



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No. HK 0900256

Complainant:	PT Mustika Ratu, Tbk.
Respondent:	Quandev
Domain Name:	< mustikaratu.com >
Registrar:	Fabulous.com, Pty., Ltd., Brisbane, Australia

1. Procedural History

The complainant in this case is PT Mustika Ratu, Tbk., a publicly listed company, resident in Jakarta, Indonesia ("Complainant").

The respondent is Quandev, giving an address at PO Box 55100, Montreal, QC H3G 2WS, Canada (Respondent"). Complaint, Annex 2.

The domain name in dispute is < mustikaratu.com >. The Registrar of the domain name is Fabulous.com, Pty., Ltd. (the "Registrar"). Complaint, Annex 3

On 13 June 2009, pursuant to the Uniform Domain Name Dispute Resolution Policy ("the Policy"), the Rules for the Uniform Domain Name Dispute Resolution Policy ("the Rules") and Hong Kong International Arbitration Centre Supplemental Rules ("the HKIAC Supplemental Rules"), the Complainant submitted a complaint in the English language to the Hong Kong International Arbitration Centre (the "HKIAC"), an office of the Asian Domain Name Dispute Resolution Centre and elected this case to be dealt with by a one-person panel. On 18 June 2009, Hong Kong International Arbitration Centre sent to the complainants by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the HKIAC Supplemental Rules. All correspondence to and from the HKIAC described herein was in the English language. On the same date the HKIAC sent the Registrar a request for verification. On 19 June 2009, the Registrar confirmed that it was the registrar of the domain name at issue and that Respondent was the registrant of the domain name at issue.

On 2 October 2009 the HKIAC received from Complainant the payment of the filing fee, and on that

date HKIAC notified the Respondent of the commencement of the action.

On 23 October 2009, the HKIAC notified the Complainant that the Respondent had failed to submit a Response.

Since the Respondent did not file a response in accordance with the time specified in the Rules the HKIAC Supplemental Rules, and the Notification, the HKIAC informed Complainant and Respondent by email about the default, stating that, as Respondent did not file a response within the required time, the HKIAC would appoint the panelist to proceed to render the decision, in the absence of a response by Respondent.

On 24 October 2009 the HKIAC notified the parties that the Panel in this case had been selected, with M. Scott Donahey acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 27 October 2009, the Panel received the file from HKIAC.

2. Factual Background

For the Complainant

Complainant is the producer of various herbal medicines and cosmetics.

Complainant has a trademark for the mark MUSTIKA RATU issued by the trademark authorities of Indonesia, Brunei, Darussalam, Canada, the Peoples Republic of China, the Philippines, and Japan, the earliest of which issued on 18 September 2003. Complaint, Annex 3.

On 18 January 2004, Respondent registered the domain name at issue. Complaint, Annex 1. The domain name at issue resolves to a parking site at which links to cosmetics companies and beauty supply companies directly competitive with Complainant are provided, as well as links to Indonesian companies generally.

Complainant has not authorized Respondent to use its mark.

For the respondent

Respondent has failed to file a response in this matter.

3. Parties' Contention

The Complainants

Complainant asserts that the domain name at issue is identical or confusingly similar to Complainant's MUSTIKA RATU mark.

Complainant further alleges that Respondent has no rights or legitimate interests in respect of the domain names, and that Respondent's domain name has been registered in bad faith and is being used in bad faith since it resolves to a web site that contains links to commercial entities directly competitive with or not related to Complainant.

The Respondent

The respondent did not file a response within the stipulated time.

4. Findings

Paragraph 15(a) of the Uniform Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy directs that the Complainant must prove **each** of the following:

- 1) that the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) that the domain name has been registered and is being used in bad faith.

Identical or Confusing Similarity

The Panel finds that the domain name <mustikaratu.com> is identical to Complainant's MUSTIKA RATU trademark. *Credit Management Solutions, Inc. v. Collex Resource Management*, WIPO Case No. D2000-0029 (gTLD suffix is not considered in determination as to whether domain name at issue is identical or confusingly similar to a trademark in which complainant has rights).

Rights or Legitimate Interests of the Respondent

Complainant has in a credible way alleged that Respondent has no rights or legitimate interests in respect of the domain name at issue. Respondent has failed to show that Respondent has any rights or legitimate interests in respect of the domain name at issue. This entitles the Panel to infer that Respondent has no rights or legitimate interests in respect of the domain name at issue. *Alcoholics Anonymous World Services, Inc. v. Lauren Raymond*, WIPO Case No. D2000-0007; *Ronson Plc v. Unimetal Sanayi ve Tic. A.S.*, WIPO Case No. D2000-0011. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the domain name.

Bad Faith

The domain name at issue resolves to a "parking site." The parking site contains links to companies who sell goods directly competitive with the trademarked goods of Complainant. It is Respondent who profits from the revenues derived from the parking site. This misuse of the domain name at issue constitutes a violation of paragraph 4(b)(iv) of the Policy and is evidence of bad faith registration and use under the policy. *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. D2007-1912.

5. Decision

For all of the foregoing reasons, the Panel decides that the domain name at issue, <mustikaratu.com>, should be transferred to Complainant.

A handwritten signature in black ink, appearing to read "M. Scott Donahey", is written above a horizontal line.

M. Scott Donahey
Sole Panelist

DATED: 28 October 2009