

ADMINISTRATIVE PANEL DECISION

Red Lion Controls, Inc. v. 乔泽 (Qiao Ze)

Case No. D2024-1561

1. The Parties

The Complainant is Red Lion Controls, Inc., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 乔泽 (Qiao Ze), China.

2. The Domain Name and Registrar

The disputed domain name <redlion.site> 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 April 12, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 15, 2024, 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 April 15, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On the same day, the Center also requested that the Complainant amend the Complaint as regards the identification of the Registrar. On April 17, 2024, the Complainant submitted an amended Complaint in English, in which it requested that the language of the proceeding be English. The Respondent did not submit any 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 April 22, 2024. In accordance with the

Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 17, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 27, 2024. 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 Red Lion Controls, Inc. of York, Pennsylvania, United States. That company holds trademark registrations in multiple jurisdictions, including the following:

- Chinese trademark registration number 3777954 for a stylized RED LION mark (the "Red Lion swoosh logo"), registered on October 7, 2005;
- United States trademark registration number 3368713 for RED LION, registered on January 15, 2008;
- International trademark registration number 974123 for RED LION, registered on August 8, 2008, designating various jurisdictions, including China; and
- International trademark registration number 975294 for the Red Lion swoosh logo, registered on August 8, 2008, designating various jurisdictions.

The above trademark registrations specify industrial control devices, namely, panel meters, touch panels, light emitting diode (LED) displays, liquid crystal displays (LCD), for purposes of industrial process monitoring in class 9.

The Complainant describes the business of the Red Lion Family of Hotels, founded in 1959, operating over 1,200 hotels and properties in eight countries under 17 brands, which was acquired in 2021 by Sonesta International Hotels Corporation ("Sonesta"). The Red Lion Family of Hotels formerly operated a website in connection with the domain name <redlion.com> which, according to evidence presented by the Complainant, received over one million visits during the three month period from November 2023 to January 2024. That domain name is now held by Sonesta.

The Respondent is an individual based in China. The Respondent's contact street address in the Registrar's Whois database is incomplete, as it consists only of a city, province, and postcode.

The disputed domain name was registered on October 25, 2023. It resolves to a webpage powered by Shopify e-commerce software but the website has not yet been set up.

The Complainant sent cease-and-desist letters in English to the Registrar, addressed to the Respondent, on January 17, 24, and 31, 2024.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to its RED LION mark. The Complainant asserts that it is a subsidiary of the Red Lion Family of Hotels. The Respondent has no rights

or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by, or affiliated with, the Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names. The disputed domain name was registered and is being used in bad faith. There is no plausible good faith reason or logic for the Respondent to have registered the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Precedural Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that translation of the Complaint would unfairly disadvantage and burden it and delay the proceedings; the disputed domain name is comprised of Latin characters and its dominant term "red lion" has no meaning in Chinese.

The Respondent did not make any submissions with respect to the language of the proceeding, or indicate any interest in otherwise participating in this proceeding, despite the Center having sent email communications in English and Chinese regarding the language of the proceeding and the notification of the Complaint.

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. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

The burden of proof of each element is borne by the Complainant. The Respondent's default does not automatically result in a finding in favor of the Complainant. See [WIPO Overview 3.0](#), section 4.3.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a RED LION trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Its only additional element is a generic Top-Level Domain ("gTLD") extension (".site") which, as a standard requirement of domain name registration, may be disregarded in the assessment of identity or confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11 .

Therefore, the Panel finds the first element of paragraph 4(a) of the Policy has been established.

B. Rights or Legitimate Interests

Given the Panel's findings below under the third element of paragraph 4(a) of the Policy, it is unnecessary to consider the second element.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy sets out two conjunctive requirements. It is necessary for the Complainant to demonstrate both that the disputed domain name has been registered in bad faith, and also that the disputed domain name is being used in bad faith.

In the present case, the disputed domain name was registered in 2023, years after the registrations of the Complainant's trademarks, including in China, where the Respondent is based. The trademarks are registered in respect of industrial control devices in class 9. A simple Internet search reveals that the Complainant (i.e., Red Lion Controls, Inc.) is an industrial data company that operates a website in connection with the domain name <redlion.net>.¹ The Complainant provides no evidence of the business, activities, or reputation of this company. Rather, the Complainant seeks to demonstrate the fame of the Red Lion Family of Hotels that formerly operated a website in connection with the domain name <redlion.com>. However, the website associated with that domain name presented information regarding various hotel brands, including Red Lion Hotels, and made no reference to industrial data solutions or Red Lion Controls, Inc. The domain name <redlion.com> now redirects to <sonesta.com>, which Sonesta uses in connection with a website offering information about itself and its family of brands, including Red Lion Hotels. None of the evidence of trademark registrations is associated with a hospitality business.

The Complainant asserts that it (i.e., Red Lion Controls, Inc.) is a subsidiary of the Red Lion Family of Hotels. However, the lack of any apparent relationship between the industrial data business and trademarks of Red Lion Controls, Inc., on one hand, and the evidence regarding the hotels and properties of the Red Lion Family of Hotels, on the other hand, gives the Panel reason to doubt that assertion. While a procedural order might have enabled the Complainant to clarify its identity or substantiate its alleged relationship to the Red Lion Family of Hotels, the Panel considers that such an exercise would be a misallocation of resources due to other problems in the Complaint, discussed below.

The RED LION mark consists of two dictionary words describing a common heraldic emblem. A search for these words in the WIPO Global Brand Database ("<https://branddb.wipo.int/>") reveals that they are identical

¹ The Panel may take undertake limited factual research into matters of public record if it considers such information useful in assessing the case merits and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

to the textual element of many trademarks currently registered in multiple jurisdictions by different parties. A search for the same words through search engines also reveals that there are other entities that have used “red lion” to promote their businesses. These circumstances undermine the Complainant's assertion that the identity between the disputed domain name and its RED LION mark and <redlion.com> domain name demonstrates knowledge of, and familiarity with, the Complainant's brand and business. The evidence of the Respondent's webpage contains no reference to the Complainant or any figurative element of its Red Lion swoosh logo. Accordingly, even if the Complainant is related to the Red Lion Family of Hotels as it asserts, the Panel cannot infer from the evidence on record that the Respondent had the Complainant or its mark in mind when the Respondent registered the disputed domain name.

Therefore, the evidence on file does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

Therefore, the Panel finds the third element of paragraph 4(a) of the Policy has not been established.

Nevertheless, the Panel notes that changed circumstances that clearly point to an intention to take unfair advantage of the Complainant's mark could support grounds for a refiling.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: June 5, 2024