

ADMINISTRATIVE PANEL DECISION

Wisdom Audio Corp. v. Ace View and Xue Guo Qiang, PT. Wisdom Indonesia
Sejahtera

Case No. D2022-0711

1. The Parties

The Complainant is Wisdom Audio Corp., United States of America (“United States”), represented by Polson Intellectual Property Law, United States.

The Respondent¹ is Ace View, Indonesia; Xue Guo Qiang, Indonesia; and PT. Wisdom Indonesia Sejahtera, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <wisdom-proaudio.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2022. On March 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2022, 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.

The Center verified that 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 proceeding commenced on March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2022. The Respondent did not submit any response by the specified due date. Accordingly, the Center notified the Respondent’s default on March 30, 2022. A late


¹ For reasons explained in section 6.1 below, the Panel will refer to the Respondents collectively as “the Respondent” unless it is necessary to refer to them separately.


Response was filed by the Respondent “Xue Guo Qiang, PT. Wisdom Indonesia Sejahtera” with the Center on March 31, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on April 20, 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

A. Complainant


The Complainant is a company incorporated in the State of Nevada in the United States and a manufacturer and seller since 1997 of professional audio equipment under the trade marks Wisdom, Wisdom Audio, and the W design mark  (the “Trade Mark(s)”).

The Complainant is the owner of United States registration No. 2,247,419 for the Trade Mark WISDOM, with a registration date of May 25, 1999; International registration No. 1021432 for the Trade Mark WISDOM, with a registration date of October 1, 2009; and United States registration No. 3,168,297 for the W design mark,  with a registration date of November 7, 2006.

The Complainant has also owned and used the domain name <wisdomaudio.com> to promote its products under the Trade Marks continuously since September 29, 1997.

The Complainant has authorized distributors/dealers in Andorra, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Columbia, the Czech Republic, Finland, France, Germany, Hong Kong, China, Hungary, India, Indonesia (where the Respondent is based), Ireland, Israel, Italy, Liechtenstein, Luxembourg, Macao, China, Malaysia, Monaco, the Netherlands, Nigeria, Norway, Pakistan, Poland, Portugal, the Russian Federation, Singapore, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, Ukraine, the United Arab Emirates and the United Kingdom.

B. Respondent

The Respondent “PT. Wisdom Indonesia Sejahtera” is an entity doing business in Indonesia. The Respondent “Xue Guo Qiang”, an individual, is apparently the owner of the Respondent PT Wisdom Indonesia Sejahtera, and is the owner of Indonesian registration No. IDM000085586 for the trade mark WISDOM, with a registration date of August 29, 2006, and Indonesian registration No. IDM000573712 for the trade mark WISDOM & LOGO  , with a registration date of April 6, 2017.²

The Respondent “Ace View” was also the respondent in previous (uncontested) proceedings under the Policy in respect of the domain name <wisdom-audio.com> (*Wisdom Audio Corporation v. Ace View*, WIPO Case No. [D2015-1900](#), the “adverse decision”) in which it was ordered, on December 1, 2015, that the domain name <wisdom-audio.com> be transferred to the Complainant.

C. The Disputed Domain Name

The disputed domain name was registered on December 18, 2015.

² The Respondent “Xue Guo Qiang” provided evidence regarding his ownership of Indonesian registration No. IDM000085586. According to the Panel’s independent search, the Panel notes that he also owns Indonesian registration No. IDM000573712 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8).

D. Website at the Disputed Domain Name

The disputed domain name is resolved to an English and Indonesian language website promoting professional sound and lighting services, and featuring prominently the WISDOM, and W design Trade Marks, and a copyright notice “COPYRIGHTED (C) WISDOM AUDIO 2021, PROFESSIONAL SOUND SYSTEM, LIGHTING AND EQUIPMENT” (the “Website”).

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar or identical to the Trade Marks, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent “Ace View” did not file any response.

The late Response, which has been summarized under Section 6.3.B., was signed by Xue Guo Qiang as “owner” with a company stamp “PT. WISDOM INDONESIA SEJAHTERA”.

6. Discussion and Findings

6.1. Respondent’s Identity

“Respondent” is defined in paragraph 1 of the Rules as “the holder of a domain-name registration against which a complaint is initiated”.

The Panel has the discretion to determine the respondent against which the case should proceed (see section 4.4.5 of the [WIPO Overview 3.0](#)).

In the present proceeding, according to the Whois record, the holder of the disputed domain name is Ace View.

The late Response was sent from an email address provided in the Complaint as the Respondent’s contact details. The Response was signed by Xue Guo Qiang, personally, as the “owner” of PT. Wisdom Indonesia Sejahtera.

Although none of the Respondents’ names feature on the Website, Xue Guo Qiang and PT. Wisdom Indonesia Sejahtera refer to, and rely upon, the Website in the late Response.

The above matters suggest that, although the actual registrant of the disputed domain name is Ace View, the beneficial owners of the disputed domain name are Xue Guo Qiang and PT. Wisdom Indonesia Sejahtera.

