

ADMINISTRATIVE PANEL DECISION

Milliman, Inc. v. 钱梦聘 (qianmengdan)
Case No. D2022-3080

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 钱梦聘 (qianmengdan), China.

2. The Domain Name and Registrar

The disputed domain name <millimanbeneits.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022.¹ On August 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 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 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.

On August 24, 2022, the Center sent an email communication 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”).

¹ The Complainant was originally filed involving two domain names. The Complainant removed one domain name from the current proceeding upon receipt of the Center’s notification of multiple registrants.

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 August 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 21, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on September 26, 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 one of the world's largest independent consulting firms operating in areas including the provision of employee benefits, healthcare and insurance services. The Complainant has been active in this field since 1947 and is headquartered in the city of Seattle, United States. The Complainant operates in various markets throughout the world, and has over 60 offices located in Africa, Asia, Europe, Latin America, North America, and the Middle East.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for MILLIMAN, including, but not limited to, Chinese trademark registration number 3838950 for the word mark MILLIMAN, registered on May 14, 2006 and United States trademark registration number 2551240 for the word mark MILLIMAN, registered on March 19, 2002. The Panel notes that the Complainant also has an extensive online presence and that it hosts its main websites under the domain names <milliman.com>, registered on September 21, 1995 and <millimanbenefits.com> registered on December 13, 2005.

The disputed domain name was registered on April 2, 2020, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Panel notes that the disputed domain name is linked to an active website in English, containing what are presumed to be pay-per-click hyperlinks to third party providers of a variety of employee benefits-related services.

The Complainant also provides evidence that it sent cease-and-desist messages on July 18, 2022 in an attempt to settle this proceeding amicably, but it did not receive any response from the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for MILLIMAN, 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, used intensively and well-regarded in the sectors in which it operates. Particularly, the Complainant claims that the disputed domain name was registered by the Respondent with the intentional misspelling of the generic word "benefits", which is one of the sectors in which the Complainant operates, and seeks to take unfair advantage of Internet users attempting to locate the Complainant's official website at the domain name <millimanbenefits.com>, and mistyping the word "benefits". The Complainant also provides evidence that the disputed domain name is linked to an active website displaying what are presumed to be pay-per-click hyperlinks to third party providers of a variety of employee benefits-related services. The Complainant essentially contends that such registration and use does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes registration and use of the disputed domain name in bad faith. The Complainant finally also claims in its amended Complaint that the Respondent was involved in a number of previous domain name disputes where bad faith registration and use was found by the panels in those cases, and argues that the

Respondent has engaged in a pattern of trademark-abusive conduct.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement. However, the Panel is given the authority to determine a language of the proceeding other than the language of the Registration Agreement, taking into account the circumstances of every individual case.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that 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 comments 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, in Chinese and English, by the Center to present his comments and response in either English or Chinese, but chose not to do so); the fact that the website hosted at the disputed domain name contains links only in English and that the disputed domain name is written in Latin letters and not in Chinese characters; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays and additional 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 mark MILLIMAN based on its intensive use and registration of the same as a trademark in several jurisdictions.

Moreover, as to confusing similarity, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, states: "[...] in cases where a domain name

incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing". In this case, the Panel considers that the disputed domain name is created by incorporating the Complainant's trademark for MILLIMAN in its entirety, followed by a clearly intentionally misspelled version of the word "benefits". According to the Panel, the Complainant's trademark for MILLIMAN is easily recognizable in the disputed domain name, and the addition of the intentionally misspelled word "beneits" does not impact on this finding. The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (.com in this case) 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 trademark and the first element required by the Policy is fulfilled.

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 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 proceeding.

Furthermore, upon review of the facts, the Panel notes that the disputed domain name directs to an active website containing what are presumed to be pay-per-click hyperlinks to third party providers of a variety of employee benefits-related services. The Panel concludes that this shows the Respondent's intention to capitalize on the reputation and goodwill of the Complainant's trademarks for MILLIMAN, from which the Respondent cannot derive any rights or legitimate interests in the disputed domain name (see also [WIPO Overview 3.0](#), section 2.9 and previous UDRP decisions in this sense such as *Maker Studios, Inc. v. ORM LTD / Contact Privacy Inc. Customer 0137258808*, WIPO Case No. [D2014-0918](#) and *Lennar Pacific Properties Management, Inc., Lennar Mortgage, LLC v. 徐海民 (Xu Hai Min), 权中俊 (Quan Zhong Jun), 殷磊 (Lei Yin), 杨智强 (Zhi Qiang Yang)*, WIPO Case No. [D2021-0576](#)).

On the basis of the foregoing elements, the Panel finds that the Complainant has satisfied the requirements for the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the registration of the disputed domain name, which incorporates the Complainant's trademark for MILLIMAN in its entirety, was selected and registered with the clear intention to divert Internet users to the Respondent's website linked to the disputed domain name. The Panel has taken into account the reputation and fame of the Complainant's trademark and the Respondent's intentional misspelling of the word "benefits" in the disputed domain name, which was intended to create an unfair advantage from unsuspecting Internet users misspelling the Complainant's official website located at the domain name <millimanbenefits.com>. Given these elements, the Panel considers that the registration of the disputed domain name was conducted with obvious knowledge of the Complainant's prior registered trademark and was therefore obtained in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name currently displays what are presumed to be pay-per-click hyperlinks to the commercial services of unrelated third parties. This shows that the Respondent intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The Panel considers that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(iv) of the Policy.

Moreover, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to a number of prior UDRP decisions involving the Respondent, where the Respondent had engaged in similar acts of cybersquatting against the complainant's trademarks, see for instance *Discover Financial Services v. 钱梦聃 (qianmengdan)*, WIPO Case No. [D2020-3373](#), and *LPL Financial LLC v. 钱梦聃 (Qianmengdan)*, WIPO Case No. [D2021-0150](#). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith.

The Panel therefore finds that it has been demonstrated that the Respondent has registered, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish his 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 <millimanbeneits.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: October 3, 2022