

ADMINISTRATIVE PANEL DECISION Case No. CN-2301603

Complainant:
Respondent:
Domain Name:
Registrar:

MIDEA GROUP CO., LTD EngazMedia Company midea-carrier.com Name.com, Inc.

1. Procedural History

On 27 December 2023, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On 29 December 2023, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, Name.com, Inc., a request for registrar verification in connection with the disputed domain name.

On 3 January 2024, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 9 January 2024, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and the Registrar, Name.com, Inc. of the commencement of the proceedings. The Respondent failed to submit a Response within the specified time period. The ADNDRC Beijing Office notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the Complainant and the Respondent that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Prof. Timothy Sze, the ADNDRC Beijing Office notified the parties on 30 January 2024 that the Panel in this case had been selected, with Prof. Timothy Sze acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On 31 January 2024, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 14 February 2024.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

2. Factual Background

A. The Complainant

The Complainant in this case is MIDEA GROUP CO., LTD. The registered address is 26th to 28th floors, Block B, Midea Headquarters Building, No. 6 Midea Avenue, Beijiao Town, Shunde District, Foshan City, Guangdong Province, China. The authorized representative in this case is Liu, Shen & Associates.

B. The Respondent

The Respondent in this case is EngazMedia Company. The registered address is 4 Tarablous, Nasr City/Cairo/11727, EG.

The Respondent is the current registrant of the disputed domain name "midea-carrier.com", which was registered on 8 June 2023 according to the WHOIS information. The registrar of the disputed domain name is Name.com, Inc.

3. Parties' Contentions

A. The Complainant

The Complainant, founded in 1968, is a large comprehensive modern enterprise group focusing on household appliances and involved in real estate, logistics and other fields. The Complainant was listed on the Shenzhen Stock Exchange on 18 September, 2013. The Complainant has two subsidiary listed companies, Tundra swan (SZ000418) and Welling Holdings (HK00382). In 1980, the Complainant officially entered the home appliance industry. At present, the Complainant employs 126,000 people in total, and owns more than 10 well-known brands including Midea, Tundra swan, Welling, Hualing, Ande, and Meizhi. The Complainant has 15 domestic production bases in China and 5 foreign production bases in Vietnam, Egypt, Brazil, Argentina, and India.

In 1999, the Complainant publicly released his new English expression "Midea" through several media such as Xinhua News Agency, China Trade News, Securities Times, Hong Kong China News Agency, China Information Daily, Southern Metropolis Daily, etc. Afterwards, "Midea", as the main trademark of the opponent, has been promoted and used for more than 20 years, and has obtained high reputation. In the Administrative Judgment [(2012) YZXHCZ No. 1568] issued by the First Intermediate People's Court of Beijing, it was determined that the trademark No. 1523735 "Midea", used in air conditioners, electric fans and other commodities, has reached a well-known state before 21 January, 2004. In the Administrative Judgment [No. (2019) Jingxing Zhong 3947] of the Beijing Higher People's Court, it was determined that the trademark No. 5478887 "Midea" has a high level of popularity in air conditioning and electric fan products and constitutes a well-known trademark.

Besides, the Complainant has been recognized as "Top 10 Excellent Independent Brands in Guangdong Province" Top 100 Private Enterprises in Guangdong Province" 53rd among China's top 500 enterprise groups in 2008" 32nd on the 2018 China Top 500 list" and so on.

The disputed domain name was registered on 8 June 2023, prior to which the Complainant has registered the following trademarks (partial list):

Countries	Trademark	Reg No.	Reg.Date	Registration goods	Registrant
China	Midea	14910307	2015/10/07	Class 11 : Ceiling lamp; Automotive lighting; Projection lamp; Pendant lamp; Kitchen and bathroom lights; Stage lighting fixtures; Street lights; Electric light; Lighting fixtures and devices; Wall lamp; Floor lamp; Table lamp; Pressure cooker (electric pressure cooker); Electric coffee maker (machine); Oven; Kitchen stove (oven); Gas furnace; Gas stove; Cooking equipment and equipment; Electric stew pot; Electric steamer; Microwave oven; Commercial Induction cooking; Induction cooking; Rice cooker; Electric kettle; Electric cookers; Frying machine; Bread machine; Electric Pressure cooking; Ice makers and equipment; Refrigerator; Freezer; Refrigerator; Kitchen Whole-house fan; Kitchen	MIDEA GROUP CO., LTD

