

ADMINISTRATIVE PANEL DECISION

INSPIRUS, LLC v. 葛荣凯 (Ge Rong Kai)

Case No. D2023-0974

1. The Parties

The Complainant is INSPIRUS, LLC, United States of America (“United States”), represented by Areopage, France.

The Respondent is 葛荣凯 (Ge Rong Kai), China.

2. The Domain Name and Registrar

The disputed domain name <inspirus.xyz> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On March 7, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On March 7, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceedings commenced on March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 4, 2023.

The Center appointed Andrew Sim as the sole panelist in this matter on April 14, 2023. The Panel finds that it was properly constituted. 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 American employment engagement solutions services provider founded in 1893.

The Complainant is the owner of the following registered INSPIRUS marks in United States: United States trademark registration No. 3805248 in international classes 35 and 41, filed on March 13, 2008 and registered on June 22, 2010; and United States registration No. 3805249 in international classes 35 and 41, filed on March 13, 2008 and registered on June 22, 2010. The Complainant also owns the domain name <inspirus.com> and uses it to host its official website at “www.inspirus.com”.

The disputed domain name was registered on November 2, 2022 and resolves to a webpage on <dan.com>, a domain name marketplace, where the disputed domain name is listed as being for sale for USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is identical or confusingly similar to the INSPIRUS mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name was registered and is being used in bad faith.

In particular, the Complainant submits that its INSPIRUS mark has a strong reputation, especially in the United States, and the disputed domain name wholly incorporates the Complainant's INSPIRUS mark. Given the identical reproduction of the INSPIRUS distinctive mark, the public will believe that the disputed domain name comes from the Complainant or is linked to the Complainant. The confusion is more likely as the Complainant is the owner of the domain name <inspirus.com> and uses it to connect to its official website at “www.inspirus.com”.

Moreover, according to the Complainant's knowledge, the Respondent has no rights nor legitimate interests in the disputed domain name as he has no rights on INSPIRUS as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights on the INSPIRUS mark. The Complainant further submits that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant to register the disputed domain name and to use it. Rather, the Complainant contends that Respondent has acted in bad faith in acquiring and setting up the disputed domain name as the Respondent most likely knew of the Complainant's rights on the INSPIRUS mark.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Matter - Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the 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. According to the information received from the Registrar, the language of the Registration Agreement is Chinese.

The Complainant submits that the language of the proceeding should be English. The Complainant mainly contends that the Complainant is not able to communicate in Chinese and therefore, if the Complainant should submit all documents in Chinese, the proceedings will be unduly delayed and the Complainant would have to incur substantial expenses for translation. The Complainant also notes that the dispute domain name is registered in Latin characters and not in Chinese script and it revolves to a web page in French.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel further notes that the Center has notified the Respondent in both Chinese and English of the language of the proceeding and the commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding or respond to the Complaint in either English or Chinese. Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter – Three Elements

Under 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 it 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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the INSPIRUS mark.

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the generic Top-Level Domain ".xyz" may be ignored in assessing the confusing similarity between the disputed domain name and the Complainant's trademark.

The disputed domain name incorporates the Complainant's registered INSPIRUS mark in its entirety and is identical to the INSPIRUS mark.

Thus, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has confirmed that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it. The Respondent is also not known to be associated with the INSPIRUS marks. Moreover, there is no evidence showing that the Respondent has been commonly known by or resemble the Complainant's trademark or the disputed domain name in any manner.

In addition, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The disputed domain name resolves to a webpage on <dan.com>, a domain name marketplace, where the disputed domain name is listed as being for sale for USD 1,450. Such use cannot constitute a *bona fide* offering of goods or services or legitimate non-commercial or fair use of disputed domain name and cannot under the circumstances confer on the Respondent any rights or legitimate interests in the disputed domain name.

Moreover, the nature of the disputed domain name, which wholly incorporates and is identical to the Complainant's trademark, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

Thus, the Panel accepts that, on a balance of probabilities, these allegations were soundly based and the Complainant has established a *prima facie* case. The burden of production to demonstrate its rights or legitimate interests in respect of the disputed domain name shifts to the Respondent, and the Respondent failed to submit a response. The Panel concludes that the Respondent has not rebutted the Complainant's *prima facie* case answer to these allegations.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered after the Complainant registered its INSPIRUS mark. As submitted by the Complainant, the word INSPIRUS is purely fanciful, and the fact that the disputed domain name is identical to the Complainant's inherently distinctive INSPIRUS mark and domain name <inspirus.com> (disregarding the Top-Level Domain as discussed above) suggests that the Respondent was likely aware of the Complainant's business and trademarks before or when the Respondent registered the disputed domain name, or knew or should have known that the disputed domain name was identical to the Complainant's trademarks.

The Panel therefore finds that the Respondent's likely awareness of the Complainant's trademark rights at the time of registration suggests bad faith. See, e.g., *Accor, So Luxury HMC v. Youness Itsmail*, WIPO Case No. [D2015-0287](#).

In addition, the disputed domain name resolves to a webpage on <dan.com>, a domain name marketplace, where the disputed domain name is listed as being for sale for USD 1,450. The high asked price suggests that the proposed sale or transfer is likely for valuable consideration in excess of documented out of pocket costs directly related to the disputed domain name. Such offer of the disputed domain name for sale shows opportunistic bad faith by the Respondent to capitalize on the Complainant's business and trademarks. See *Boursorama S.A. v. 葛荣凯 (Ge Rong Kai)*, WIPO Case No. [D2022-4242](#) (<bourso.xyz>) which is a similar case against the same Respondent.

The Panel is therefore satisfied that the disputed domain name was registered and is being used in bad faith within the meaning of paragraphs 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <inspirus.xyz> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: May 1, 2023