

ADMINISTRATIVE PANEL DECISION

N. M. Rothschild & Sons Limited v. Luo Luo Ke Ke, Gong Si
Case No. D2022-4193

1. The Parties

The Complainant is N. M. Rothschild & Sons Limited, United Kingdom, represented by Freshfields Bruckhaus Deringer LLP, United Kingdom.

The Respondent is Luo Luo Ke Ke, Gong Si, Taiwan Province of China.¹

2. The Domain Name and Registrar

The disputed domain name <rothschild-coins.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 4, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that 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 Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on the same day.

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 of the Complaint, and the proceedings commenced on November 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2022. On November 8, 2022, the Center received an informal communication from the Respondent in English seeking an explanation of the

¹ The original Complaint was filed against a privacy service but the amended Complaint identified the Registrar-verified underlying registrant of the disputed domain name as the Respondent. The Panel considers the underlying registrant to be the proper respondent against whom this dispute should proceed and refers to it in this Decision as “the Respondent”.

proceeding. On November 9, 2022, the Center responded in English to the Respondent's inquiry. On November 14, 2022, the Center received another informal communication from the Respondent in English seeking clarification and inquiring whether anyone at the Center could speak Chinese. On November 15, 2022, the Center responded in English and Chinese to the Respondent's inquiry. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties of the commencement of the Panel appointment process on December 2, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on December 12, 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, incorporated in 1968, is a member of the Rothschild & Co. financial advisory group. The Complainant has rights to trademark registrations for ROTHSCHILD held by related companies, including the following:

- United Kingdom trademark registrations numbers 1285831 and 1285832, registered on October 5, 1990, and October 12, 1990, respectively, and specifying services in classes 35 and 36, respectively;

- European Union Trade Mark registration number 0000206458, registered on October 8, 1998, specifying services in classes 14, 35, and 36; and

- United States of America trademark registration number 3447667, registered on June 17, 2008, specifying services in classes 35 and 36.

The above trademark registrations remain current. The Complainant's group also uses the domain name <rothschildandco.com> in connection with a website where it provides information about itself and its services. According to evidence from that website presented by the Complainant, its group provides a range of financial services that includes asset management.

The Respondent is identified in the Registrar's private Whois database as "Luo Luo Ke Ke" and the organization "Gong Si", which is a transliteration of the Chinese word for "company".

The disputed domain name was registered on August 24, 2022. It resolves to a website in Chinese and English for "RothsChild-Coins", which is presented as a "digital asset trading platform". The homepage quotes cryptocurrency prices and displays a list of users with details of their respective investments in particular cryptocurrencies. The website invites Internet users to register and log in to "open transactions".

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's ROTHSCHILD mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no relationship between the Respondent and the Complainant. There is a real risk that the Respondent's website will be falsely associated with the Complainant. The website contains links that do not resolve to any content, and it requires users to create an account to access further information.

The disputed domain name was registered and is being used in bad faith. It would appear that, in addition to advertising financial services under the Rothschild name, the website associated with the disputed domain

name is using the Rothschild name to misleadingly attract individuals to register to use the trading platform. The Respondent's unauthorized and abusive use of the Rothschild name to lend legitimacy to his website in order to provide financial services to consumers is clearly not *bona fide*; the Respondent can only be using the ROTHSCHILD trademarks in bad faith. It is more likely than not that the disputed domain name has been registered to facilitate phishing or other fraudulent activities. The disputed domain name has been registered and is being used in bad faith by attempting to impersonate the Complainant and its group.

B. Respondent

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

6. Discussion and Findings

6.1 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 Registrar confirmed that the Registration Agreement for the disputed domain name is in English.

The Complainant has submitted the Complaint and amended Complaint in English. The Respondent in its informal email communications submitted that its English was not good, enquired whether anyone at the Center could speak Chinese, and did not submit a formal response.

Paragraph 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case, and that the administrative proceeding takes place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Respondent chose to enter into the Registration Agreement in English and that its website associated with the disputed domain name has an English version, from which it is reasonable to infer that the Respondent understands that language. Moreover, despite the Center having sent an email regarding the proceeding in both English and Chinese at the Respondent's request, the Respondent did not request permission to file a Response in a language other than English or express any intention to participate otherwise in this proceeding.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

6.2 Analysis and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the ROTHSCHILD mark.

The disputed domain name wholly incorporates the ROTHSCHILD mark as its initial element. It also contains the word “coins” separated from the mark by a hyphen. The addition of this word and hyphen does not avoid a finding of confusing similarity as the ROTHSCHILD mark remains clearly recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The only other element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element may be disregarded in the comparison between the disputed domain name and the ROTHSCHILD mark for the purposes of the first element of paragraph 4(a) of the Policy. See [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. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [the respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain name resolves to a website that purports to be a cryptocurrency trading platform operated by “RothsChild-Coins”, which incorporates the ROTHSCHILD mark combined with the word “coins”. Even though the Respondent’s website displays the mark with a capitalized “C”, this does not dispel the impression that the site is somehow affiliated with the Complainant’s group. However, the Complainant submits that there is no relationship between itself and the Respondent. These circumstances indicate that the Respondent is not making a use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor is it making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance, the Registrar’s verification email identifies the Respondent as “Luo Luo Ke Ke” and “Gong Si”, not the disputed domain name. The Respondent’s email username is “kolorogame”. There is no evidence besides the Respondent’s own website that the Respondent has been commonly known by the disputed domain name.

In view of the above circumstances, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not reply to the Complainant’s contentions.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location.

As regards registration, the disputed domain name was registered in 2022, many years after the registration of the ROTHSCHILD trademark in which the Complainant has rights. The disputed domain name wholly incorporates that mark, which is a family name of which the Complainant's group has made widespread and longstanding use in connection with financial and other services. The disputed domain name associates the ROTHSCHILD mark with the word "coins" and uses it in relation to a digital asset trading platform, which indicates an awareness of the Complainant's group and its financial services. Nothing on the website provides any explanation for the choice of the ROTHSCHILD mark other than to take advantage of the Complainant's reputation in that mark. In view of these circumstances, the Panel finds it likely that the Respondent had the Complainant's group and its ROTHSCHILD mark in mind when it registered the disputed domain name.

As regards use, the disputed domain name, which wholly incorporates the ROTHSCHILD mark, resolves to a digital asset trading platform, which operates in the financial sector as does the Complainant's group. In view of these circumstances and those set out in Section 6.2B above, the Panel finds that the disputed domain name is used to attract Internet users by creating a likelihood of confusion with the Complainant's ROTHSCHILD trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. This use is for the commercial gain of the Respondent. Accordingly, the Panel finds that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of 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, <rothschild-coins.com>, be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: December 26, 2022