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				range hood; Fabric Clothes steamer; Electric Clothes dryer; Ventilation fan; Ceiling fan; Electric fan; Humidifier; Moisture extractor; Air purification devices and machines; Central air conditioner; air conditioner ; Hair dryer; Cold fan; Electric heater; Heating device; Fireplace; Industrial microwave ovens; Heating equipment; Sprinkler; Shower water heater; Air powered water heaters; Solar water heaters; Water filter; Disinfecting cupboards; Tableware disinfection cabinet; Water purification equipment and machinery; Water dispenser; Bed warmer; Space heater.	
China	Midea	5478887	2009/06/14	Class 11: Soldering Lamps; Heat Welding torch; Steam lamp;Rice cooker; Induction Cooker; Gas stove; Microwave ovens [cooking apparatus]; Electric Hot pot; heater; toaster; Cooking utensils, electric; Electric coffee maker; Kettles, electric; Electric cooker; Food steamers, electric; Electric pressure cooker (pressure cooker); Deep fryers, electric; Coffee Filters, Electric; Infrared furnace; Electric heat preservation pot; Electric slow stew; electric frying pans; Electric oven; Coffee machines, electric; Refrigerator; Refrigerated container; Freezers; Drying apparatus; Fans [air-conditioning]; Fan blower (air conditioning unit); Exhaust fan; Air Cleaner; air conditioner; central air-conditioning; Commercial air conditioning; Electric fan; Extractor hoods for kitchens; Household air dehumidifier; ventilator; Hair Dryer; Household dryer (electric drying); Humidifiers; Air conditioner; Air conditioner for vehicles; Air conditioning apparatus; Air cooling apparatus; Wetting Air Apparatus; Air purifying apparatus and machines; Sterilized cupboard; Domestic water purification equipment; Industrial water purification equipment; Drinking water device; Radiators, electric; Electric blanket; Bed warmers; gas lighter; Friction lighters for igniting gas; Polymerisation installations	
China	美的 Midea	1523735	1999/10/15	Class 11: Bakers; Gas stove; Induction cooking; Water heater; Electric hot pot; Cooler (container); Hair dryer; Ventilation fan; Kitchen range hood; Electric fan; Disinfecting cupboards; Water dispenser; Bed warmer; Electric blanket; Electric heater; Refrigerator; Household air dehumidifier; Microwave oven; Air conditioning ; Rice cooker.	
Designatio ns under the Madrid Protocol: Egypt, USA, UK, Canada, Australia, Brazil, Indonesia, Japan, korea, etc.	MIDEA	IR1549903	2020/04/22	Class 7: Disintegrators; wringing machines for laundry; industrial robots; automatic handling machines, automatic, namely, manipulators; compressors for refrigerators; compressed air machines; pumps for machines; faucets as parts of machines, engines or motors; vacuum cleaners; machines and apparatus for cleaning, electric, etc. Class 9: Application software for mobile phones; data processing apparatus; computer programs, recorded; couplers for data processing equipment; monitors in the nature of computer programs; humanoid robots with artificial intelligence, etc.	

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				Class 11: Lamps; microwave ovens cooking apparatus, namely, microwave ovens; freezers; cooling appliances and installations; refrigerating display cabinets; wine cellars, electric; fans for air-conditioning use; air purifying apparatus and machines; air-conditioning installations; electric hair dryers, etc.	
Designatio ns under the Madrid Protocol: Egypt, Monaco, Kenya, Switzerlan d, Russian Federation, etc.	Midea	IR1286006	2015/07/24	Class 7: Washing machines [laundry]; spin driers [not heated]; wringing machines for laundry; dry washer; dishwashers; kitchen machines, electric; fruit and vegetable juice extractor; fruit presses, electric, for household purposes; mixing machines; food processors, electric, etc. Class 9: Flashing lights [luminous signals]; electronic notice boards; traffic-light apparatus [signaling devices]; neon lights; lamp box (terms considered too vague by the International Bureau - rule 13.2.b) of the Common Regulations); materials for electricity mains [wires, cables]; coils, electric, etc. Class 11: Air conditioners; central air conditioners; refrigerators; freezers; refrigerating cabinets; heating display cabinets; refrigerating display cabinets; ice machines and apparatus and machines; air purifying apparatus and machines; dehumidifiers; humidifiers; electric fans; ceiling fans; ventilators, etc.	

