

ADMINISTRATIVE PANEL DECISION

Verizon Trademark Services LLC v. 杨智超 (Zhi Chao Yang)
Case No. D2022-2460

1. The Parties

The Complainant is Verizon Trademark Services LLC, United States of America (“United States”), internally represented.

The Respondent is 杨智超 (Zhi Chao Yang), China.

2. The Domain Names and Registrar

The disputed domain names <verizonbeenfitsconnection.com>, <verizonbenefitscinnection.com>, <verizonbenefitscnnection.com>, <verizonbenefitsconnetcion.com>, <verizonbenefitsconnexion.com>, and <verizonbnefitsconnection.com> (the “Domain Names”) are registered with Cloud Yuqu LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 amendment to the Complaint in English on July 8, 2022.

On July 8, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On July 8, 2022, the Complainant submitted a 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 together with the amendment to 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 July 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 4, 2022.

The Center appointed Karen Fong as the sole panelist in this matter on August 17, 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 part of the Verizon group of companies. The Verizon group is one of the world's leading providers of technology and communications products and services. Headquartered in the United States, Verizon generated revenues of USD 133.6 billion in 2021 and has a workforce of approximately 118,400 employees.

The VERIZON trade mark was first used in the United States in 2000. The trade mark is registered all over the world including the United States and China. The earliest trade mark submitted in evidence for both countries are United States Trade Mark Registration No. 2886813 which was filed on September 10, 1999, and registered on September 21, 2004, and Chinese Trade Mark Registration No. 35963753 filed on January 16, 2019, and registered in on February 7, 2021 (the "Trade Marks").

The Complainant's main website is found at the domain name <verizon.com>.

The Respondent, who is based in China, registered the six Domain Names on January 13, 2022. The Domain Names all resolve to a pay-per-click ("PPC") webpage with link headings such as: "User Id", "My User ID", and "Login Id". These links resolve to third party companies which provides various services (the "Websites").

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Names are confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the Domain Names, and that the Domain Names were registered and are being used in bad faith. The Complainant requests transfer of the Domain Names.

B. Respondent

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

6. Discussion and Findings

A. General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Names, the Complainant must prove each of the following, namely that:

- (i) The Domain Names are identical or confusingly similar to trade marks or service marks in which the Complainant has rights; and

- (ii) The Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) The Domain Names were registered and are being used in bad faith.

B. Language of the Proceeding

The Rules, paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement, the language of the 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 information received from the Registrar, the language of the Registration Agreement for the Domain Names is Chinese.

The Complainant submits that the language of the proceeding should be English for the following reasons:

- the Domain Names are in English and the Websites are also in English indicating the Respondent's awareness of the English language;

- the Complainant, based in the United States, is unable to communicate in Chinese and would be put to great expense and inconvenience to have to translate the Complaint and its evidence in Chinese, which would cause undue delay.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Respondent has not challenged the Complainant's language request and in fact has failed to file a response. The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner. In this case, the Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel notes that all of the communications from the Center to the Parties were transmitted in both Chinese and English. In all the circumstances, the Panel determines that English be the language of the proceeding.

C. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established that it has registered and unregistered rights to the Trade Mark.

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the trade mark and the domain name to determine whether the domain name is confusingly similar to the trade mark. The test involves a side-by-side comparison of the domain name and the textual components of the relevant trade mark to assess whether the mark is recognizable within the domain name.

In this case, the Domain Names all contain the Trade Mark together with a combination of the words, "benefits" and "connection", each with one of the words misspelt e.g. "benefits", "bnefits", "cnnection", "cinnnection", "connetcion" and "connexion". The addition of these terms do not prevent a finding of confusing similarity between the Complainant's Trade Mark and the Domain Names. For the purposes of assessing identity and confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the Top-Level Domain ("TLD") irrespective of the particular TLD and the ordinary meaning ascribed to a particular TLD. It is viewed as a standard registration requirement.

The Panel finds that the Domain Names are confusingly similar to a trade mark in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled.

D. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

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

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with evidence of relevant right or legitimate interest, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that to the best of its knowledge, the Respondent has not registered any trade mark for the Domain Names. The Domain Names do not show any bona fide offering of goods or services. The Respondent is also not making any legitimate noncommercial or fair use of the Domain Names. The Complainant has never licensed or otherwise permitted the Respondent to use the Trade Mark or apply or use any domain names that incorporate the Trade Mark or trade marks which are confusingly similar. The Websites redirect Internet users to PPC sites, none of which confer any rights or legitimate interests given the likely revenue the Respondent derives from the misdirection caused by the incorporation of the Trade Mark into the Domain Names.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for a reply from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the Domain Names.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names.

E. Registered and Used in Bad Faith

To succeed under the Policy, the Complainant must show that the Domain Names have been registered and are being used in bad faith. It is a double requirement.

The Panel is satisfied that the Respondent must have been aware of the Trade Mark when it registered the Domain Names given the reputation of the trade mark. It is implausible that it was unaware of the Complainant when it registered the Domain Names given that all six Domain Names comprise the Trade Mark and a combination of two descriptive words with one misspelt in each respective Domain Name, registered with the same Registrar on the same date.

The [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

It is inconceivable that the Domain Names were selected by the Respondent without the Complainant in mind. As outlined under the second element above, the clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the Domain Names is also a significant factor to consider (as stated in section 3.2.1 of [WIPO Overview 3.0](#)). The Domain Names fall into the category stated above and the Panel finds that registration is in bad faith.

The Panel also finds that the actual use of the Domain Names are in bad faith. The Websites are PPC sites which have been set up for the commercial benefit of the Respondent. It is highly likely that Internet users when typing the Domain Names into their browser, or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The Domain Names are likely to confuse Internet users trying to find the Complainant’s website. Such confusion will inevitably result due to the fact that the Domain Names contain the Complainant’s distinctive Trade Mark.

The Respondent employs the reputation of the Trade Mark to mislead users into visiting the Domain Names instead of the Complainant’s. From the above, the Panel concludes that the Respondent intentionally attempted to attract for commercial gain, by misleading Internet users into believing that the Respondent’s Websites are that of or authorised or endorsed by the Complainant. The Panel therefore concludes that the Domain Names were registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

The Panel has also noted that a number of UDRP cases concerning other third party brand owners where the Respondent has been the named respondent and those domain names have been ordered to be transferred. These include *Syneos Health LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-2731](#), *Granicus, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-2844](#), *Corning Incorporated v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4227](#), *CenterPoint Energy, Inc. v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4046](#). This is an indication that the Respondent is a serial cybersquatter and is engaged in a pattern of bad faith conduct (section 3.1.2 of the [WIPO Overview 3.0](#)).

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 Domain Names, <verizonbeenfitsconnection.com>, <verizonbenefitscinnnection.com>, <verizonbenefitscnnnection.com>, <verizonbenefitsconnectcion.com>, <verizonbenefitsconnexion.com> and <verizonbnefitsconnection.com> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: September 5, 2022