



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301811
Complainant:	Midea Group Co., Ltd.
Respondent:	Shane Kinsey - NameShop.co
Disputed Domain Name(s):	midea.co

1. The Parties and Contested Domain Name

The Complainant is Midea Group Co., Ltd. (美的集团股份有限公司), of B26-28F, Midea Headquarter Building, No.6 Midea Avenue Beijiao, Shunde, Foshan, Guangdong, China. The Complainant is represented in these administrative proceedings by Paddy Tam, CSC Digital Brand Services Group AB, Drottningatan 92-94, 111 36 Stockholm, Sweden.

The Respondent is Shane Kinsey - NameShop.co, of 25 Beaumont Cottages, Kelsale, Saxmundham, Suffolk, IP17 2NW, GB.

The domain name at issue is <midea.co>, registered by Respondent with Dynadot, LLC, of P.O. Box 345 San Mateo CA 94401 United States.

2. Procedural History

The Complaint was filed with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (ADNDRC) (the “Centre”) on September 22, 2023. On the same day, the Centre requested for Registrar verification from the Registrar in relation to the Disputed Domain Name. The Registrar subsequently, issued its verification response confirming the registrant of the Disputed Domain Name to be the Respondent. The Complainant filed an amended complaint on September 29, 2023, merely to update the identity of the Respondent, based on the information communicated by the Registrar to the Centre. The Centre verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

On September 29, 2023, the Centre notified the Respondent of the Complaint and advised that a response ought to be filed by the Respondent by October 19, 2023. The Respondent requested on October 17, 2023, an extension of time of four calendar days to file his response. The Centre confirmed the extension and set the new term on October 23, 2023. On

October 20, 2023, the Respondent filed a response. The Centre confirmed receipt in due course.

The Centre appointed David-Irving TAYER, Esq., as the Sole Panelist in this administrative proceeding on October 24, 2023. The Panel finds that it is properly constituted.

3. Factual background

The Complainant

The Complainant in this case is Midea Group Co., Ltd. (美的集团股份有限公司), the registration address is B26-28F, Midea Headquarter Building, No.6 Midea Avenue Beijiao, Shunde, Foshan, Guangdong, China. The Complainant appointed Paddy Tam, CSC Digital Brand Services Group AB, the address of which is Drottninggatan 92-94, 111 36 Stockholm, Sweden as its authorized representative in this matter.

The Complainant is an electrical appliance manufacturer, established in 1968, publicly listed and, since July 2016, a Fortune 500 company that offers one of the most comprehensive ranges in the home appliance industry. The Complainant is specialized in air conditioning, refrigeration, laundry, large cooking appliances, large and small kitchen appliances, water appliances, floor care and lighting. It is a truly a global company with 150,000 employees and operations in more than 200 countries. The company has 21 production facilities and around 200 subsidiaries worldwide. In 2022, Midea posted a global revenue of over \$53.26 billion USD.

The Complainant demonstrated that it is the owner of trademark registrations MIDEA across various jurisdictions i.e. before the World Intellectual Property Office (WIPO), European Union Intellectual Property Office (EUIPO), Intellectual Property Office of the United Kingdom (UKIPO), China National Intellectual Property Administration (CNIPA) and Superintendence of Industry and Commerce Ministry of Industry, Commerce and Tourism of Colombia (COIPO) and in particular:

- Trademark MIDEA, WIPO registration n°751860 dated 19.12.2000 duly renewed since claiming goods in classes 07, 09, 11
- Trademark MIDEA, CNIPA registration n°1499238 dated 28.12.2000 duly renewed since claiming goods in class 11
- Trademark MIDEA, CNIPA registration n°1530930 dated 28.02.2001 duly renewed since claiming goods in class 07
- Trademark MIDEA UKIPO registration n°UK00901792605 dated 28.08.2001 duly renewed since claiming goods in classes 07, 09, 11
- Trademark MIDEA, UKIPO registration n°UK00918228602 dated 08.10.2020 duly renewed since claiming goods and services in classes 07, 09, 11, 42
- Trademark MIDEA, EUIPO registration n°001792605 dated 28.08.2001 duly renewed since claiming goods in classes 07, 09, 11
- Trademark MIDEA, COIPO registration n°257618 dated 14.06.2001 duly renewed since claiming goods in class 07
- Trademark MIDEA, COIPO registration n°253915 dated 14.03.2000 duly renewed since claiming goods in class 09
- Trademark MIDEA, COIPO registration n°253929 dated 14.03.2000 duly renewed since claiming goods in class 11

The Complainant is also the owner of several domain names constituted or comprising the trademark MIDEA and notably its primary websites <midea.com> and <midea-group.com>.

