domain name after the termination of the partnership agreement 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 and that the Respondent has no legitimate interest in the domain name.

C. Registered and Used in Bad Faith

Based on the provided claims, the Complainant's trademark had been registered 20 years before registering the disputed domain name. In addition, the Respondent registered another domain name similar to the disputed one (almutarjim.com.om) and the TRA in Oman terminated its registration as the Respondent could not prove its right in registering the domain name.

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 submitted evidences comply with the fourth element of the above mentioned.

The Panel also finds that the Respondent registered the disputed domain name in bad faith as it registered it after the termination of the partnership agreement which cannot deny the Respondent's prior knowledge of Complainant's trademarks and registered the disputed domain name without authorization. Accordingly, the bad faith of the Respondent can be presumed in this case.

The Panel also finds that the third requirement of paragraph 4(a)(iii) of the Policy has been met by the Complainant and that the Respondent registered the domain name in bad faith.

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 (almutarjim.net) be transferred to the Complainant.



Deema Abu Zulaikha
Sole Panelist

Date: 10th of November 2021