

ADMINISTRATIVE PANEL DECISION

ABB ASEA Brown Boveri LTD. v. Yinsijun

Case No. D2022-0188

1. The Parties

The Complainant is ABB ASEA Brown Boveri LTD., Switzerland, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is yinsijun, China.

2. The Domain Name and Registrar

The disputed domain name <ae-abb.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2022. On January 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 21, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 21, 2022, 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 on January 24, 2022.

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 of the Complaint, and the proceedings commenced on January 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2022.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on March 1, 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 an international company headquartered in Zurich, Switzerland, created in 1988, as a result of a merger of two companies (the Swedish ASEA AB, founded more than 130 years ago as “Elektriska Aktiebolaget”, and the Swiss BBC Brown Boveri AG). The Complainant is a global leader in power and automation technologies, operating in more than 100 countries and having approximately 105,000 employees. Per the Complaint, the Complainant’s annual revenue exceeded USD 7 billion in Q3, 2021, and its shares are traded on the stock exchanges of Zurich, Stockholm, and New York.

The Complainant is registered owner of numerous trademark registrations for ABB and ABB variant marks, in many jurisdictions around the world, including in China (where the Respondent allegedly resides according to the Registrar verification) and the United Arab Emirates, *inter alia*:

- International Trademark Registration No. for 781685 ABB word mark, registered on March 27, 2002, in classes 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 25, 26, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;
- Chinese Trademark Registration No. 3820287 for ABB word mark, registered on March 21, 2011, in class 24;
- Chinese Trademark Registration No. 3820379 for ABB figurative mark, registered on March 21, 2011, in class 24;
- United Arab Emirates Trademark Registration No. 10686 for ABB figurative mark, registered on July 14, 1997, in class 7; and
- United Arab Emirates Trademark Registration No. 10687 for ABB figurative mark, registered on July 14, 1997, in class 9, (collectively, the “ABB mark”).

Prior UDRP decisions under the Policy have recognized the international well known character of the ABB mark.¹

The Complainant further owns numerous domain names comprising its ABB mark, under various generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”), including <abb.com> (registered on February 27, 1990), which resolves to the Complainant’s main corporate website under <global.abb> (registered on October 3, 2019).

The disputed domain name was registered on September 14, 2021, and it resolves to a website in Chinese language that features pornographic or adult content.

¹ See, e.g., *ABB Asea Brown Boveri Ltd. v. Quicknet*, WIPO Case No. D2003-0215; *ABB Asea Brown Boveri Ltd. v. sevenstar sevenstar sevenstar*, WIPO Case No. D2007-1459; *ABB Asea Brown Boveri Ltd. v. A.B.B Transmission Engineering Co., Ltd.*, WIPO Case No. D2007-1466; *ABB Asea Brown Boveri Ltd. v. Alexander Schiesser*, WIPO Case No. D2009-0829; *ABB Asea Brown Boveri Ltd v. PrivacyProtect.org/Venkateshwara Distributor Private Limited, Caas Serviced Office solutions*, WIPO Case No. D2010-1635; *ABB Asea Brown Boveri Ltd. v. Abbey / Abbey Corporation*, WIPO Case No. D2014-1058; *ABB Asea Brown Boveri Ltd. v. Sahriar*, WIPO Case No. D2018-0488.

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

Due to extensive long-term use and investment, the ABB mark has become a well-established trademark within the areas of power and automation technology internationally.

The disputed domain name is confusingly similar to the Complainant's trademark. The disputed domain name incorporates the ABB mark in its entirety, adding the letters "ae", which are the short abbreviation for "Arab Emirates" or more specifically the "United Arab Emirates" ("UAE"), where the Complainant has 32 office locations. For this region, the Complainant has specific sites ("www.new.abb.com/middle-east" and "www.aseabrownboveri.ae"), which currently redirects to the Complaint's main website "www.global.abb". The addition of a hyphen does nothing to distinguish the disputed domain name from the ABB mark, and the applicable gTLD ".com" is a standard registration requirement, and, as such, is disregarded under the first element confusing similarity test.

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, has not been authorized to use the ABB mark, and is not commonly known by the disputed domain name. The Registrar's verification identifies the Respondent as "yinsijun", which does not resemble the disputed domain name. The Respondent is using the disputed domain name (which is confusingly similar to the ABB mark) to redirect Internet traffic to a website that features sexually explicit and pornographic material, which cannot be considered a *bona fide* offering of goods or services.

The disputed domain name was registered and is been used in bad faith. The ABB mark is known internationally, and the Complainant has marketed and sold its goods and services using this trademark since 1988, well before the Respondent's registration of the disputed domain name. The Respondent knew or should have known of the existence of the Complainant's trademarks, and that registration of the disputed domain name containing its well known trademark constitutes bad faith. Performing searches over a number of Internet search engines for the term "ae abb" returns multiple links referencing to the Complainant and its business. The disputed domain name has been registered and used with the intention to generate confusion among Internet users to generate traffic to the Respondent's website.

The Complainant sent a cease and desist letter (on October 22, 2021) and various subsequent reminders (on November 1, 2021 and November 12, 2021, respectively) to the Respondent (through the Registrar). The Complainant received no reply to these communications from the Respondent.