The Complainant produced evidence of a multiple registrations and rights owned on MIDEA prior to the registration of the Contested domain name.

The Respondent

The Respondent, Shane Kinsey - NameShop.co, is the current registrant of the Disputed domain name <mideo.co> according to Dynadot LLC, the Registrar. The address of the Respondent from the registration information is 25 Beaumont Cottages, Kelsale, Saxmundham, Suffolk, IP17 2NW, GB. The Respondent's email is stated to be shanezdomainz@gmail.com.

The Respondent indicated in his reply that upon receipt of the information of the present proceedings he sent an email to the supplied generic email address of the complainant's representative by which is specified that:

- he is a domain trader with a number of generic domain names,
- he bought the domain owing to the name 'Midea' from Greek mythology and that he owns lots of other mythological names
- He had not heard of the Midea Group brand.

Noticing from a Google search what is Midea Group and realizing it dominates the Google search results for 'Midea', the respondent was willing to surrender the domain name to the complainant.

As the Respondent did not receive a response to the correspondence, he sent an email to the Centre attempting to surrender the domain name. The respondent indicted further that he tried and his counsel too, to have the domain name surrendered.

The Respondent filed a reply mentioning clearly that he remains willing to surrender the domain name to the complainant. The Respondent relied on some UDRP case i.e., Pierre Balmain S.A. v. Domains By Proxy, LLC / Daniel Phillips, WIPO Case No. D2015-0189, and Leica Microsystems IR GmbH v. Tong Chuang, WIPO Case No. D2016-2316, can form a basis for the panel to make an immediate order to transfer the domain name without a consideration for the UDRP grounds.

The Respondent specified that domain trading is a legitimate trading activity relying on case Sage Global Services Limited v. Narendra Ghimire, Deep Vision Architects, WIPO Case No. DAI2023-0010.

The Respondent also relied on a list of cherry-picked domain names from his vast portfolio were:

- <etude.co> French and English word
- <pukka.co> English word
- <telegrams.co> English word
- <moneywise.co> English word
- <elonmusk.co> suitable fan site.

The respondent concluded that he acted in good faith but stand by his position that he was willing to surrender the domain name to the complainant.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. Complainant has rights in the MIDEA mark through its registration of the mark with multiple trademark authorities around the world, including Colombian trademark office, China National Intellectual Property Administration ("CNIPA") and the United States Patent and Trademark Office ("USPTO").
- ii. The Disputed domain name <midea.co> is identical to Complainant's MIDEA mark as Respondent incorporates the mark in its entirety and adds the ".co" country-code top-level domain ("ccTLD").
- iii. Respondent lacks rights or legitimate interests in the <midea.co> domain name as Respondent is not commonly known by the disputed domain name nor did Complainant authorize Respondent to use the MIDEA mark in any way. Respondent fails to make a bona fide offering of goods or services or legitimate noncommercial or fair use. Instead, Respondent's domain name resolves to a webpage that offers for sale the Disputed domain name.
- iv. Respondent registered and used the <midea.co> domain name in bad faith as Respondent's domain name resolves to a webpage that offers the Disputed domain name offered for sale at a price set to almost 30,000 USD which far exceeds the Respondent out of pocket expenses in registering the same. Respondent had actual knowledge of Complainant's rights in the MIDEA mark due to the longstanding use and fame of the mark in commerce.

B. Respondent

The Respondent's contentions may be summarized as follows:

- i. "I am happy and have been happy, ever since this dispute arose, to transfer the domain name to the complainant."
- ii. The Respondent relied on an alleged good faith and that domain trading is a legitimate trading activity. The Respondent present himself as a domain trader and that he purchased this domain owing to the Midea name from Greek mythology. The Respondent owns a variety of other Greek/Roman/Egyptian mythological names as well as a variety of generic words and first names in the .co extension.

5. Findings

In this case, the Centre received one communication from the Respondent, including emails addressed to the counsel of Complainant and stating that it would like to transfer the Disputed domain name to the Complainant.

