

## **ADMINISTRATIVE PANEL DECISION**

RunBuggy OMI, Inc. v. 杨智超 (Zhi Chao Yang aka Yang Zhi Chao)  
Case No. D2022-4140

### **1. The Parties**

The Complainant is RunBuggy OMI, Inc., United States of America (“U.S.”), represented by Quarles & Brady LLP, U.S.

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

### **2. The Domain Names and Registrars**

The disputed domain names <rnbuggy.com>, <rrunbuggy.com>, <rubuggy.com>, <runbbuggy.com>, <runbuggyy.com>, <runbuggyy.com>, <runbuuggy.com>, <runnbuggy.com>, <runbuggy.com>, and <wwwrunbuggy.com> (the “10 disputed domain names”) are registered with eName Technology Co., Ltd.; the disputed domain names <runbggy.com> and <runbugy.com> (the “2 disputed domain names”) are registered with Chengdu West Dimension Digital Technology Co., Ltd. (collectively the “Registrars”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2022. On November 3, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On November 4, 2022, the Registrars transmitted by email to the Center the verification responses 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 November 8, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint in English on November 8, 2022.

On November 8, 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 November 8, 2022. 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 November 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2022.

The Center appointed Francine Tan as the sole panelist in this matter on December 16, 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, RunBuggy OMI, Inc. (formerly known as RunBuggy, Inc.), offers a technology platform that connects car shippers and haulers. The Complainant's platforms allow shippers to seamlessly connect with their existing management systems to integrate car transportation services, reducing cost and improving time to deliver. For transporters, the Complainant offers an alternative to expensive load boards and custom software solutions to better find and manage transportation loads.

The Complainant is the owner of U.S. Trademark Registration No. 5,354,937 for RUNBUGGY, which was first used on October 1, 2016 and registered on December 12, 2017.

The Complainant owns the domain name <runbuggy.com>.

The 10 disputed domain names <rnbuggy.com>, <rrunbuggy.com>, <rbuggy.com>, <runbbuggy.com>, <runbuggyy.com>, <runbuggyy.com>, <runbuuggy.com>, <runnbuggy.com>, <ruunbuggy.com> and <wwwrunbuggy.com> were registered on April 23, 2022. The two disputed domain names <runbggy.com> and <runbugy.com> were registered on March 9, 2022. All of the disputed domain names resolve to parked pages featuring Pay-Per-Click ("PPC") links to services which compete with the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

1) The disputed domain names are confusingly similar to the Complainant's RUNBUGGY trade mark. The disputed domain names are all variations of the RUNBUGGY trade mark which differ by only the addition or omission of one letter, or the addition of the well-known acronym "www" for "world wide web". Each of the disputed domain names differ from the RUNBUGGY mark by the following additions or omissions:

- i. <rnbuggy.com> - omission of the letter "u";
- ii. <rrunbuggy.com> - addition of the letter "r";
- iii. <rbuggy.com> - omission of the letter "n";
- iv. <runbbuggy.com> - addition of the letter "b";
- v. <runbuggyy.com> - addition of the letter "g";
- vi. <runbuggyy.com> - addition of the letter "y";
- vii. <runbuuggy.com> - addition of the letter "u";
- viii. <runnbuggy.com> - addition of the letter "n";
- ix. <ruunbuggy.com> - addition of the letter "u";
- x. <runbggy.com> - omission of the letter "u";
- xi. <runbugy.com> - omission of the letter "g"; and
- xii. <wwwrunbuggy.com> - addition of the letters "www".

The disputed domain names contain obvious or intentional misspellings. This is a case of typosquatting and therefore the disputed domain names are confusingly similar to the Complainant's RUNBUGGY trade mark. The addition of the acronym "www" at the beginning of one of the disputed domain names is disregarded for the purposes of determining confusing similarity. The disputed domain names are visually and phonetically very similar to the Complainant's RUNBUGGY trade mark, therefore increasing the likelihood of confusion.

2) The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant never authorized the Respondent to use or register the disputed domain names. The Respondent's use of the disputed domain names which are confusingly similar to the Complainant's RUNBUGGY trade mark is neither a *bona fide* offering of goods and services nor constitute legitimate noncommercial or fair use under the Policy. The Respondent's typosquatting is an indication of a lack of rights or legitimate interests in the disputed domain names. The disputed domain names were registered with a privacy shield service. There is no evidence that indicates that the Respondent is or has ever been commonly known by the disputed domain names. The disputed domain names resolved to park pages which advertise services that are similar to those offered by the Complainant, in order to mislead and divert consumers by attracting them through confusingly similar domain names and then collecting revenue by featuring "sponsored" links on their webpages. Although the Complainant has not experienced any fraudulent activity related to the disputed domain names, given the high number of disputed domain names and typosquatting, the Complainant has a legitimate concern that the Respondent may be planning, or is currently attempting, to use the disputed domain names to advance a fraudulent scheme.

3) The disputed domain names were registered and are being used in bad faith. The Respondent's typosquatting of the Complainant's RUNBUGGY trade mark is evidence of bad faith. The Respondent's listing the disputed domain names for sale at USD 7,999 each is further evidence of bad faith. The circumstances indicate that the Respondent is intentionally using the disputed domain names in an attempt to attract, for commercial gain, Internet users to his websites which provide sponsored links that advertise services that are similar to those offered by the Complainant. The Respondent is doing so in order to mislead and divert consumers by attracting them through confusingly similar domain names and then collecting revenue by featuring PPC links on their webpages. The Respondent has engaged in a pattern of registering domain names by targeting the Complainant's RUNBUGGY trade mark and making minor variations of the said mark. The Respondent hid behind a privacy service while carrying out illegitimate activities, which is further evidence of bad faith. An informal search conducted by the Respondent would have revealed the existence of the Complainant and its RUNBUGGY trade mark.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreements for the disputed domain names is Chinese. The Complainant requested that the language of the proceeding be English for these main reasons:

- (i) The disputed domain names are misspelled variations of the English words "Run Buggy".
- (ii) The content of the parked pages to which the disputed domain names resolve is in the English language.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

“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 intention of paragraph 11(a) of the Rules is to allow panels a measure of flexibility and discretion to consider the entire circumstances of each case, to ensure fairness between the parties, while at the same time not undermining the mandate for the proceeding to be administered in an expeditious manner. (See section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).) The relevant points of consideration would include the parties’ level of familiarity with the respective languages, the expenses to be incurred, the possibility of delay in the proceeding if translations are required, as well as the language of the domain names in dispute and of the resolving websites.

