

ADMINISTRATIVE PANEL DECISION

International Olympic Committee (IOC) v. 折强 (Zhe Qiang)
Case No. D2022-2069

1. The Parties

The Complainant is International Olympic Committee (IOC), Switzerland, represented by Bird & Bird (Belgium) LLP, Belgium.

The Respondent is 折强 (Zhe Qiang), China.

2. The Domain Name and Registrar

The disputed domain name <aoyunhui.net> is registered with eName Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on June 8, 2022. On June 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 9, 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 June 9, 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 in English on June 13, 2022.

On June 9, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on June 13, 2022. The 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 the Respondent in English and Chinese of the Complaint, and the proceedings commenced on June 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 7, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 13, 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 IOC, which is an international, non-governmental, non-profit organization, acting as the umbrella organization of the Olympic movement. Since 1896, the IOC has supervised the organization of the Olympic Games, and has particularly conducted 24 Olympic Winter Games and 29 Olympic Summer Games, most recently the 2022 Olympic Winter Games in Beijing, China. The missions of the IOC and its movement include ensuring the regular celebration of the Olympic Games, as well as the promotion of the fundamental principles of Olympism. The Olympic Games bring together athletes from across the globe for one of the world's most well-known and celebrated sporting, cultural, and entertainment events. The Olympic Games are very well-known, popular, and widely broadcasted around the world.

The Complainant submits evidence that it owns an international trademark portfolio for marks including OLYMPIC, OLYMPIC GAMES, and 奥运会 (word and device marks). These include, but are not limited to, the following trademark registrations: International trademark registration number 609691, for the word mark OLYMPIC, registered on October 1, 1993, and designating jurisdictions including China; Swiss trademark number 2P-410111 for the word mark OLYMPIC GAMES, registered on May 16, 1994; and International trademark registration number 1127000 for the device mark “奥运会”, registered on December 19, 2011, designating China.

The disputed domain name was registered on November 10, 2004, and is therefore of a later date than the abovementioned OLYMPIC and OLYMPIC GAMES trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directs to an active website, where the disputed domain name is offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for OLYMPIC, OLYMPIC GAMES, and 奥运会, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are distinctive and globally well-known, and submits background and marketing information regarding its operations. The Complainant also submits the English translation of the 2002 and 2018 versions of China's Regulations on the Protection of Olympic Symbols (《奥林匹克标志保护条例》) under which the Olympic symbols are protected in China. The Complainant particularly contends that the disputed domain name is not currently in use and since its registration nearly 18 years ago it has only resolved to webpages on which the disputed domain name is offered for sale, and contends that such use does not grant rights or legitimate interests in the disputed domain name. The Complainant also argues that the Policy and Rules do not set a time limit for bringing a complaint and that the Complainant has never expressly or impliedly consented to the Respondent's use of its trademarks or Olympic symbols in the disputed domain name. The Complainant argues that the mere registration or acquisition of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith. The Complainant concludes that there are no justifications for the Respondent's registration and use of its trademarks in the disputed domain name and that such registration and use was made in bad faith.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Administrative Proceeding

Pursuant to paragraph 11(a) of the Rules, 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.

According to the Registrar's verification response, the Registration Agreement for the disputed domain name is in Chinese. Nevertheless, the Complainant filed its Complaint in English, and requests that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited in a timely manner by the Center, in Chinese and English, to present its response and arguments in either Chinese or English, but chose not to do so); the fact that the website linked to the disputed domain name is bilingual in Chinese and English, from which the Panel deduces that the Respondent is able to understand and communicate in English; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays and costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this administrative proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the registered trademarks OLYMPIC, OLYMPIC GAMES, and 奥运会, based on its intensive use and registration of the same as trademarks in various jurisdictions, including in the jurisdiction where the Respondent is based, namely China. The Panel notes that the abovementioned 奥运会 mark is of a later date than the disputed domain name, but concludes that this fact has no bearing on the first element test, see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)"), section 1.1.2.