The Panel finds that it undoubtedly demonstrates the Respondent's consent to transfer the Disputed domain name. In the Panel's view, the fact that no settlement agreement could be executed within the suspension period does not affect the Respondent's consent to the transfer. The Panel could order the transfer of the Disputed domain name according to the Policy and the various UDRP decisions including that relied on by the Respondent.

Nevertheless, the Respondent argued of some kind of good faith in his response, the Panel thus considered that an analysis of the threefold test ought to be carried on.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of the 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 / Confusingly Similar

The Disputed domain name is confusingly similar to a trademark in which Complainant has rights.

Complainant's registration of the MIDEA mark with one or more bona fide trademark registrars demonstrates Complainant's rights in a mark under Policy §4(a)(i). See *Alibaba Group Holding Limited v. YINGFENG WANG*, FA 1568531 (FORUM Aug. 21, 2014) (“*Complainant has rights in the ALIBABA mark under the Policy through registration with trademark authorities in numerous countries around the world.*”).

Respondent's <midea.co> domain name is composed of Complainant's entire MIDEA trademark followed by the top-level domain name “.co.”. Therefore, the panel concludes that the Respondent's <midea.co> domain name is identical, the ccTLD does not affect the appreciation of this identity according to the constant decision in UDRP case (“*The inclusion of a ccTLD does not alleviate the similarity between a mark and a disputed domain name as per Policy 4(a)(i)*”).

B) Rights and Legitimate Interests

Under Policy §4(a)(ii), Complainant must first make out a prima facie case showing that Respondent lacks rights and legitimate interests in respect of the Disputed domain name and then the burden, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests. See *Hanna-Barbera Prods., Inc. v. Entm't Commentaries*, FA 741828 (FORUM Aug. 18, 2006). According to the Panel, the Respondent did not challenge successfully that he has any sort of rights or legitimate interest. The mere attempt to refer to Greek mythology appears more than opportune in the matter. The very short list of domains the Respondent may own (not evidence provided with) are for most existing and some well-known trademark e.g. Elon Musk, MoneyWise...

The Respondent is not authorized to use Complainant's trademark in any capacity and there is no Policy §4(c) circumstances from which the Panel might find that Respondent has rights or interests in respect of the Disputed domain name.

Respondent's <midea.co> domain name addresses a parking page “offered for sale”. Such use of the confusingly similar domain name indicates neither a bona fide offering of goods or services under Policy §4(c)(i), nor a non-commercial or fair use pursuant to Policy §4(c)(iii).

Given the forgoing Complainant satisfies its initial burden and conclusively demonstrates Respondent's lack of rights and lack of interests in respect of the Disputed domain name under Policy §4(a)(ii).

C) Bad Faith

The Disputed domain name was registered and is being used in bad faith. As discussed below without limitation, there is evidence from which the Panel concludes that Respondent acted in bad faith pursuant to Policy §4(a)(iii).

The Disputed domain name is landing on a webpage with the indication “offered for sale” at a price that is not merely out-pocket expenses i.e. almost 30,000 USD.

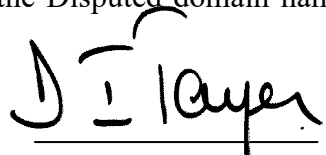
Keeping in mind said price, the Respondent could not reasonably ignore the Complainant’s rights in the MIDEA mark when he registered <midea.co> as a domain name. Moreover, the Respondent’s actual knowledge is evident from the notoriety of Complainant’s MIDEA trademark and from Respondent’s incorporation of Complainant’s entire MIDEA mark into Respondent’s confusingly identical domain name. Respondent’s registration and use of <midea.co> with knowledge of Complainant’s trademark rights therein further shows Respondent’s bad faith pursuant to Policy §4(a)(iii).

Given the foregoing, the Panel concludes to the registration in bad faith of the Disputed domain name.

On top of all the findings above, the Panel finds that the consent to transfer reiterated directly to the Complainant and to the Centre undoubtedly demonstrates that the Respondent’s consent to transfer the Disputed domain name. In the Panel’s view, the fact that no settlement agreement could be executed within the suspension period does not affect the Respondent’s consent to the transfer.

6. Decision

For all the foregoing reasons, in accordance with paragraph 4 of the Policy and 15 of the Rules, the Panel orders that the Disputed domain name <midea.co> be transferred to the Complainant.



David-Irving TAYER
Panelists

Dated: November 5, 2023