

## ADMINISTRATIVE PANEL DECISION

Internationaler Verein für biologisch-dynamische Landwirtschaft v. Yan Min Zhang, He Na Di Mo Te Ji Xie She Bei You Xian Gong Si  
Case No. D2024-5176

### 1. The Parties

The Complainant is Internationaler Verein für biologisch-dynamische Landwirtschaft, Switzerland, represented by Troller Hitz Troller, Rechtsanwälte, Switzerland.

The Respondent is Yan Min Zhang, He Na Di Mo Te Ji Xie She Bei You Xian Gong Si, China, represented by Beijing Celue Law Firm, China.

### 2. The Domain Name and Registrar

The disputed domain name <demeterchickencage.com> is registered with GoDaddy.com, LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 17, 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 the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 18, 2024, 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 amendment to the Complaint on December 19, 2024.

The Center verified that the Complaint together with the amendment to 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 December 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2025. The Respondent sent email communications

to the Center between December 21, and December 26, 2024. The Response was filed with the Center on January 7, 2025. On January 9, 2025, the Complainant submitted an unsolicited supplemental filing to the Center. On January 11, 2025, the Respondent commented on the Complainant's supplemental filing.

The Center appointed Matthew Kennedy as the sole panelist in this matter on January 21, 2025. 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 certification organization for biodynamic agriculture based in Switzerland. Its name may be translated as "International Association for Biodynamic Agriculture". It holds trademark registrations in multiple jurisdictions, including the following:

- International trademark registration number 780726 for DEMETER, registered on February 11, 2002, designating various jurisdictions including China, and specifying goods and services in classes 5, 23, 24, 29, 30, 31, 32, 33, and 35 in China; and
- International trademark registration number 1283171 for DEMETER, registered on December 4, 2015, designating various jurisdictions including China, and specifying goods in class 5.

The Respondent Yan Min Zhang is the legal representative of 河南迪墨特机械设备有限公司, which may be transliterated as He Nan Di Mo Te Ji Xie She Bei You Xian Gong Si and translated as Henan Demeter Machinery Co., Ltd ("Henan Demeter"), a Chinese company established on August 12, 2020 that supplies poultry farm equipment solutions. Henan Demeter holds Chinese trademark registration number 58921155 for a figurative mark featuring the words DEMETER YOUR FARM PARTNER, registered on June 28, 2022, specifying goods in class 7.

The disputed domain name was registered on September 3, 2021. It resolves to a website in English (and possibly other languages) for Henan Demeter, claiming over 27 years of history and deliveries to over 40 countries. The website displays products including layer chicken cages, broiler chicken cages, pullet chicken cages, breeder chicken cages, and related automatic systems. The website also displays client testimonials and Henan Demeter's figurative mark.

#### **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 distinctive element of the disputed domain name is identical to its registered trademark and well-known brand DEMETER. The additional elements "chicken" and "cage" are purely descriptive and thus do not meaningfully influence the overall impression of the disputed domain name.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. Due to the high reputation of the Complainant's trademarks and visibility all over the world in the whole agriculture field, the Respondent must have been aware of the trademark rights of the Complainant and the risk of confusion that it causes. While the Complainant has been active for nearly 100 years, the Respondent registered the disputed domain name only in 2021.

The disputed domain name has been registered and is being used in bad faith. The fact that the Respondent is using the protected name Demeter on its website as a standalone sign for products and services also in relation to agriculture (the field in which the Complainant has been active since 1928) indicates that the Respondent consciously created a risk of confusion or at least was willing to create market confusion and take advantage of the long-lasting reputation of the Complainant.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied any of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that the disputed domain name is not confusingly similar to the DEMETER mark because it adds the words “chicken cage”. There could be countless possible combinations of domain names containing “demeter” with additional words.

The Respondent has rights and legitimate interests in respect of the disputed domain name. The Respondent holds trademark rights in the main part of the disputed domain name (i.e., demeter) and provides products in good faith corresponding to the other words in the disputed domain name (i.e., “chicken cage”). The element “demeter” is a phonetic transliteration of characters in the Respondent’s trade name (i.e., “迪墨特”). “Demeter” is a generic term and does not point uniquely to the Complainant. Demeter was the Greek goddess of grain and fertility. A search for “demeter” produces 236 results in the China National Intellectual Property Administration (CNIPA) trademark database and more than 180 results in the WIPO Global Brand database. In the process of providing relevant goods and services, the disputed domain name has become familiar to users. The Respondent has always operated in good faith not to mislead consumers or tarnish the Complainant’s mark.

The Complainant provided no evidence of the Respondent’s bad faith and there is no basis for such a finding. The Complainant only holds trademark rights outside China and its trademark corresponds to a generic term. The Respondent and her company are Chinese and sell chicken cages and breeding equipment to Africa, with no connection or competitive relationship with the Complainant located in Switzerland.

The Respondent finally submits that the UDRP is aimed at preventing domain name hijacking and that it cannot be used for all domain name disputes.

## **6. Discussion and Findings**

### **6.1 Procedural Issue: Unsolicited Supplemental Filing**

The Complainant made an unsolicited supplemental filing on January 9, 2025, after receipt of the Response but before the appointment of the Panel. The Respondent objected to the admission of the supplemental filing on January 11, 2025, also prior to the appointment of the Panel.

Paragraph 12 of the Rules provides that “[i]n addition to the complaint and the response, the Panel may request or permit, in its sole discretion, further statements or documents from either of the Parties”. At the same time, paragraphs 10(b) and (c) of the Rules require the Panel to ensure that “each Party is given a fair opportunity to present its case” and that “the administrative proceeding takes place with due expedition”. The purpose of the Policy is to provide a simple, inexpensive and quick administrative procedure for dealing with domain name entitlement disputes. Accordingly, the Panel will only permit the supplemental filing in exceptional circumstances, such as new facts, newly available evidence, or a material allegation in the Response that could not reasonably have been anticipated at the time of the Complaint.

