

ADMINISTRATIVE PANEL DECISION

Trojan Technologies Group ULC v. 李典滔 (Li Dian Tao)
Case No. D2022-3686

1. The Parties

The Complainant is Trojan Technologies Group ULC, Canada, represented by Hahn Loeser & Parks LLP, United States of America (“United States”).

The Respondent is 李典滔 (Li Dian Tao), China.

2. The Domain Name and Registrar

The disputed domain name <trojanuvgroup.com> is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2022. On October 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 October 11, 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 October 14, 2022.

On October 11, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On October 14, 2022, the Complainant confirmed its 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 October 18, 2022. In accordance with



the Rules, paragraph 5, the due date for Response was November 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 9, 2022.

The Center appointed Jonathan Agmon as the sole panelist in this matter on November 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, Trojan Technologies Group ULC, is a company which specializes in developing water purification technology and water purification systems, specifically water purification technology which utilizes UV radiation.

The Complainant is the registered owner of numerous word and composite marks related to the term "Trojan" worldwide, including China, including but not limited to the following:

- United States trademark registration No. 1916334 for TROJAN, registered on September 5, 1995;
- United States trademark registration No. 3052154 for , registered on January 31, 2006;
- China trademark registration No. 49203859 for  registered on February 14, 2022;
- China trademark registration No. 5536120 for TROJANUV3000PLUS, registered on August 7, 2009; and
- United States trademark registration No. 3520663 for TROJANUV3000PLUS, registered on October 21, 2008.

The disputed domain name was registered on June 18, 2020. It resolved to an active website which appears to promote competing goods of the Complainant and its website under the TOJANUV mark.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its TROJANUV mark as the disputed domain name <trojanuvgroup.com> which wholly incorporates the TROJANUV mark in its entirety and the addition of the suffix "group" along with a generic Top-Level Domain ("gTLD") ".com", are insufficient to avoid confusing similarity.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith in order to intentionally attract, for commercial gain, Internet users to the Respondent's 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 and of products and services represented on the Respondent's website.

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 Agreement for the disputed domain name is Chinese.

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

- (i) the disputed domain name and the website under the disputed domain name are in the English language; and
- (ii) translating the Complaint into Chinese would cause an undue burden on the Complainant and unnecessarily delay the proceeding.

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 should be the language of the proceeding. The Panel notes that the disputed domain name resolves to a website in English, that the Respondent has not participated in this proceeding, and that all of the Center’s communications with the Parties have been sent in English and Chinese. The Panel also needs to ensure the proceeding is conducted in a timely and cost-effective manner. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed 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 belong to its respective owner. The Complainant has provided evidence that it owns the

TROJANUV mark.

The disputed domain name comprises the Complainant's TROJANUV marks in their entirety with the addition of the suffix "group". It is well established that where the trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. The Complainant's marks are clearly recognizable in the disputed domain name.

Further, it is well established that the adding of the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

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 to the domain name ([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 name and the Respondent has failed to assert any such rights or legitimate interests. The Complainant provided evidence that it owned the TROJANUV trademark registrations long before the date that the disputed domain name was registered, and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)). The Complainant has also submitted evidence that the Respondent is not commonly known by the disputed domain name as the Complainant had successfully challenged the "Trojanuv Group Ltd" company name shown on the website at the disputed domain name in the United Kingdom before the Company Names Tribunal (see [WIPO Overview 3.0](#), section 2.3). Additionally, the Complainant has submitted evidence that the trademark application filed by this company "Trojanuv Group Ltd" under the number UK00003503626 in the United Kingdom has been cancelled.

In addition, even where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see [WIPO Overview 3.0](#), section 2.5.1). In the present case, the evidence submitted by the Complainant suggests that the Respondent has attempted to impersonate the Complainant which was an attempt to falsely suggest an affiliation with the Complainant. This Panel finds that such use of the disputed domain name is not considered fair use.

Further, 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 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 domain name in bad faith (Policy, paragraph 4(a)(iii)). 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 Respondent registered the disputed domain name long after the Complainant registered its TROJAN and TROJANUV trademarks. Given that the Complainant's trademarks have been registered for a long time, it is highly unlikely that the Respondent did not know of the Complainant and its TROJAN and TROJANUV marks prior to the registration of the disputed domain name. The disputed domain name incorporates the Complainant's TROJANUV mark in its entirety with the additional suffix "group", which given the circumstances of this case, the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant's website. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The Complainant has also submitted evidence that the disputed domain name resolves to an active website which promotes competing products to those of the Complainant. This website also offers a product, "Trojanuv group 3000s" / "TrojanUV3000™PTP" which is using Complainant's trademarks. The Complainant has shown that its TROJAN and TROJANUV marks appear throughout this website. Based on the circumstances of the particular case, it is the Panel's view that it is unlikely that the Respondent registered the disputed domain name without sight and knowledge of the Complainant's marks and it is implausible that there is any good-faith use to which the disputed domain name may be put to. It is clear to the Panel that the Respondent specifically targeted the Complainant and its marks and registered the disputed domain name to divert Internet traffic and benefit commercially from unsuspecting Internet users seeking out the Complainant.

It is also the Complainant's evidence that the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant's marks as the Respondent's website made reference to the Complainant's trademarked product names and part numbers. This is another indication of bad faith on the part of the Respondent (see *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#)).

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's marks, the fact that the disputed domain name is used to redirect Internet users to a website which offers competing products to those of the Complainant, the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

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 <trojanuvgroup.com> be transferred to the Complainant

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: November 30, 2022