

ADMINISTRATIVE PANEL DECISION

Udemy, Inc. v. 毛丹 (Dan Mao)

Case No. DCO2023-0013

1. The Parties

The Complainant is Udemy, Inc., United States of America (“United States”), represented by SafeNames Ltd, United Kingdom.

The Respondent is 毛丹 (Dan Mao), China.

2. The Domain Name and Registrar

The disputed domain name <udemy.co> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on February 16, 2023.

On February 15, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On February 16, 2023, 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 together with the amended 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 February 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 29, 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 a company headquartered in the United States, was founded in 2010, and is active in the online education sector. The Complainant is particularly commercializing online courses, allowing users (businesses, professionals, and students) access to over 210,000 courses for the purposes of e-learning. The Complainant's online education platform has over 57 million users, utilizing its platform across more than 180 countries. The Complainant has approximately 5,000 employees and realized a revenue of USD 629 million as of 2022.

The Complainant owns a trademark portfolio for the UDEMY mark, including, but not limited to, European Union trade mark number 011006319, registered on November 28, 2012; and United States trademark registration number 4314406, registered on April 2, 2013. The Complainant also has a strong online presence, including through its social media accounts and its official domain name <udemy.com>, registered on August 13, 2009. The registered trademarks adduced by the Complainant were successfully registered prior to the registration date of the disputed domain name, which was registered on November 12, 2014.

The Complainant provides evidence that the disputed domain name is linked to a set of active rotating websites. Sometimes the disputed domain name redirects to a third-party website where Internet users are asked to verify that they are not a robot, before it redirects them to other pages where they are prompted to download a computer program, which is likely malicious. Other times, the disputed domain name redirects to other third-party e-commerce sites, where various types of products are sold online.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is identical or confusingly similar to its prior trademark for UDEMY, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

The Complainant claims that its trademark is well-regarded in the online education sector, and provides evidence of its company information and marketing materials including brand recognition data and Internet traffic statistics. Moreover, the Complainant provides evidence that the disputed domain name is linked to a set of active websites, redirecting Internet users to a third-party website where Internet users are asked to verify that they are not a robot, before it redirects them to other pages where they are prompted to download a computer program, which is likely malicious. Other times, the disputed domain name redirects to other third-party e-commerce sites, where various types of products are sold online. The Complainant essentially contends that such use does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and in English and in a timely manner to present his or her comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters and that the various websites redirected from the disputed domain name are in English; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove 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 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.

Based on the evidence submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the sign UDEMY, based on its use and registration of the same as a trademark, incidentally commencing years prior to the registration of the disputed domain name.

As to whether the disputed domain name is identical or confusingly similar to the Complainant's trademarks, the Panel finds that the disputed domain name consists of only one element, being the Complainant's trademark UDEMY. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1, the applicable country code Top-Level Domain ("ccTLD") (".co" in this proceeding) is viewed as a standard registration requirement, and may as such be disregarded by the Panel. The Panel concludes that the disputed domain name only contains the

Complainant's trademark, and is therefore identical to such trademark. On this basis, the Panel finds that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name, and is not making legitimate noncommercial or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, reviewing the facts of this proceeding, the Panel notes that the disputed domain name directs to a set of active rotating websites. Sometimes the disputed domain name redirects to a third-party website where Internet users are asked to verify that they are not a robot before it redirects them to other pages where they are prompted to download a computer program, which is likely malicious. Other times, the disputed domain name redirects to other third-party e-commerce sites, where other products are sold online. The Panel finds that this shows a clear intent on the part of the Respondent to obtain commercial gains from misleading Internet users by using the Complainant's UDEMY trademark in the disputed domain name, to offer third party products to such Internet users or to prompt them to download computer programs which are presumably malware programs. It is clear to the Panel from the foregoing elements that the Respondent is not acting as a good faith provider of goods or services under the disputed domain name, and that there are also no other circumstances or factual elements conferring any rights or legitimate interests in the disputed domain name on the Respondent.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the strong reputation and the fame of the Complainant's trademarks for UDEMY, the registration of the disputed domain name, which is identical to such trademark, seems clearly intended to freeride on the fame of such trademark, and to mislead and attract Internet users to the disputed domain name which randomly redirects to various websites. Based on these findings, the Panel concludes that the Respondent's registration of the disputed domain name constitutes an intentional attempt to target the Complainant's well-known trademark, of which the Respondent could not reasonably be unaware. Moreover, even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned, and owns trademarks in UDEMY and uses them extensively. In the Panel's view, this clearly indicates the bad faith of the Respondent, and the Panel, therefore, finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the disputed domain name directs to a set of active rotating websites. Sometimes the disputed domain name redirects to a third-party website where Internet users are asked to verify that they are not a robot, before it redirects them to other pages where they are prompted to download a computer program, which is likely malicious. Other times, the disputed domain name redirects to other third-party e-commerce sites, where other products are sold online. In this regard, the [WIPO Overview 3.0](#), section 3.4 states, "[p]anel have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution". The Panel also notes that even when the disputed domain name resolves to other commercial websites, the Respondent is still intentionally attracting Internet users for commercial gain to the websites at the disputed domain name, by creating consumer confusion with the Complainant's trademarks. This constitutes direct evidence of bad faith of the Respondent under paragraph

4(b)(iv) of the Policy. Accordingly, the Panel finds that the Respondent is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish his or her good faith or absence of bad faith. The Panel, therefore, finds that the Complainant has satisfied the requirements of the third element under 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 <udemy.co> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: April 4, 2023