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he is probably familiar with and understands the English language, taking into account his selection of the language/script of the 12 disputed domain names and of the parked pages. The Respondent had, moreover, been notified by the Center, in both Chinese and English languages, of the commencement of the proceeding, the language of the Registration Agreement, and deadline for filing a Response. He therefore had ample opportunity to object and/or propose to submit his Response in Chinese, but he did not do so. In the absence of any objection and justification therefor by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese. This would cause unnecessary delay in the proceeding.

## **6.2 Substantive Issues**

### **A. Identical or Confusingly Similar**

The Complainant has established it has rights in the RUNBUGGY trade mark. The disputed domain names in essence comprise misspelt versions of the Complainant’s RUNBUGGY trade mark. As stated in section 1.9 of the [WIPO Overview 3.0](#), “[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”, and “examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ...”. The addition of “www” in the disputed domain name <wwwrunbuggy.com> does not prevent a finding of confusing similarity between this disputed domain name and the Complainant’s trade mark. See section 1.8 of the [WIPO Overview 3.0](#), *Credit Industriel et Commercial v. Domain Drop S.A.*, WIPO Case No. [D2007-0666](#), and *Unilever Supply Chain, Inc. v. Kal Kuchora*, WIPO Case No. [D2005-1347](#).

The generic Top-Level Domain “.com” is a technical requirement for domain name registrations and does not have any impact on the issue of the identity or confusing similarity between the disputed domain names and the Complainant’s trade mark.

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

### **B. Rights or Legitimate Interests**

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant’s earlier use and registration of the RUNBUGGY trade mark predate the registration date of the disputed domain names by several years. The Complainant did not license nor authorize the Respondent to use RUNBUGGY as a trade mark or in a domain name. Neither is there any evidence that the Respondent is commonly known by the disputed domain names. The use of the disputed domain names which incorporate the Complainant’s trade mark for

use in relation to parking pages with PPC links to, *inter alia*, “Car Shipping”, “Auto Transport” and “Car Shipping Companies” does not constitute a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy. The subject matter reflected on the parking pages correspond to and/or are related to that of the Complainant’s website at “www.runbuggy.com”. The Respondent’s choice of the disputed domain names shows a clear intent to obtain an unfair commercial gain by misleading Internet users, in particular those who may mistype the domain name when looking for the Complainant’s official website which operates under the <runbuggy.com> domain name, nor does such use constitute a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainant’s assertions and evidence.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

### **C. Registered and Used in Bad Faith**

The Panel is persuaded in the circumstances of this case that the Respondent targeted the Complainant and its RUNBUGGY trade mark. There is no other reason for the Respondent to have registered the disputed domain names, all being misspelt versions of the RUNBUGGY trade mark, except for the sole purpose of riding off the reputation and goodwill in, and creating confusion with, the Complainant’s trade mark. This is all the more apparent from the fact that the Complainant owns and operates the domain name <runbuggy.com>:

“If ... circumstances indicate that the respondent’s intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant’s trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent’s likely knowledge of the complainant’s rights, (ii) the distinctiveness of the complainant’s mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant’s trademark, e.g., through links to the complainant’s competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to ‘sell to the highest bidder’ or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, ... Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner.” (See section 3.1.1 of the WIPO Overview3.0.)

The Panel finds that there has been bad faith registration and use. The facts and circumstances which support the finding include the following:

- (i) the high degree of distinctiveness and reputation of the Complainant’s RUNBUGGY trade mark;
- (ii) the Respondent’s likely knowledge of the Complainant’s rights in the RUNBUGGY trade mark;
- (iii) the PPC links on the parking pages to which the disputed domain names resolve, which are related to the Complainant’s goods and services provided under the RUNBUGGY trade mark;
- (iv) the nature of the disputed domain names which wholly incorporate misspelt versions of the RUNBUGGY trade mark, and PPC links to third-party websites;

- (v) the Respondent's deliberate typosquatting and pattern of abusive registration of the disputed domain names targeting the Complainant's trade mark;
- (vi) the listing of the disputed domain names for sale for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain names;
- (vii) the failure of the Respondent to submit a Response, or to provide any explanation for registering the disputed domain names; and
- (viii) the implausibility of any good-faith use to which the disputed domain names may be put.

It can be surmised that the Respondent fully appreciated the value associated with the RUNBUGGY trade mark, which is why he registered the series of disputed domain names which incorporate misspelt versions of the RUNBUGGY trade mark and which are closely similar to the Complainant's <runbuggy.com> domain name. He hoped to draw Internet traffic through typographical errors made by Internet users who may be searching for the Complainant's products or services. The Panel therefore concludes that the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been 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, <rnbuggy.com>, <rrunbuggy.com>, <rubuggy.com>, <runbbuggy.com>, <runbugggy.com>, <runbuggyy.com>, <runbuuggy.com>, <runnbuggy.com>, <ruunbuggy.com>, <wwwrunbuggy.com>, <runbggy.com>, and <runbugy.com>, be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: December 30, 2022