

ADMINISTRATIVE PANEL DECISION

Milliman, Inc. v. 李昌华 (li chang hua)

Case No. D2022-3184

1. The Parties

The Complainant is Milliman, Inc., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is 李昌华 (li chang hua), China.

2. The Domain Name and Registrar

The disputed domain name <millimanbenefits.com> 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 August 26, 2022. On August 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 2022, 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 August 31, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 31, 2022, the Complainant confirmed its 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 of the Complaint, and the proceedings commenced on September 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 27, 2022.

The Center appointed Rachel Tan as the sole panelist in this matter on October 10, 2022. 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 based in Seattle, United States. It is an independent actuarial and consulting firm operating in the areas of employee benefits, investment, property and casualty, healthcare, life and financial services, and insurance services. It has been active in this field since 1947. It operates in various markets throughout the world, and has over sixty offices located in Africa, Asia, Europe, Latin America, North America, and the Middle East.

The Complainant has been using the MILLIMAN & ROBERTSON mark since 1957, and the MILLIMAN mark since 2001. The Complainant is the owner of a range of trade mark registrations that comprise of the term “milliman” across different jurisdictions. For example, United States Trade Mark Registration No. 2551240, registered on March 19, 2002 in class 36; United States Trade Mark Registration No. 2535010, registered on January 29, 2002 in class 16; China Trade Mark Registration No. 3838950, registered on May 14, 2006 in class 36; and China Trade Mark Registration No. 5853860, registered on March 28, 2010 in class 35.

The Complainant is the owner of range of domain names incorporating the MILLIMAN mark, including <milliman.com> and <millimanbenefits.com>.

The Respondent is 李昌华 (li chang hua), China.

The disputed domain name was registered on January 1, 2022. At the time of filing the Complaint and the date of this Decision, the disputed domain name resolves to an active pay-per-click (“PPC”) webpage that lists out multiple third-party links related to different advertisements covering contents such as “Employee Benefits”, “Employer” and “Soc 2 Certificate”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s MILLIMAN mark. The disputed domain name incorporates the MILLIMAN mark in its entirety. The addition of typo-variant of the generic word “benefits” does not prevent the disputed domain name from being confusingly similar to the Complainant’s MILLIMAN mark. As the Complainant’s business involves the provision of benefits services, the inclusion of a typo-variant of the word “benefits” actually serves to increase the confusing similarity of the disputed domain name. Further, the Complainant claims the disputed domain name is a deliberate typo-variant of the Complainant’s <millimanbenefits.com> domain.

The Complainant further alleges that it is the exclusive owner of the distinctive and well-known MILLIMAN mark. The Respondent has never been a licensee or franchisee of the Complainant, nor commonly known as “milliman benefits”. The Respondent has never been authorized by the Complainant to register or use the MILLIMAN mark or to apply for or use any domain name incorporating the mark. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, or in a legitimate noncommercial or fair manner. The disputed domain name directs to a parking page showing PPC advertising links to websites purportedly offering services identical or related to those of the Complainant.

The Complainant finally asserts that the Respondent registered and is using the disputed domain name in bad faith. Given the international reputation of the Complainant, it is not plausible that the Respondent could have been unaware of the Complainant at the time of registration. The Respondent’s knowledge of the

Complainant is evidenced by inclusion of a misspelling of the word “benefits” in the disputed domain name, the fact that the Respondent is using the disputed domain name to direct to a parking page showing PPC advertising links to websites purportedly offering services identical or related to those of the Complainant, and the choice of a slight variation of the Complainant’s domain name <millimanbenefits.com> for the disputed domain name. By diverting Internet users to a commercial parking page with links related and identical to the services offered under the Complainant’s mark, the Respondent is illegitimately capitalizing on the Complainant’s name and reputation by generating unjustified revenues for each click-through of the sponsored links.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party’s submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) The disputed domain name is in Latin characters, rather than Chinese script;
- (b) the disputed domain name incorporates a misspelling of the English word “benefits”;
- (c) the disputed domain name directs to a commercial parking page showing PPC links in English; and
- (d) requiring translation of the Complaint and attached annexes from English to Chinese would subject the Complainant to disproportionate expense for translation services and would cause undue delay and inconvenience.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding. The Panel has considered the above circumstances, and finds that English shall be the language of this proceeding. The reasons are set out below:

- (a) the Complainant is a company based in the United States. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent’s choice of Roman letters for the disputed domain name and the website with PPC links in English which the disputed domain name resolves to indicate that the Respondent is familiar with the English language;
- (c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant’s request for English to be the language of the proceeding, but the

Respondent did not protest against this request;

(d) the Respondent has failed to participate in the proceeding even though the Center sent the notification in English and Chinese of the Complaint, and has been notified of his/her default; and

(e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the MILLIMAN mark.

The Panel notes the disputed domain name is comprised of the MILLIMAN mark in its entirety. The positioning of the MILLIMAN mark in the disputed domain name is instantly recognizable. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is accepted by previous UDRP panels that the addition to the complainant's trade mark of other words or terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element of the Policy. Accordingly, the additional element "benefits", which is a misspelling of the English word "benefits" and closely related to the Complainant's business, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's MILLIMAN mark. See section 1.8 of the [WIPO Overview 3.0](#).

Lastly, it is permissible for the Panel to ignore the generic Top-Level Domain, in this case ".com". See section 1.11.1 of the [WIPO Overview 3.0](#).

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

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the MILLIMAN mark whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of a domain name that is identical or confusing similar to the Complainant's MILLIMAN mark. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's MILLIMAN mark or register the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name in the terms of paragraph 4(c)(iii) of the Policy since at the time of filing the Complaint and, at the date of this Decision, the disputed domain name resolves to a PPC website with links to third-party websites, some of which are related to the Complainant's business. Such usage may reasonably be assumed to be commercial in its intent and effect. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's

mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's MILLIMAN mark has been registered in range of jurisdictions, including in China. The disputed domain name was registered long after the registration of the Complainant's MILLIMAN mark. Through extensive use and advertising, the Complainant's MILLIMAN mark is known throughout the world. Search results using the key word "milliman" on the Internet search engine direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the MILLIMAN mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's MILLIMAN mark when registering the disputed domain name, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that "[...] mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain name is confusingly similar to the widely known MILLIMAN mark and was registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created.

Section 3.5 of the [WIPO Overview 3.0](#) states that "[p]articularly with respect to 'automatically' generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests)". The Panel notes that the disputed domain name resolves to a parked page comprising PPC advertising links that divert Internet users to various contents, some of which are related to the Complainant's business. The Panel finds the use of the confusingly similar disputed domain name to lure Internet users to third-party websites is evidence of bad faith. See *Sodexo v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2020-1171](#).

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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, <millimanbenefits.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: October 24, 2022