Accordingly, in all the circumstances, the Panel concludes that the Respondents in this proceeding shall be Ace View, Xue Guo Qiang, and PT. Wisdom Indonesia Sejahtera.

6.2. Late Filing of Response

The late Response was filed with the Center one week after the deadline for filing of the Response had expired.

The Policy and the Rules do not expressly permit the late filing of a response, except as may be specifically requested by a panel.

Paragraph 10 of the Rules does however provide the Panel with a broad discretion to permit the late filing of a response in exceptional circumstances. The relevant, countervailing, considerations are set out in subparagraphs 10(a) to 10(d) of the Rules as follows:

- (a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.
- (b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.
- (c) The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel.
- (d) The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

The Respondent's submissions in support of its late filing of the Response are as follows:

- (i) Weakness in English communication;
- (ii) Lack of knowledge in legal certainty regarding domain name cases, "because this is the first experience we have faced";
- (iii) Responses from third parties, companies that we consulted about this problem, namely to ignore emails from the Center, "because there are many cases like this and they are considered lies".

The Panel does not find the Respondent's submissions in support of its late filing convincing. However, in all the circumstances, and taking into account the period of the delay, and the lack of prejudice to the Complainant in light of the Panel's findings in this Decision, the Panel determines, exceptionally, that it will allow the late filing of the Response in this proceeding.

6.3. Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark WISDOM acquired through use and registration; and in the Trade Mark WISDOM AUDIO acquired through use.

The disputed domain name incorporates the entirety of, and consists of dominant features of, the Trade Marks WISDOM and WISDOM AUDIO – together with "pro", the commonly used abbreviation for "professional", which does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), sections 1.7 and 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Marks WISDOM and WISDOM AUDIO.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Marks. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent relies upon Indonesian trade mark registration No. IDM000085586, registered in the name of Xue Guo Qiang, for the trade mark WISDOM, with a registration date of August 29, 2006. It was asserted specifically in the late Response as follows:

- (i) Our company has been operating the Wisdom professional audio system since 2000. Then, the Internet became popular.
- (ii) We use Internet access, through website media, we use it to promote the performance of the products we market.
- (iii) The application site also complies with all laws and regulations, our official website address is "www.wisdom-proaudio.com".
- (iv) We will use our website address continuously to promote our products.
- (v) We also have a patent licence for our trademark, namely WISDOM.
- (vi) As proof that we have a trademark license, we will attach it as an attachment to this letter.

The Respondent made no mention in the late Response of the additional Indonesian trade mark registration No. IDM000573712 registered also in the name of Xue Guo Qiang, for the device mark containing a sign identical to the Complainant's W design Trade Mark.



The Respondent Xue Guo Qiang claims to be the owner of the Respondent PT. Wisdom Indonesia Sejahtera. However, neither of these names are featured on the Website, and the name used in the copyright notice on the Website is "Wisdom Audio".

In all the circumstances, the Panel finds that the Respondent's trade mark registrations in Indonesia do not give rise to rights or legitimate interests for the purposes of the Policy, as all the circumstances demonstrate that Xue Guo Qiang obtained such rights, without any authorisation or approval from the Complainant, in order primarily to circumvent the application of the Policy or otherwise to prevent the Complainant from exercising its rights, in particular, in Indonesia (see [WIPO Overview 3.0](#), section 2.12.2). In this regard, the Panel notes the undisputed evidence that the Complainant's authorized distributor in Indonesia is not the Respondent.

The Respondent is not an authorised dealer or distributor of the Complainant's professional audio products.

The Respondent does not dispute the Complainant's evidence that it has been using the Complainant's Trade Marks prominently on the Website, without the authorization or approval of the Complainant, in order to promote the audio products and services.

There has been no evidence adduced to show that the Respondent is using the disputed domain name for a *bona fide* offering of goods or services; there has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to

show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In light of the Panel's findings in Section 6.3.B. above, the Panel finds that the requisite element of bad faith registration and use has been made out, under paragraph 4(b)(iv) of the Policy.

The Panel finds that, in all the circumstances, the Respondent has registered and used the disputed domain name in bad faith, in order to pass off the Respondent as the Complainant or its authorized distributor in the Indonesian market. In particular, the content of the Website and the copyright notice on the Website demonstrate that the Respondent has deliberately targeted the Complainant and its Trade Marks in registering and using the disputed domain name.

The Respondent's failure to address at all in its late Response, the adverse decision against it in respect of the domain name <wisdom-audio.com>, coupled with the false assertion that "this is the first experience we have faced", provides further strong evidence in support of a finding of bad faith. The Panel also accepts the uncontested assertion of the Complainant, that the Respondent registered and commenced using the disputed domain name within three weeks after the adverse decision in respect of the domain name <wisdom-audio.com>, and that the Website is essentially identical to the previous website used by the Respondent in connection with the domain name <wisdom-audio.com>.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith, and that the Complainants have satisfied 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 <wisdom-proaudio.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: May 18, 2022