

## **ADMINISTRATIVE PANEL DECISION**

Nubridge Publishing Limited v. 吴桂波 (guibo wu)  
Case No. D2022-1760

### **1. The Parties**

Complainant is Nubridge Publishing Limited, United Kingdom, represented internally.

Respondent is 吴桂波 (guibo wu), China.

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

The disputed domain name <languagesangels.com> is registered with West263 International Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 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 Complainant on May 17, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on May 17, 2022.

On May 17, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 18, 2022, Complainant submitted its request that English be the language of the proceeding. Respondent did not comment on the language of the proceeding.

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 Respondent in Chinese and English of the Complaint, and the proceedings commenced on June 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2022. Respondent did not submit any

response. Accordingly, the Center notified Respondent's default on July 4, 2022.

The Center appointed Yijun Tian as the sole panelist in this matter on July 27, 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**

Complainant, Nubridge Publishing Limited, is a company incorporated in United Kingdom ("UK"). According to the Complaint, Complainant's website at "www.languageangels.com" is used by primary schools and young children globally. Based on the information on Complainant's website, more than 3,000 schools, 12,000 teachers, and 180,000 pupils are currently using their learning resources.<sup>1</sup>

According to the Complaint, Complainant has exclusive rights in LANGUAGE ANGELS marks. It has registered trademark rights for use of the mark LANGUAGE ANGELS and multiple variants in both text and image form and across all media and formats (including digital and online) including the UK trademark registration No UK00003710306 registered on January 7, 2022.

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

Respondent is 吴桂波 (guibo wu), China. The disputed domain name <languagesangels.com> was registered on April 4, 2022. According to Complainant, the disputed domain name was resolving to a website with pornographic content. The disputed domain name is currently inactive.

#### **5. Parties' Contentions**

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

Complainant contends that the disputed domain name <languagesangels.com> is confusingly similar to Complainant's LANGUAGE ANGELS trademarks. It is deliberately very similar to Complainant's domain name <languageangels.com>.

Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Complainant contends that Respondent has registered and is using the disputed domain name in bad faith.

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

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

##### **6.1. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name <languagesangels.com> is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be

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<sup>1</sup> <https://www.languageangels.com/schools/>

the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- 1) Complainant is an English-speaking company based in the UK;
- 2) The Complainant's domain name <languageangels.com> resolves to a website in the English language and used by English speakers.
- 3) Complainant has paid a fee to process the case so should be able to select the preferred language for the proceedings.

Respondent did not make any submissions with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding.

Paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the UDRP panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") further states:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement." ([WIPO Overview 3.0](#), section 4.5.1; see also *L'Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

On the record, Respondent appears to be a Chinese resident and is thus presumably not a native English speaker. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) the disputed domain name includes Latin characters, particularly the English words ("Languages" and "Angels"), rather than Chinese script; (b) the generic Top-Level Domain ("gTLD") of the disputed domain name is ".com", so the disputed domain name seems to be prepared for users worldwide, particularly English speaking countries; (c) the Center has notified Respondent of the proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant's request that English be the language of the proceeding; and (d) the Center informed the Parties, in English and Chinese, that it would accept a Response in either English or Chinese. The Panel would have accepted a Response in either English or Chinese but none was filed.

Accordingly, the Panel finds the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

## 6.2. Substantive Issues

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be transferred:

- (i) the disputed domain name registered by Respondent 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

### A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the LANGUAGE ANGELS marks. The disputed domain name comprises the LANGUAGE ANGELS mark in its entirety. The disputed domain name only differs from Complainant's LANGUAGE ANGELS marks by adding "s" between "language" and "angels", and the generic Top-Level Domain ("gTLD") ".com" as a suffix to the LANGUAGE ANGELS marks. This does not compromise the recognizability of Complainant's marks within the disputed domain name, nor eliminate the confusing similarity between Complainant's registered trademarks and the disputed domain name (*Decathlon v. Zheng Jianmeng*, WIPO Case No. [D2019-0234](#)).

Previous UDRP panels have consistently held that a domain name is identical or confusingly similar to a trademark for purposes of the Policy "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name." (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)).

Further, in relation to the gTLD suffix, [WIPO Overview 3.0](#) states: "The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." ([WIPO Overview 3.0](#), section 1.11.1.)