(1) The disputed domain name is very similar to trademarks owned by the Complainant which is likely to cause confusion; and

First, the distinctive part of the disputed domain name "midea-carrier.com" consist of the two words "midea" and "carrier" which are connected by the symbol "-". "Midea" is the same as the Complainant's prior famous marks "*O*idea" and the English part of the Complainant's prior marks "美的 **O**idea". While "Carrier" in the disputed domain name is the same as another world-famous air conditioning brand " **Carrier**" which belongs to "Carrier Global Corporation" (https://www.corporate.carrier.com/). When seeing this disputed domain name, the consumers will doubt whether this website is built by a company related to the Complainant and "Carrier Global Corporation", especially when the webpage is showing air conditioning products with the brands of "Midea" and "Carrier". The following are screenshots of the English translation version of this webpage the Complainant captured.



We also find that Midea 5 HP air conditioners are equipped with a feature of protection against children's tampering, and this is a very wonderful feature, as it works to protect our air conditioner in an excellent and very wonderful way against tampering with the device's remote or pressing one of the buttons by mistake by children and also preventing problems or malfunction during the operating process, so this is a very wonderful feature as it works to distinguish this device from the rest of the other air conditioners.

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Apparently, under this circumstances, it's very likely to cause confusion.

In addition, before the registration date of the disputed domain name, the brand "MIDEA" has obtained high reputation around the world through the use of Complainant.

Considering the high reputation of the Complainant and the prior registered marks, the similarity between the prior registered marks and the disputed domain name, and the actual promotion and use of the disputed domain name, it will confuse the relevant public when seeing the disputed domain name. If the disputed domain name is allowed to continue as a valid domain name, it will inevitably disrupt the market, cause confusion to the relevant public and damage the Complainant's trademark rights.

(2) the Respondent has no rights or legitimate interests in the domain name; and

The Complainant have searched the trademarks "midea-carrier.com" "midea-carrier" in all classes in the database of CNIPA. As a result, the Respondent does not have any rights or legitimate interests in the domain name.

(3) the Respondent's domain name has been registered in bad faith and is being used in bad faith.

Based on the above introduction, the Complainant's "Midea" brand is very famous around the world. The Respondent knew or could not have been unaware of the Complainant's trademark when registering the disputed domain name, especially, when the air conditioner products demonstrating on the webpage clearly show "Midea". Therefore, the disputed name was registered in bad faith.

As mentioned above, the disputed domain name consists of "Midea" and "Carrier". Both brands are very famous in air conditioners. Also, air conditioner products named "Midea" are being displayed on the webpage of the disputed domain name, which can prove that the Respondent is maliciously using the disputed domain name to impersonate the Complainant or to appear as a licensed agent or a company related to the Complainant to create a likelihood of confusion with the Complainant's mark as to the source.

B. The Respondent

The Respondent did not reply to the Complainant's contentions.

4. Discussions and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) The registrant 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.

Respondent in Default

The Policy and the Rules provides that "[i]f a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint." The Panel finds that no exceptional circumstances exist. Accordingly, the Panel will decide the dispute based upon the Complaint and the evidence submitted therewith.

A. Identity or Confusing Similarity

The evidence submitted by the Complainant demonstrates that they successfully registered the trademark "Midea" as early as 1999, which is much earlier than the time the Respondent registered the disputed domain name. The Complainant has also registered multiple "Midea" series trademarks in China, as well as in Vietnam, Egypt, Brazil, Argentina, and India where they have production facilities. These trademarks have gained a strong reputation in the market. The registration date of the disputed domain name "midea-carrier.com", which were registered on 8 June 2023, later than the application and completion of the registration of the aforementioned trademarks by the Complainant.

