

ADMINISTRATIVE PANEL DECISION

Massachusetts Financial Services Company v. 王先生 (Wang Xian Shen)
Case No. D2022-1691

1. The Parties

The Complainant is Massachusetts Financial Services Company, United States of America (“United States”), represented by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., United States.

The Respondent is 王先生 (Wang Xian Shen), China.

2. The Domain Name and Registrar

The disputed domain name <mfsinvest.com> (the “Disputed Domain Name”) is registered with Hongkong Domain Name Information Management Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 10, 2022. On May 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 16, 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 May 16, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 16, 2022, the Complainant submitted 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 May 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2022.

The Center appointed Kar Liang Soh as the sole panelist in this matter on June 22, 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 was one the first mutual funds ever established in the United States way back in 1924. The invention of mutual funds made the stock market accessible to the average investor. Since at least 1969, the Complainant became commonly known as “MFS” and has been using this acronym as a trademark since then for its financial products and services worldwide. As of March 31, 2022, the Complainant manages more than USD 636.9 billion in client assets.

The Complainant owns trademark registrations for MFS around the world, including:

Jurisdiction	Trademark no.	Registration date
United States	1,233,922	April 5, 1983
China	6129715	November 28, 2011

The Complainant has also registered various derivative trademarks around the world incorporating the acronym “MFS” and various domain names including <mfs.com>, <mfsfunds.org>, <529mfs.com>, <intromfs.com>, <mfs529.com>, and <investmfs.com>, <mfs.com> was registered on July 23, 1994.

The Respondent appears to be an individual. Little is known about the Respondent beyond the Complainant and the Registrar’s verification in this proceeding. The Respondent’s name on record is incomplete and simply stated as Mr. Wang in Chinese. The Respondent’s various contact particulars on record (address, and facsimile number) were found to be invalid when attempts to communicate with the Respondent via these details were made. The Respondent is the respondent of various previous complaints under the Policy, including:

- *Ferring B.V. v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2022-0540](#);
- *Flunch v. 王先生 (wang xian sheng)*, WIPO Case No. [D2022-0066](#);
- *Bulgari S.p.A. v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-3423](#);
- *Natixis Investment Managers v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-3916](#);
- *Compagnie Générale des Etablissements Michelin v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-2583](#);
- *Palfinger AG v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-3926](#);
- *Breitling SA v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2022-0387](#); and
- *Arthur Metz v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-4344](#).

The Disputed Domain Name was registered on March 21, 2022. On or about April 28, 2022, the Disputed Domain Name resolved to a website which featured pornographic content and prominent advertising banners which redirect visitors to online pornography, gaming, and gambling websites. The word “mfsinvest” did not appear anywhere on the homepage of the website.

5. Parties’ Contentions

A. Complainant

The Complainant contents that:

- 1) The Disputed Domain Name is identical or confusingly similar to the Complainant’s trademark MFS. It comprises a name identical to the trademark MFS plus a generic word describing the exact services that the Complainant provides;

2) The Respondent has no rights or legitimate interests with respect to the Disputed Domain Name. The Respondent registered the Disputed Domain Name without authorization. The Respondent did not use or make demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. The Respondent is not commonly known by the Disputed Domain Name. The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers; and

3) The Disputed Domain Name was registered and is being used in bad faith. The trademark MFS has been in continuous use for over 50 years and is well known. The term “invest” in the Disputed Domain Name describes the Complainant’s services. The Respondent was aware of the Complainant and the trademark MFS when he registered the Disputed Domain Name. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s trademark MFS as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

B. Respondent

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

6. Discussion and Findings

6.1 Language of Proceeding

The Registrar has verified that the language of the Registration Agreement is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or unless specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the Panel’s authority to determine otherwise, having regard to all the circumstances.

Having considered the Complainant’s request and the relevant circumstances, the Panel determines that English shall be the language of the proceeding. In coming to this determination, the Panel has taken into account the following factors:

- 1) The Complaint has already been submitted in English;
- 2) The Respondent has neither objected to the Complainant’s request for English to be the language of the proceeding nor responded to the Complaint;
- 3) The Panel is mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Since the Respondent has opted not to participate in this proceeding, there is no procedural benefit in requiring the proceeding to be conducted in Chinese. Additionally, requiring so would place the burden of unnecessary translation costs on the Complainant and cause pointless delay to the proceeding;
- 4) The Panel is bilingual in both English and Chinese and could have dealt with a Response submitted in Chinese; and
- 5) The Respondent was involved in many previous UDRP proceedings in which English was determined to be the language of proceeding (e.g., *Ferring B.V. v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2022-0540](#); *Bulgari S.p.A. v. 王先生 (Wang Xian Sheng)*, WIPO Case No. [D2021-3423](#); *Flunch v. 王先生 (wang xian sheng)*, WIPO Case No. [D2022-0066](#)).