The Panel therefore holds that the disputed domain name is confusingly similar to Complainant's LANGUAGE ANGELS marks, and the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

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

- (i) before any notice to Respondent of the dispute, the use by Respondent 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) Respondent has been commonly known by the disputed domain name, even if Respondent has acquired no trademark or service mark rights; or

(iii) 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 Complainant's trademarks.

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut the complainant's contentions. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1 and cases cited therein).

According to the Complaint, Complainant is a leading company in UK, which provides language teaching resources and language learning services to primary schools and young children globally. Complainant has exclusive rights in LANGUAGE ANGELS marks. Based on the information on Complainant's website, more than 3,000 schools, 12,000 teachers, and 180,000 pupils are currently using their learning resources.<sup>2</sup>

Moreover, Respondent is not an authorized dealer of LANGUAGE ANGELS branded products or services. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:

(a) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of legitimate use of the disputed domain name or reasons to justify the choice of the terms "Languages Angels" in the disputed domain name and in their business operation. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the LANGUAGE ANGELS marks or to apply for or use any domain name incorporating the LANGUAGE ANGELS marks.

(b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2022, after the LANGUAGE ANGELS marks became widely known. The disputed domain name is confusingly similar to the LANGUAGE ANGELS marks.

(c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name was resolving to a website contained pornographic content. It seems that Respondent was making profits through the Internet traffic attracted to the website under the disputed domain name. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); *BASF SE v. Hong Fu Chen, Chen Hong Fu*, WIPO Case No. [D2017-2203](#).)

(d) It is currently inactive.

Accordingly, Complainant has established that Respondent has no rights or legitimate interests in the disputed domain name. The Panel therefore holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

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<sup>2</sup> [www.languageangels.com/schools/](http://www.languageangels.com/schools/)

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances, which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

(i) circumstances indicating that Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) Respondent has registered the disputed 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 Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on the website or location.

The Panel concludes that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith.

#### (a) Registration in Bad Faith

The Panel finds that Complainant has a widespread reputation in the LANGUAGE ANGELS marks with regard to its products and services. As mentioned above, Complainant has exclusive rights in LANGUAGE ANGELS marks. Based on the information on Complainant's website, more than 3,000 schools, 12,000 teachers, and 180,000 pupils are currently using their learning resources.<sup>3</sup> It is most likely that Respondent had knowledge of the LANGUAGE ANGELS marks at the time of the registration of the disputed domain name (in 2022).

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain name was registered in bad faith.

#### (b) Use in Bad Faith

According to Complaint, Respondent was using the website resolved by the disputed domain name to provide pornographic content. Thus, the Panel concludes that Respondent was using the confusingly similar disputed domain name with the intention to attract, for commercial gain, Internet users to Respondent's website.

Given the reputation and distinctiveness of the LANGUAGE ANGELS marks, the Panel finds that the public is likely to be confused into thinking that the disputed domain name has a connection with Complainant,

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<sup>3</sup> [www.languageangels.com/schools/](http://www.languageangels.com/schools/)

contrary to the fact. There is a strong likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the website to which the disputed domain name resolves. In other words, Respondent has through the use of a confusingly similar disputed domain name created a likelihood of confusion with the LANGUAGE ANGELS marks. Moreover, as mentioned above, Respondent offered pornographic content, presumably for commercial gain.

The Panel therefore concludes that the disputed domain name was registered and was being used by Respondent in bad faith. Such use of the disputed domain name is also disruptive in relation to the interests of Complainant. Such conduct falls within the language of paragraph 4(b)(iii) and (iv) of the Policy.

Furthermore, at the time this decision is rendered, the disputed domain name is currently inactive. In terms of inactive domain names, the [WIPO Overview 3.0](#) provides: “While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

Further, given the lack of response, the Panel cannot envision any other plausible use of the disputed domain name that would not be in bad faith under the present circumstances. Taking into account all the circumstances of this case, the Panel concludes that current use of the disputed domain name by Respondent is in bad faith also.

In summary, Respondent, by choosing to register and use the disputed domain name, which is confusingly similar to the LANGUAGE ANGELS marks, intended to ride on the goodwill of these trademarks in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain name and the conduct of Respondent as far as the website to which the disputed domain name has been resolved is indicative of registration and use of the disputed domain name in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

## **7. Decision**

For all 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 <languagesangels.com> be transferred to Complainant.

*/Yijun Tian/*

**Yijun Tian**

Sole Panelist

Date: August 31, 2022