The Panel observes that the Complainant did not state any reason as to why the Panel should exercise its discretion to accept the supplemental filing. It contains five annexes relating to the reputation of its mark in certain European countries. The Complainant expressly confirms that the additional annexes in the supplemental filing do not provide new facts but rather confirm that the Complainant's mark is well known all over the world as stated in the Complaint.

The Respondent argues that the Complainant should bear the adverse consequences of its failure to submit sufficient evidence at the time of initiating the proceeding. Supplementing that evidence after receipt of the Response clearly deviates from the UDRP's purpose and does not comply with the principle of fairness.

The Panel sees no exceptional circumstances that would justify accepting the supplemental filing. The fame and reputation of the Complainant's mark is clearly an important issue in this dispute. Annex 5 to the original Complaint acknowledged that "Demeter" was a reference to the Greek goddess of grain and fertility so it was entirely foreseeable that the Respondent would raise that in argument. Annex 8 to the original Complaint contained screenshots showing that the Complainant knew how Henan Demeter uses the disputed domain name. The Complainant belatedly seeks to introduce new evidence into the record that it could have submitted earlier.

Therefore, the Panel finds that the Complainant was already given a fair opportunity to present its case in the Complaint and the amendment to the Complaint. The Panel declines to accept the Complainant's supplemental filing as part of the record of this proceeding.

## **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 Complainant bears the burden of proof of each element. Failure to demonstrate any one element will result in denial of the Complaint.

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

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

The entirety of the DEMETER mark is reproduced within the disputed domain name. Despite the addition of the words "chicken cage", the mark is recognizable within the disputed domain name. The only additional component is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the first element of paragraph 4(a) of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests, Bad Faith, and Scope of the Policy**

The disputed domain name is used in connection with a website that offers poultry farm equipment solutions. The Respondent's company was established in 2020 and its name includes the characters “迪墨特”, which are a transcription of “Demeter”, as used in the disputed domain name. In 2022, the Respondent's company obtained registration of a figurative mark, the dominant textual element of which is “Demeter”, in the jurisdiction where the Respondent's company is based (i.e., China). The Respondent's company uses that mark in the course of trade, in particular, on sales contracts and on its website. The Respondent's principal products are various types of “chicken cage”, as described in the disputed domain name. The Response presents the Respondent's company's business license, its product manual, evidence of its deliveries and installations in various countries in Africa, including sales contracts, customs declarations, shipping records, photographs and client reviews, and multiple social media accounts with names that combine “Demeter” with descriptive words, such as “poultry” and “chicken cage”. Nothing on the website refers to the Complainant or biodynamic agriculture or claims to hold any certification.

The disputed domain name was registered in 2021, years after the registration of the Complainant's DEMETER mark, including in China, where the Respondent is based. The Complainant claims that its mark has been used for certification for almost a century. The Parties are not related in any way. The Respondent notes that many parties hold trademarks incorporating “Demeter” but the Panel observes that many of those parties may be national affiliate organizations of the Complainant. In any event, both Parties submit evidence indicating that “Demeter” is not only a trademark but also a reference to the Greek goddess of grain and fertility. That reference is relevant to the Respondent's general field of activity, i.e., agriculture, and provides a potential explanation for the Respondent's choice of company name and mark.

In view of the above circumstances, the Panel considers that the dispute between the Parties is part of a wider trademark infringement dispute. The dominant textual element of the Respondent's registered trademark is identical to the Complainant's registered trademark. The Parties both operate in the field of agriculture, although their operations are different as one is a certification organization and the other supplies equipment.

The Panel recalls that it is not a general domain name court, and that the Policy is not designed to adjudicate all disputes of any kind that relate in any way to domain names. Rather, the Policy establishes a streamlined, inexpensive administrative dispute resolution procedure intended only for the relatively narrow class of cases of “abusive cybersquatting”. The UDRP is not an appropriate procedure to adjudicate a complex trademark dispute such as this one where the Panel does not have the benefit of witness testimony, disclosure of documents, or the other appropriate instruments that are typically available to assist a court to resolve a dispute between the Parties.

Therefore, the Panel has decided to deny the Complaint, not on the merits, but on the broader ground that the case regarding the disputed domain name is part of a wider, more complex trademark dispute between the Parties that exceeds the scope of the UDRP. The wider dispute can be addressed by a court of competent jurisdiction. See [WIPO Overview 3.0](#), section 4.14.6.

## **C. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

The Respondent submits that the UDRP is aimed at preventing domain name hijacking and that it cannot be used for all domain name disputes. If the trademark owner cannot prevent the use of all domain names containing “demeter”, there is a suspicion of reverse domain name hijacking. In the absence of relevant factors, the UDRP should not be used to prevent the use of domain names related to the good faith provision of goods or services. The Respondent further submits that the Complainant should have adequately

considered whether the evidence in its Complaint was sufficient instead of making a supplemental filing. If the Complainant initiates the proceeding without proper justification, it clearly demonstrates bad faith in an attempt to reverse hijack the disputed domain name.

The Panel recalls that the mere lack of success of the Complaint is not, on its own, sufficient to constitute reverse domain name hijacking. See [WIPO Overview 3.0](#), section 4.16. While the Complainant belatedly sought to introduce evidence, its claim was not baseless. Further, even though the incorporation of the Complainant's trademark in a disputed domain name did not guarantee the success of the Complaint, nor did the incorporation of additional words by the Respondent ensure its failure. Accordingly, the Panel does not find that the Complaint was brought in bad faith.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: February 4, 2025