The disputed domain name "midea-carrier.com" reproduces the Complainant's trademark "Midea" in its entirety, the addition of the term "carrier" or "-carrier" does not provide distinctiveness to the disputed domain name; or as the Complainant suggested, reproduces the trademark "Carrier" of another brand that belongs to others. Despite not separating "Midea" from "carrier" or "-carrier", it is likely that internet users will associate "carrier" with the "Midea" or perceive it as related to the scope of their activities. Even if internet users are not familiar with the brand "carrier", the similarity between the dominant part of the disputed domain name, "midea", and the Complainant's trademark "Midea" is significant due to their identical appearances, pronunciations, and lengths. Furthermore, the gTLD ".com" holds no legal significance in this case as the use of a top-level domain (TLD) is technically required for domain name operation.

And the disputed domain name uses "Midea" as the part of the disputed domain name, while "Midea" is the trademark that the Complainant has been continually and widely using in worldwide scope. No matter the Respondent add suffix of "carrier" or "-carrier", it will easily cause confusion to the consumers. Moreover, the website contents in the disputed domain name in this case are showing air conditioning products with the brands of "Midea" and "Carrier", which indicate that the Respondent is maliciously exploiting the Complainant's brand.

Furthermore, the mark "Midea" is inherently distinctive and will attract internet users'

attention. The evidence provided by the Complainant also shows that the "Midea" mark had accumulated a considerable reputation by 2023 when the Respondent first registered the disputed domain name. The reproduction of the Complainant's "Midea" trademark in its entirety in the disputed domain name establishes that the domain name is confusingly similar to the Complainant's trademarks.

The Panel notes that the Complainant has provided evidence of its registered trademarks for "Midea" in connection with telecommunication products and services, and has been using this trademark for many years.

Therefore, the Panel finds that the Complainant has proven the first element required by paragraph 4(a) of the Policy, that the disputed domain name is confusingly similar to the Complainant's registered trademarks.

B. Rights or Legitimate Interests of the Respondent

Based on the Complainant's search results on the Internet and the relevant Trademark Office database, it appears that the Respondent does not possess any rights related to the disputed domain name. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain name. The Panel also could not find any rights or legitimate interests under paragraph 4(c) of the Policy.

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

C. Bad Faith

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

(i) circumstances indicating that the Respondent has registered or the Respondent has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain names 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 the Respondent's documented out-of-pocket costs directly related to the domain names; or

(ii) the Respondent has registered the domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain names primarily for the purpose of

disrupting the business of a competitor; or

(iv) by using the domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another.

For the reasons discussed under this and the preceding heading, the Panel considers that the Respondent's actions in this case constitutes both the bad faith registration and use of the disputed domain name within the meaning of paragraphs 4(a)(iii) and 4(b)(iii) and (iv) of the Policy. The Respondent clearly was aware of the Complainant and had the Complainant's "Midea" mark in mind. The Complainant argues that the Respondent cannot ignore the fact that "Midea" is a well-recognized company and its trade and service marks are commonly known, alleging that the Respondent was aware of that mark when it registered the disputed domain name. As an ordinary consumer, the Respondent should have known "midea" and "carrier". The Respondent's registration of the disputed domain name was clearly malicious.

The disputed domain name can easily mislead ordinary consumers into believing that they represent the official website of the Complainant or have some form of association with the Complainant.

The addition of the term "carrier" to the disputed domain name does not sufficiently differentiate it from the Complainant's trademarks, particularly considering that "carrier" is another brand in the same industry and is owned by a different entity. This brand is widely recognized as a market leader in similar products, further blurring the distinction between the disputed domain name and the Complainant's brand.

The Panel finds it highly likely that the Respondent registered the domain name with the Complainant's marks in mind. The term "Midea" is uncommon and distinctive, and the redirection of the disputed domain name to content that is similar to the Complainant's products indicates an act of bad faith.

The Panel finds that the Complainant has established that the Respondent registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iii) and (iv) of the Policy. The failure of the Respondent to respond to the Complainant further supports a finding of bad faith registration and use.

5. Decision

Based on the above analysis, the Panel decides that:

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

Accordingly, pursuant to paragraph 4(a) of the Policy, the Panel decides that the disputed domain name "midea-carrier.com" should be transferred to the Complainant, MIDEA GROUP CO., LTD.

(Timothy SZE)

Dated: 14 February 2024