The Complainant has cited previous UDRP decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy, and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material, and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the ABB mark, both by virtue of its trademark registrations and as a result of its global goodwill and reputation in the field of power and automation technologies.

The disputed domain name incorporates the ABB mark in its entirety, preceded by the letters “ae” separated by a hyphen. The Complainant’s trademark is recognizable in the disputed domain name and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11.1 of the [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that demonstrating a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is primarily, if not exclusively, within the respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The Complainant’s above-noted assertions and evidence in this case effectively shift the burden of production to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case. However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation or evidence of rights or legitimate interests in the disputed domain name.

The Panel notes that the ABB mark consists of three letters, and the disputed domain name reproduces this trademark adding two more letters separated by a hyphen. In this respect, the Panel notes that the consideration that the disputed domain name may refer to an acronym incorporating coincidentally the ABB mark does not confer automatically by itself rights or legitimate interests to the Respondent. For the Respondent to have rights or legitimate interests in the disputed domain name, it would be necessary evidence supporting an explanation for the registration and use of the disputed domain name for a credible and legitimate intent that would not capitalize on the reputation and goodwill inherent in the Complainant’s trademark. See section 2.10 of the [WIPO Overview 3.0](#).

The Panel, however, notes that the disputed domain name incorporates the Complainant’s trademark in its entirety, preceded by the letters “ae” separated by a hyphen, which is a common abbreviation of the geographical term “Arab Emirates”, where the Complainant operates more than 30 office locations. The Panel considers that the letters “ae” do not avoid the implied affiliation (and risk of confusion) with the Complainant and its trademark, giving the impression that the disputed domain name may be referred to a new specific website owned and/or operated by the Complainant or by any business related company for the United Arab Emirates.

The Panel further considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in the disputed domain name, not being authorized to use the ABB mark, and there is no evidence that suggests that the Respondent is commonly known by the disputed domain name. In this respect, the Panel notes that the Respondent’s name has no resemblance with the terms “ae-abb” or “abb”.

The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has further corroborated that the Respondent does not own any trademark registration for any mark including or consisting of “abb”, “aeabb”, or “ae-abb”. In this respect, the Panel has consulted the Global Brand Database searching for any trademark owned by any individual called “Yin Sijun” that includes or consists of the terms “abb”, “aeabb”, or “ae-abb”, finding none.

The Panel has further corroborated that, according to the Complainant’s allegations, the disputed domain name is used to resolve to a website in Chinese language displaying adult content, and displaying various links to other websites of similar content, none of which contain any reference to the acronyms “abb”, “aeabb”, or “ae-abb”.

Furthermore, the Panel considers remarkable that the Respondent has chosen not to reply to the cease and desist letter (and subsequent reminders), or to the Complaint.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant’s *prima facie* case, and nothing in the case file gives reason to believe, in a balance of probabilities, that the Respondent has or has had any rights or legitimate interests in respect of the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

The Panel notes the well known character worldwide of the ABB mark, particularly in the field of power and automation technologies, which has been recognized by previous decisions under the Policy.²

The Panel further notes the extensive use over the Internet of the ABB mark. The ABB mark has been extensively and continuously used over the Internet at least since October 23, 1996. The Panel, under its general powers, has consulted the Internet web archive WayBackMachine regarding the Complainant’s website “www.abb.com”.

The Panel has further corroborated that the Complainant operates under its ABB mark in many jurisdictions, including China, where the Respondent is apparently located according to the Registrar verification. In this respect, the Panel, under its general powers, has conducted various searches over the Internet and consulted the Complainant’s main website “www.global.abb”.

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the disputed domain name incorporates the Complainant’s trademark adding a combination of letters that are commonly used as an abbreviation of a geographical term, existing an intrinsic likelihood of confusion;
- (ii) the Complainant and its trademark are well known, and the Complainant operates internationally, including in China (where the Respondent is apparently located according to the Registrar verification);
- (iii) any investigation over the Internet for the term “abb”, or for the term “ae-abb”, yield results related to the Complainant;

² See footnotenumber 1, *supra*.

(iv) according to the evidence provided by the Complainant, the disputed domain name has been linked to a website of adult content including various links to third parties' websites of similar pornographic content; and

(v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the cease and desist letter (and subsequent reminders) or to the Complaint.

The Panel considers highly unlikely that the Respondent was not aware of the Complainant and its ABB mark in circumstances that a simple Internet search for the term "abb" or for the term "ae-abb" would have brought them up. As a result and for all the reasons noted above, the Panel finds that in all likelihood and on the balance of probabilities, the disputed domain name was registered with knowledge of the Complainant's prior rights, targeting these rights with the intention of free riding on the established reputation of the Complainant's trademarks, in bad faith. All circumstances in this case indicate that the Respondent has intentionally attempt to mislead Internet users, in order to generate traffic to his website with a commercial purpose.

In light of the above, taking into consideration all cumulative circumstances of this case, on the balance of probabilities, the Panel concludes that the Complainant has met its burden of establishing that the disputed domain name has been registered and is being used in bad faith under paragraph 4(a)(iii) 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, <ae-abb.com>, be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: March 15, 2022