It is noted that the Disputed Domain Name incorporates the English word “invest”. As much as this could suggest that the Respondent has knowledge of at least one English word, this fact is far from suggesting that

Respondent understands English as a language or is able to communicate adequately in English. However, even without taking into account this fact, the Panel is satisfied that the present circumstances and the factors highlighted above are sufficient to justify a determination of English as the language of this proceeding.

6.2 Discussion

The Complainant must establish that the circumstances fall within the three limbs of paragraph 4(a) of the Policy to succeed in this proceeding:

- 1) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- 3) The Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

In view of the Complainant's registrations for the trademark MFS, the Panel is satisfied that the Complainant has rights in the trademark MFS. The Disputed Domain Name incorporates the trademark MFS in its entirety. The only difference between the Disputed Domain Name and the trademark MFS is the addition of the term "invest" which refers to the Complainant's services to the Disputed Domain Name. Disregarding the ".com" generic Top-Level Domain, in accordance with the established consensus of past UDRP panels as documented at section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel is of the view that the addition of the term "invest" does not prevent a finding of confusing similarity with the Complainant's trademark MFS. The Panel holds that the first limb of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel notes the Complainant's assertion that the Respondent registered the Disputed Domain Name without the Complainant authorization. There is no evidence in this proceeding to suggest that the Respondent is commonly known by the Disputed Domain Name, or has used or made any preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services, or that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain. The evidence instead points to the fact that the Disputed Domain Name is being used to direct Internet users to gaming, gambling, and pornographic content on the Internet, which the Panel does not doubt on the face to be commercially driven. The Panel is of the view that the Complainant has demonstrated a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name, which has not been rebutted by the Respondent in this proceeding. Accordingly, the second limb of paragraph 4(a) of the Policy is also established.

C. Registered and Used in Bad Faith

The trademark MFS has been in continuous use for over 50 years and is well known. The term "invest" in the Disputed Domain Name describes the Complainant's services. The Respondent was aware of the Complainant and the trademark MFS when he registered the Disputed Domain Name. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark MFS as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

In view of the trademark rights of the Complainant, and the long history of the Complainant's business operations around the world, and the addition of the term "invest" to the Disputed Domain Name, the Panel

finds it implausible that the Respondent could not have known of the Complainant and its trademark MFS when registering the Disputed Domain Name.

Paragraph 4(b)(iv) of the Policy provides an example of bad faith registration and use which is highly instructive in the circumstances of this proceeding:

"[b]y using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel notes that the Disputed Domain Name resolves to a website that featured links to content clearly targeted for commercial gain. There is nothing on the website that could explain the Respondent's selection of the Disputed Domain Name. The word "mfsinvest" does not even appear in the content of the website. As such, there is an inevitable inference that the incorporation of the trademark MFS in the Disputed Domain Name must have been to further the Respondent's intention to attract Internet users to the website resolved from the Disputed Domain Name by creating a likelihood of confusion with the trademark MFS as to source, sponsorship, affiliation, or endorsement. On the evidence, the Panel is satisfied that the circumstances fall within the form of bad faith registration and use exemplified by paragraph 4(b)(iv) of the Policy.

In addition, paragraph 4(b)(ii) of the Policy states:

"[y]ou 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."

The number of previous UDRP complaints against the Respondent is considerable. The Panel was recently appointed in another complaint against the Respondent (*Fendi S.r.l. v. 王先生 (wang xian sheng)*, WIPO Case No. [D2022-1681](#)). These past UDRP cases clearly establish the Respondent's clear pattern of conduct in registering domain names that have prevented third-party trademark owners from reflecting their trademarks in corresponding domain names as another basis for a finding of bad faith registration and use of the Disputed Domain Name.

The Panel's findings are further corroborated by the fact that the Respondent provided an incomplete name of just "Mr. Wang", which cannot genuinely be a full disclosure of his name, he has provided invalid contact details which prevents him from being traced. The suggestion that the Respondent wishes to be untraceable for his activities via the Dispute Domain Name is too strong to be ignored.

In the circumstances, the Panel holds that the Disputed Domain Name is registered and is being used in bad faith and the third limb of paragraph 4(a) of the Policy is also established.

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, <mfsinvest.com>, be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: July 17, 2022