

Decision for dispute CAC-UDRP-105755

Case number	CAC-UDRP-105755
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Time of filing	2023-09-04 09:54:56
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Domain names	apm-india.com
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	A.P. Møller – Mærsk A/S
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Complainant representative

Organization	Michele Provera (Convey srl)
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Respondent

Organization	APM
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant has proved to own the following trademarks:

1. EU Registered trademark n°868494 “APM TERMINALS” in Classes 35, 36, 38, 39

Registration date: August 16, 2005, renewed

2. Brazilian Registered trademark n°827613130 “APM TERMINALS”, in Class 39

Registration date: July 25, 2005, renewed

3. Chilian Registered trademark n° 786042 “APM TERMINALS”, in Classes 25, 36, 38, 39

Registration date: September 22, 2008, renewed

4. Indian Registered Trademark n° 1372193 “APM TERMINALS”, in Classes 35, 36, 38, 39

Registration date: July 19, 2005, renewed

5. Indonesian Registered trademark J002005017012 “APM TERMINALS” in Class 39

Registration date: August 29, 2005, renewed

6. Malaysian Registered trademark n° 2011018965 “APM TEMRINALS Lifting Global Trade”, in Class 39

Registration date: October 27, 2011, renewed

7. Mexican Registered trademark n° 905207 “APM TEMRINALS”, in Class 39

Registration date: October 26, 2005, renewed

8. Peruvian Registered trademark n° 42034 “APM TERMINALS”, in Class 39

Registration date: October 26, 2005, renewed

9. United Kingdom Registered trademark n° UK00800868494 “APM TERMINALS”, in Classes 35, 36, 38, 39

Registration date: March 17, 2005, renewed

10. United States Registered trademark n° 79017743 “APM TERMINALS” in Classes 35, 36, 38, 39

Application filing: August 16, 2005

Registration date: January 30, 2007, renewed

Besides, the Complainant also owns the following domain names containing the APM TERMINALS denomination under several different TLDs:

<apm-terminals.com> registered on July 24, 2001; <apmterminals.com> registered on July 24, 2001; <apmterminals.in>, registered on June 21, 2011; <apm-terminals.in> registered on June 25, 2012; <apmterminal.us> registered on June 25, 2012; <apm-terminals.us> registered on June 25, 2012.

The bulk of these domain names are connected to the official web site of the Complainant.

FACTUAL BACKGROUND

A.P. Møller – Mærsk A/S container logistics company was established in 1904, in Svendborg, Denmark by Arnold Peter Møller, who started out his activity in tramp shipping, where vessels were operating on the spot market without fixed schedules or port calls.

Keen to expand the fleet beyond its three vessels, A.P. Møller struck out on his own, founding a steamship company in 1912. The increase of trade and shipping occurred during World War One, helped his company A.P. Møller – Maersk establishing a primary role in Denmark in the shipping sector: the company's activities soon began to expand, reaching out sectors such as of brokerage, shipbuilding, liner shipping and tanker trade.

By the end of the 1920s Maersk routes were already reaching the US, Japan and the Philippines: those countries were shortly added to a list of nations served by the company's lines including China, Thailand and India, among others.

With the introduction of the standardized container in the 1950s, the shipping industry faced a revolution, which made A.P. Møller – Mærsk A/S establish the first fully containerized service: the vessel Adrian Maersk departed from pier 51 in Newark, New Jersey loaded with 385 containers on September 18 1975, thus introducing the world's first containerized route, the Panama Line.

By 2015, Maersk became a wide-ranging conglomerate with activities in the sectors of shipping, terminals, logistics, oil and gas, covering more than 130 countries, employing today roughly 93.000 employees all over the world.

APM Terminals was founded as the port and terminal operating unit of Copenhagen, Denmark-based Maersk Group in January 2001. In 2004, APM Terminals is a port operating company and moved its headquarters in The Hague, Netherlands. As a unit of Danish shipping company Maersk's Transport and Logistics division, it manages container terminals and provides integrated cargo and inland services. It operates 75 port and terminal facilities in 58 countries on five continents, with five new port projects in development, in addition to over 100 inland services operations providing container transportation, management, maintenance and repair in 38 countries, for an overall global presence of 58 countries.

