

ADMINISTRATIVE PANEL DECISION

Milliman, Inc. v. 杨智超 (yang zhi chao aka Zhichao Yang)
Case No. D2022-3077

1. The Parties

The Complainant is Milliman, Inc., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is 杨智超 (yang zhi chao aka Zhichao Yang), China.

2. The Domain Names and Registrars

The disputed domain names <millimamnbenefits.com>, <millimanbenefigs.com>, <millimanbenetfits.com>, and <millimanfenefits.com> are registered with eName Technology Co., Ltd. (“the First Registrar”); and the disputed domain names <milimanbenefit.com>, <millimanbenefots.com>, and <millimanbenefuts.com> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (“the Second Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022 with regards the disputed domain names <millimamnbenefits.com>, <millimanbenefigs.com>, <millimanbenetfits.com>, and <millimanfenefits.com>. On August 22, 2022, the Center transmitted by email to the First Registrar a request for registrar verification in connection with the disputed domain names. On August 23, 2022, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 24, 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 August 26, 2022, in which the Complainant requested addition of the disputed domain names <milimanbenefit.com>, <millimanbenefots.com>, and <millimanbenefuts.com> to this proceeding. On August 30, 2022, the Center transmitted by email to the Second Registrar a request for registrar verification in connection with the disputed domain names <milimanbenefit.com>, <millimanbenefots.com>, and <millimanbenefuts.com>. On August 31, 2022, the Second 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 August 24, 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 August 26, 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 September 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 22, 2022.



The Center appointed Jonathan Agmon as the sole panelist in this matter on September 28, 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, Milliman, Inc., is an international actuarial and consulting firm operating in the area of employee benefits, investment, property and casualty, healthcare, life and financial services, and insurance services. The Complainant has been active in this field since 1947 and is based in Seattle, Washington, United States. The Complainant advertises its goods and services through various websites, including "www.milliman.com" and "www.millimanbenefits.com", as well as through print media and other advertising and promotional campaigns. The Complainant operates in various markets throughout the world, and has over sixty offices located in Africa, Asia, Europe, Latin America, North America, and the Middle East.

The Complainant states that since its first use of the MILLIMAN & ROBERTSON mark in 1957 and MILLIMAN mark in 2001, the Complainant has promoted the marks continuously and exclusively worldwide. The Complainant also states that it invests extensively annually in promoting the MILLIMAN mark and goods and services sold under the mark.

The Complainant is the registered owner of numerous various word and composite marks incorporating MILLIMAN worldwide, including but not limited to:

- China Trademark Registration No. 3838950 for MILLIMAN, registered on May 14, 2006;
- China Trademark Registration No. 5853860 for MILLIMAN, registered on March 28, 2010;
- China Trademark Registration No. G959067 for  registered on August 10, 2007;
- United States Trademark Registration No. 2,551,240 for MILLIMAN, registered on March 19, 2002;
- United States Trademark Registration No. 2,535,009 for MILLIMAN, registered on January 29, 2002;
- United States Trademark Registration No. 3,387,917 for MILLIMAN, registered on February 26, 2008; and
- United States Trademark Registration No. 3,592,193 for , registered on March 17, 2009.

The Complainant states that it is the owner of numerous domain names incorporating the MILLIMAN mark or common misspellings thereof, including but not limited to, <milliman.com>, <millimanbebefits.com>, <millimanbenefits.com> and <millimanbenefits.co>. The Complainant also states that it operates its principal websites at the domain names <milliman.com> and <millimanbenefits.com>. The website at

“www.millimanbenefits.com” is a web portal through which the Complainant provides information and services to Milliman clients pertaining to employee and other benefits.

The disputed domain names, <milimanbenefit.com> was registered on November 10, 2021, <millimamnbenefits.com>, <millimanbenefigs.com>, <millimanbenefits.com> and <millimanfenefits.com> were registered on June 2, 2022, and <millimanbenefots.com> and <millimanbenefuts.com> were registered on November 13, 2021. The disputed domain names resolved to parking pages showing Pay-Per-Click (“PPC”) advertising links to websites purportedly offering services identical or related to those of the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain names are confusingly similar to its MILLIMAN mark as the disputed domain names wholly incorporate the MILLIMAN mark in its entirety (or a typo-variant thereof) and misspellings of the words “benefit” or “benefits” (or a typo-variant thereof). The slight misspellings in the disputed domain names are insufficient to distinguish them from the Complainant’s mark. The disputed domain names are therefore identical or confusingly similar to the MILLIMAN mark.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names as it is not affiliated with or authorized the Respondent to its trademark or register the disputed domain names and that the Respondent is not commonly known by any of the disputed domain names. The Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services, or in a legitimate noncommercial or fair manner as the disputed domain names resolve to parking pages with PPC links purportedly offering services identical or related to those of the Complainant.

