

## **ADMINISTRATIVE PANEL DECISION**

Fédération Internationale de Football Association (FIFA) v. 曹伟 (Caowei)  
Case No. D2022-0845

### **1. The Parties**

The Complainant is Fédération Internationale de Football Association (FIFA), Switzerland, represented by Corsearch B.V., Netherlands.

The Respondent is 曹伟 (Caowei), China.

### **2. The Domain Name and Registrar**

The disputed domain name <fifa.plus> is registered with Xiamen ChinaSource Internet Service Co., Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2022. 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 March 14, 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.

On March 15, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On March 16, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on March 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 25, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 2, 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 the international governing body of association football (also known as “soccer”) founded in 1904. Its membership comprises 221 national associations. The Complainant organizes major international tournaments of association football, including the FIFA World Cup. According to evidence submitted by the Complainant, the most recent FIFA World Cup tournament, held in 2018, received 6.5 billion views on China Network Television (a Chinese web-based television broadcaster) and a combined further 6.9 billion views on Migu Video and Youku (two Chinese digital sublicensees). The Complainant owns multiple trademark registrations in multiple jurisdictions, including international trademark registration number 633108 for FIFA, registered on February 22, 1995, designating multiple jurisdictions, including China, and specifying goods in classes 25 and 28. That trademark registration remains current. The Complainant has also registered multiple domain names, including <fifa.com>, registered on August 9, 1995, that it uses in connection with a website where it provides information about its activities and events.

The Respondent is an individual resident in China. According to information provided by the Complainant, several panels in prior proceedings under the Policy have found that the Respondent registered and was using other domain names in bad faith, including <medtronic.tech>, <michelin.ren>, <perrier.tech>, <telefonica.tech>, <unilever.shop>, and <verizon.tech>.

The disputed domain name was registered on February 19, 2020. It does not resolve to any active website but is offered for sale on at least one broker’s website for USD 3,999.

The Complainant sent a cease-and-desist letter to the Respondent on December 14, 2021.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain name is identical to the FIFA mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized, licensed or otherwise permitted the Respondent to use the FIFA mark in the disputed domain name or for any other purpose. The disputed domain name is passively held. The Respondent has not been commonly known by the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Complainant’s trademarks and active international presence make it unlikely that the Respondent was unaware of the Complainant at the time that he registered the disputed domain name. The Respondent has been engaged in an abusive pattern of domain name registrations. The passive holding of the disputed domain name does not prevent a finding of bad faith. The Respondent is offering the disputed domain name for an amount exceeding out-of-pocket costs directly related to it.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 6.1 Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative 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”. The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name is in Latin script; the Respondent has been a party to multiple proceedings under the Policy in which the language of the proceeding was English; and conducting this proceeding in Chinese would impose significant translation expenses and a significant and undue burden on the Complainant.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint in this proceeding was filed in English. Despite the Center having sent an email regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

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

### 6.2 Analysis and Findings

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.

#### A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the FIFA mark.

The disputed domain name wholly incorporates the FIFA mark as its operational element. Its only additional element is a generic Top-Level Domain (“gTLD”) extension (“.plus”). As a standard requirement of domain name registration, a gTLD extension may be disregarded in the comparison between the disputed domain name and the Complainant’s trademark for the purposes of the first element in paragraph 4(a) of the Policy.

Therefore, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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 trademark 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 trademark or service mark at issue.

The Complainant submits that it has not authorized, licensed or otherwise permitted the Respondent to use the FIFA mark in the disputed domain name or for any other purpose.

As regards the first circumstance set out above, the disputed domain name does not resolve to any active website. The disputed domain name is not being used in connection with a *bona fide* offering of goods or services and there is no evidence on the record of any preparations to do so.

As regards the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as "曹伟 (Caowei)", not the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name.

As regards the third circumstance set out above, the disputed domain name does not resolve to any active website but it is offered for sale on a broker's website for USD 3,999. Given that the disputed domain name is identical to the FIFA mark, it carries a high risk of implied affiliation. Nothing indicates that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name for the purposes of the Policy.

In view of the above circumstances, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complainant's contentions.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

## C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The first circumstance is as follows:

- (i) circumstances indicating that [the respondent has] registered or [the respondent has] 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 [the respondent's] documented out-of-pocket costs directly related to the [disputed] domain name;

As regards registration, the disputed domain name was registered in 2020, years after the Complainant obtained registration of its FIFA mark, including in China, where the Respondent is resident. The Complainant's FIFA mark has a strong reputation in China due to the Complainant's extensive use of its

mark in that country, including in connection with the FIFA World Cup. The Panel notes that the disputed domain name may have an inherent appeal as a short combination of letters but, on the other hand, the Respondent has registered in bad faith several other domain names that, like the disputed domain name, wholly incorporate third party brand names, plus a gTLD extension, which constitutes a pattern of abusive domain name registrations. The Respondent provides no explanation of his registration of the disputed domain name. In view of these circumstances, the Panel infers that the Respondent knew, or should have known, of the Complainant's trademark at the time at which he registered the disputed domain name.

As regards use, the disputed domain name does not resolve to any active website but it is being offered for sale for USD 3,999 on a broker's website. This offering is presumably authorized by the Respondent as the disputed domain name holder and the Respondent does not submit otherwise. The Panel considers that this asking price very likely exceeds the Respondent's out-of-pocket costs directly related to the disputed domain name. Accordingly, the Panel finds that the circumstances of this case fall within those envisaged by paragraph 4(b)(i) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in 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 disputed domain name <fifa.plus> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: May 16, 2022