

ADMINISTRATIVE PANEL DECISION

United Kingdom Accreditation Service v. 金承钰 (jinchengyu)
Case No. D2022-0041

1. The Parties

Complainant is United Kingdom Accreditation Service, United Kingdom, represented by Mills & Reeve LLP, United Kingdom.

Respondent is 金承钰 (jinchengyu), China.

2. The Domain Name and Registrar

The disputed domain name (the “Domain Name”) <ukas.net> is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2022. On January 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on January 7, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on January 10, 2022.

On January 7, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant requested that English be the language of the proceeding on January 10, 2022. Respondent did not comment on the language of the proceeding.

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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on January 13, 2022. In accordance with the

Rules, paragraph 5, the due date for Response was February 2, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 3, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on February 7, 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

Complainant is United Kingdom Accreditation Service ("UKAS"), an English company based in the United Kingdom, which is the sole national accreditation body for the United Kingdom ("UK"), generally known and referred to as "UKAS". It is recognised by the UK Government to assess the competence and integrity of organisations that provide conformity assessment services (such as certification, testing, inspection, calibration and verification) against national and international standards. UKAS is appointed as the national accreditation body for the UK under UK law. It operates under a Memorandum of Understanding with the UK Government through the Secretary of State for Business, Energy and Industrial Strategy ("BEIS"). UKAS is licensed by BEIS to use and confer the national accreditation symbols which certify government accreditation of the accreditation process.

Complainant UKAS is also a member of international accreditation groups. In the financial year 2020-2021, UKAS received 628 applications for accreditation, delivered 27,448 assessment days and maintained the accreditation of almost 2,600 organisations.

Complainant is the registered proprietor of UK trademark UK00002056067 comprising a series of six marks, namely UKAS, U.K.A.S., Ukas, U.k.a.s., ukas and u.k.a.s registered on June 6, 1997 in Class 42 for accreditation of certification bodies and of laboratories (collectively "UKAS trademarks"). Complainant also owns the website "www.ukas.com" which is used to promote and provide information regarding UKAS and its services.

The Domain Name was registered on December 12, 2005. At the time of filing of the Complaint, the Domain Name directs to a website which predominantly duplicates the content of the webpages of Complainant's UKAS Website. At the time of the Decision, the Domain Name reverts to an error page.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Name is identical and confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for UKAS and owns domain names incorporating the UKAS trademarks. Complainant contends Respondent registered and is using the Domain Name to confuse Internet users looking for *bona fide* and well-known UKAS products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring the Domain Name and setting up the website, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Procedural Issue – 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.

Complainant submitted its original Complaint in English. In its email dated January 10, 2022 and its amended Complaint, Complainant requests that the language of the proceeding be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant contends that it is an English-speaking entity based in and operates from the United Kingdom, whose rights have been infringed by Respondent's registration and use of the Domain Name, which consists exclusively of the word "UKAS", which is the acronym of Complainant's full name which is an English name. Complainant also contends that the Domain Name reverts to a website with content in English, which suggests Respondent's familiarity with English. In particular, Complainant contends that the website connected to the Domain Name was until late December 2021/early January 2022 an unauthorised reproduction of a substantial part of Complainant's website at "www.ukas.com" which is in English. Complainant contends that this indicates that Respondent is familiar with English.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, 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 Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint and amended Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response. Further, the Panel notes that the Domain Name was registered using Latin characters, and the website which the Domain Name resolved to is also in English.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English is the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to formally respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of their rights in the UKAS trademarks, as noted above. Complainant has also submitted evidence, which supports that the UKAS trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the UKAS trademarks.

With Complainant's rights in the UKAS trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".net"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is identical to Complainant's UKAS trademarks. These trademarks, which are fanciful and inherently distinctive, are recognizable in the Domain Name.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and the UKAS trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the UKAS trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with or commonly known by the UKAS trademarks.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that at the time of filing the Complaint, the Domain Name resolved to a website which predominantly duplicates the content of Complainant's UKAS website and purportedly offer services related to Complainant's or as a business and services authorised and approved of by Complainant, using Complainant's UKAS trademark. At the time of the Decision, the Domain Name reverts to an error page.

Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#). Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Name.

Further, the nature of the Domain Name, being identical to Complainant's UKAS mark, carries a risk of implied affiliation with Complainant (see [WIPO Overview 3.0](#), section 2.5.1). Moreover, as regards the prior use of the Domain Name to direct to a website which predominantly duplicates the content of Complainant's UKAS Website, such use does not confer rights or legitimate interests and further reinforces the intent to mislead Internet users via Complainant's trademarks.

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Panel finds that Complainant provided ample evidence to show that registration and use of the UKAS trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's UKAS trademarks and related services are widely known and recognized. Therefore, and also noting the composition of the Domain Name itself, Respondent was likely aware of the UKAS trademarks when it registered the Domain Name, or knew or should have known that the Domain Name was identical to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith.

See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's UKAS trademark suggests Respondent's actual knowledge of Complainant's rights in the UKAS trademark at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that at the time of filing the Complaint, the Domain Name resolved to a website which predominantly duplicates the content of Complainant's UKAS website and purportedly offer services related to Complainant's or as a business and services authorised and approved of by Complainant, using Complainant's UKAS trademark. Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Name.

At the time of the Decision, the Domain Name reverts to an error page. The Panel finds that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

Lastly, in the present circumstances, including the distinctiveness and reputation of the UKAS trademarks, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the Domain Name may be put, support a finding of bad faith. Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of 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 Domain Name, <ukas.net>, be transferred to Complainant.

/Kimberley Chen Nobles/
Kimberley Chen Nobles
Sole Panelist
Date: February 14, 2022