The Complainant further argues that the disputed domain names were registered and are being used in bad faith for commercial gain by creating a likelihood of confusion with the Complainant’s MILLIMAN mark and the Respondent had actual knowledge of the Complainant’s marks at the time of registration.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue

A. Language of the Proceeding

Paragraph 11 of the Rules provides that:

“(a) 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 language of the Registration Agreements for the several of the disputed domain names is Chinese.

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

- (i) the disputed domain names are in Latin characters;
 - (ii) the disputed domain names incorporate the English word “benefits” or a common misspelling thereof;
 - (iii) the disputed domain names direct to commercial marking pages showing PPC links in English; and
 - (iv) additional expense and delay would be incurred if the Complaint is translated into Chinese.
- The Respondent did not comment on the language of the proceeding.

The Panel cites the following with approval: “Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel’s discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case.” (See *Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)).

Having considered the above factors, the Panel determines that English be the language of the proceeding. The Panel agrees that the Respondent appears to be familiar with the English language, taking into account the Respondent’s selection of the English-language trademark and the domain names in dispute. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint and evidence into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belongs to its respective owner. The Complainant has provided evidence that it owns the MILLIMAN mark.

The disputed domain names wholly incorporate the MILLIMAN mark in its entirety (or a typo-variant thereof) and misspellings of the words “benefit” or “benefits” (or a typo-variant thereof). The slight misspellings in the disputed domain names do not prevent a finding of confusing similarity.

It is established that “a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element” (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9).

It is also established that the applicable gTLD in a domain name 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). The addition of a gTLD to a disputed domain name does not avoid a finding of confusing similarity as the use of a gTLD is technically required to operate a domain name (see *Accor v. Noldc Inc.*, WIPO Case No. [D2005-0016](#); *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *L’Oréal v Tina Smith*, WIPO Case No. [D2013-0820](#); *Titoni AG v Runxin Wang*, WIPO Case No. [D2008-0820](#); and *Alstom v. Itete Peru S.A.*, WIPO Case No. [D2009-0877](#)).

The disputed domain names consist of the Complainant’s MILLIMAN mark (or misspelled variants thereof), misspelled “benefit” or “benefits” and the addition of the gTLD “.com” does not in the Panel’s view avoid a finding of confusing similarity with the Complainant’s trademark (see *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, WIPO Case No. [D2015-2333](#)).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the MILLIMAN mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or legitimate interests in respect of the domain name. Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect of the domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain names and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the MILLIMAN mark (see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#); *Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. [D2009-0735](#)).

The Complainant also submitted that the Respondent's use of the disputed domain names resolved to parking pages with PPC links identical with or related to the Complainant's business. It is well established that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#), section 2.9). In this case, the Panel finds that the Respondent is not making a *bona fide* offering of goods or services as the PPC links on the websites at the disputed domain names appear related to the Complainant and/or its services and would also mislead unsuspecting Internet users seeking the Complainant.

In addition, the evidence submitted by the Complainant shows that the Respondent is not commonly known by the disputed domain names.

The Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which is sufficient to rebut the Complainant's *prima facie* case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must show that the respondent registered and is using the disputed domain name in bad faith (paragraph 4(a)(iii) of the Policy). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain names resolved to parked pages containing PPC links on the websites at the disputed domain names that appear to be related to the Complainant and/or its services and would likely mislead unsuspecting Internet users seeking the Complainant. It is up to the Respondent to control the content appearing on the websites under the disputed domain names. PPC links that provide links to websites to "Health Insurance", "Life Insurance", "Employee Benefits" or otherwise related to services offered by the Complainant under the MILLIMAN mark represent a clear indication of bad faith registration and use of the disputed domain names.

The Complainant also states that given the distinctiveness of its MILLIMAN marks and its reputation, and the fact that its trademark registrations long pre-date the registration of the disputed domain names by over 20 years, it is reasonable to infer that the Respondent was clearly aware of the Complainant and its MILLIMAN mark at the time of registration of the disputed domain names.

The Complainant further states that it sent a cease-and-desist messages to the Respondent via the Registrar's standard domain name registrant contact form prior to the proceedings on July 18, 2022, and the Respondent never responded.

In addition, the Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which has been considered by the Panel. The Panel has also taken into consideration that fact that the Respondent appears to be engaging in a pattern of cybersquatting, as demonstrated by his numerous registrations of other domain names comprising third party trademarks and history as a named respondent in other UDRP proceedings.

Based on the totality of evidence presented to the Panel, including the confusing similarity between the disputed domain names and the Complainant's mark, the fact that the disputed domain names are being used for PPC links to competitive products or services, the fact that no Response was submitted by the Respondent to the Complaint and the Respondent's pattern of cybersquatting, the Panel draws the inference that the disputed domain names were registered and are being used in bad faith, and accordingly, paragraph 4(a)(iii) of the Policy is satisfied.

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 names, <milimanbenefit.com>, <millimamnbenefits.com>, <millimanbenefigs.com>, <millimanbenefots.com>, <millimanbenefuts.com>, <millimanbenetfits.com>, and <millimanfenefits.com>, be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: October 12, 2022