Moreover, as to whether the disputed domain name is identical or confusingly similar to the Complainant's marks, in the Panel's opinion, the disputed domain name consists of only one element, namely the word "aoyunhui" in Latin script. In this regard, the Panel notes that this term is the transliteration of the term "奥运会" in Hanyu Pinyin (汉语拼音), the official Latin script transliteration method used in China as well as some Chinese speaking countries or regions. The Panel also notes that the term "奥运会", transliterated as "aoyunhui", is the commonly used abbreviation in Chinese for the formal term "奥林匹克运动会", meaning the "Olympic Games" in Chinese. According to the [WIPO Overview 3.0](#), section 1.14, "[a] domain name that

consists or is comprised of a translation or transliteration of a trademark will normally be found to be identical or confusingly similar to such trademark for purposes of standing under the Policy, where the trademark – or its variant – is incorporated into or otherwise recognizable, through such translation/transliteration, in the domain name.” The Panel concludes that the disputed domain name is the mere transliteration of the Complainant’s trademark 奥运会, and the translation of the commonly used abbreviation of the Complainant’s trademarks OLYMPIC and OLYMPIC GAMES, and that those trademarks remain entirely recognizable in the disputed domain name. The Panel also finds that the applicable generic Top-Level Domain (“gTLD”) (“.net” in this proceeding) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademarks, and that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making a legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, the Respondent did not provide any response or evidence in this administrative proceeding.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name directs to an active website, where the disputed domain name is offered for sale. The Panel also notes that it appears from the Complainant’s evidence that it is likely that the disputed domain name has, since its registration date, only resolved to webpages on which the disputed domain name was offered for sale. The Panel considers that such use cannot be considered as use of the disputed domain name, or a corresponding name, in connection with a *bona fide* offering of goods or services (nor demonstrable preparations for such use). The Panel also finds that such use does not constitute a legitimate noncommercial or fair use of the disputed domain name, as the incorporation of the term “aoyunhui” in the disputed domain name (which is, as stated above, the Hanyu Pinyin transliteration of the commonly used abbreviated term in Chinese for the Olympics or the Olympic Games) carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates, or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Finally, the Panel also notes that the mere delay between the registration of the disputed domain name and the filing of the Complaint neither bars the Complainant from filing its Complaint, nor from prevailing on the merits of this proceeding. The Panel therefore concludes that the mere fact that the disputed domain name was registered approximately 18 years ago, on November 10, 2004, does not confer rights or legitimate interests in respect of the disputed domain name to the Respondent, nor does it preclude the transfer of the disputed domain name to the Complainant (see [WIPO Overview 3.0](#), section 4.17).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel considers that the registration of the disputed domain name, which is confusingly similar to the Complainant’s globally well-known prior trademarks for OLYMPIC and OLYMPIC GAMES was clearly intended to mislead Internet users. The Panel particularly finds that the Complainant’s OLYMPIC and OLYMPIC GAMES trademarks had already become globally well-known many years before the Respondent’s registration and use of the disputed domain name. Based on this fact, the Panel considers that the Respondent’s registration of the disputed domain name constituted a clearly intentional attempt to target the Complainant’s well-known trademarks, of which it could not reasonably have been unaware. This

finding is further reinforced by the fact that the Regulations on the Protection of the Olympic Symbols (《奥林匹克标志保护条例》), promulgated by order No. 345 of the State Council of China on February 4, 2002, (*i.e.* before the registration date of the disputed domain name), explicitly provide (in English translation): “Article 2: The “Olympic symbols” as used in these Regulations shall refer to: [...] 2) The exclusive names such as “Olympic”, “Olympia”, “Olympic Games” and the abbreviations thereof”. The Panel notes that the disputed domain name is the Hanyu Pinyin transliteration of the commonly used abbreviation in Chinese for the Olympic Games. Such abbreviation was therefore also legally protected under the abovementioned Regulations, which were fully applicable in the Respondent’s home jurisdiction China at the time of registration of the disputed domain name. It follows that the Respondent was legally presumed to have been aware of such protection, but still consciously chose to register the disputed domain name. Moreover, the Panel notes that beginning in September 2004, Beijing had officially launched its countdown clock to the 2008 Beijing Olympic Games, with the registration of the disputed domain name following only a few weeks after said unveiling, which further stretches the credulity of any notion that the Respondent registered the disputed domain name without awareness of the Complainant. Based on the above elements, the Panel finds that the registration of the disputed domain name was conducted in bad faith.

As to use of the disputed domain name in bad faith, the disputed domain name directs to an active website, where the disputed domain name is offered for sale. The Panel notes that in the current circumstances, since the Complainant’s trademarks are very distinctive, globally very well known, and clearly connected to the Complainant, the Panel concludes that the Respondent’s aim in registering and using the disputed domain name was to profit from or exploit the Complainant’s globally well-known trademarks (see also [WIPO Overview 3.0](#), section 3.1.1). Based on the aforementioned elements, the Panel concludes that it has been demonstrated that the Respondent is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 <aoyunhui.net> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: July 22, 2022