With 67 operations, APM Terminals operates one of the world's most comprehensive port networks. The company's goal is to become the world's leading terminal company. Its team of 22.000 industry professionals is focused on delivering the operational excellence and solutions businesses require to reach their potential.

The brand is also active on the main social media, like LinkedIn, Instagram, Facebook, Twitter and YouTube. The Facebook official page <https://www.facebook.com/APMTerminals/> counts over four hundred nineteen thousand followers worldwide. Complainant uses the letters APM, reflecting the initials A.P. Møller – Mærsk A/S, in various company names belonging to its group, among which APM Terminals.

Respondent registered the disputed domain name <apm-india.com> on June 18, 2023.

The disputed domain name redirected the Internet users on a website where the Complainant's trademarks APM TERMINALS are published and internet users can login to see further contents of the website corresponding to the disputed domain name. The intention behind the Respondent's use of a domain name containing the Complainant's trademark is merely to capture the Complainant's customers who are seeking the Complainant's products.

The Complainant submitted the following documents to prove the abovementioned facts:

- Screenshot of the official website of APM TERMINALS containing data about the Company;
- article about the first fully containerized service provided by the Complainant;

- Screenshots of Complainant's Social Media accounts;
 - Whois search conducted by Complainant;
 - Copies of Complainant's trademarks registrations;
 - Screenshot of the website <apm-india.com>.
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PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. Identity (paragraph 4(a)(i) of the Policy)

In the light of the documents provided by Complainant, it appears that it owns miscellaneous trademark rights worldwide. Arguably, the Company APM TERMINALS owns trademark rights on the "APM TERMINALS" sign worldwide.

The Administrative Panel found that the domain name <apm-india.com> is confusingly similar to the trademark owned by Complainant.

Firstly, the trademark "APM TERMINALS" of Complainant is partly incorporated in the disputed domain name <apm-india.com>. Secondly, the addition of a dash sign, along with the geographical term "india" does not prevent the similarity between the trademark of Complainant and the aforementioned domain name. The disputed domain name is confusing and does not provide additional specification or sufficient distinction from Complainant or its marks (WIPO Case No. D2008-1640, L'Oréal, Laboratoire Garnier & Compagnie v. Australian Internet Investments Pty Ltd, WIPO Case No. D2007-1552, L'Oréal v. Liao Quanyong).

2. Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy).

Complainant asserted that Respondent has never been granted a license, or any other way been authorized, in order to register the domain name <apm-india.com>. In addition, Respondent never sought the consent of Complainant in order to register the aforementioned domain name. Consequently, Respondent lacks any right or legitimate interest in using the disputed domain name.

Complainant also highlighted that the disputed domain name has been redirected by Respondent to a website where the Complainant's trademarks APM TEMRINALS are published and internet users can login to see further contents of the website corresponding to the disputed domain name. The website is used for phishing and fraud purposes. Therefore, Respondent did not intend to use the disputed domain name in connection with any legitimate purpose.

3. **Bad Faith (paragraph 4(a)(iii) of the Policy).**

In the light of the records, Complainant showed the domain name in dispute is so similar to the well-known APM TERMINALS trademark that Respondent cannot reasonably pretend he was intending to develop a legitimate activity through the disputed domain name. Arguably, Respondent registered said domain name knowing that the trademark benefited from a worldwide reputation, including in India. Moreover, the time of the registration, namely in June 2023, is well posterior to the registration of APM TERMINALS trademarks.

Therefore, it is clear that the Respondent was well aware of the APM TERMINALS trademark and has registered the disputed domain name with the intention to refer to the Complainant and to its trademark.

Furthermore, it seems that Respondent has registered the disputed domain name <apm-india.com> for the sole purpose of misleading users as part of a phishing scheme to fraudulently obtain private personal information and to capitalize on the reputation of the Complainant's trademark by diverting Internet users seeking information on APM TERMINALS on his website for financial gain.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **apm-india.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION	2023-10-04
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Publish the Decision