

ADMINISTRATIVE PANEL DECISION

Valvoline Licensing and Intellectual Property LLC v. Hua De Wang (王化德) Case No. D2022-4211

1. The Parties

The Complainant is Valvoline Licensing and Intellectual Property LLC, United States of America, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Hua De Wang (王化德), China.

2. The Domain Name and Registrar

The disputed domain name <valvolinerebates.com> is registered with Cloud Yuqu LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2022. On November 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 8, 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 November 8, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On November 8, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On November 12, 2022, the Complainant filed an amended Complaint in English, including a 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 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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2022.

The Center appointed Douglas Clark as the sole panelist in this matter on December 9, 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 the owner of trade mark registrations across various jurisdictions. The trade marks relevant to this matter are:

Trade Mark	Trade Mark No.	Registration Date	Class	Jurisdiction
VALVOLINE	162814	September 30, 1982	4	China
VALVOLINE	1972160	August 7, 2003	4	China
VALVOLINE	2020512	February 21, 2005	4	China
VALVOLINE	568949A	March 19, 1991	1, 3, and 4	WIPO (designating, among others, China)

While not directly stated in the Complaint, the Complainant appears to be the intellectual property holding company of Valvoline Inc, a manufacturer of automotive lubricants with a 150 year history and a presence in 140 countries. The Panel can decide the Complaint on the basis that the Complainant is the owner of the above trade marks so has not sought confirmation that this is the case from the Complainant.

The Respondent is an individual based in China.

The disputed domain name <valvolinerebates.com> was registered on June 22, 2022. At the date of this Complaint, the disputed domain name resolved to a parking page with what appeared to be click through advertising links.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

(a) The disputed domain name is confusingly similar to its trade mark VALVOLINE. The disputed domain name is almost identical to the Complainant's VALVOLINE trade mark along with the addition of the word "rebates". The use of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is typically irrelevant to the consideration of confusing similarity;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Respondent has never been granted any authorization or license to use the Complainant's trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and

(c) The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name with knowledge of the VALVOLINE mark. The Respondent is using the disputed domain name to confuse unsuspecting Internet users looking for the Complainant's services, and to mislead Internet users as to the source of the domain name and website. The Respondent is a serial cybersquatter that has been the unsuccessful respondent in a number of WIPO domain name cases and is the registrant of a number of domain names incorporating other well-known marks.

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 Issues - Language of the Proceeding

According to paragraph 11(a) of the Rules, 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.

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. There is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- (i) The Complainant is unable to communicate in Chinese;
- (ii) Translation of the Complaint would lead to delays and cause extra expenses;
- (iii) The disputed domain name is in Latin characters;
- (iv) The website under the disputed domain name features various phrases in English;
- (v) The term "valvoline" does not have any meaning in Chinese; and
- (vi) The Complainant has sent cease and desist letters which have not been responded to.

In accordance with paragraph 11(a) of the Rules and taking into consideration paragraphs 10(b) and (c) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding;
- the website the disputed domain name resolves to is entirely in English; and
- an order for the translation of the Complaint will result in significant expenses for the Complainant and an unwarranted delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. D2008 -1191, that a respondent's failure to respond to a preliminary determination by the Center as to the language of the proceeding "should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint".

6.2 Substantive Issues

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name <valvolinerebates.com> is confusingly similar to the Complainant's trade mark. The disputed domain name reproduces the VALVOLINE trade mark in its entirety along with the word "rebates". The gTLD ".com" is generally disregarded when considering the first element. (See Section 1.11.1, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's VALVOLINE trade mark or to apply for registration of the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name or the name "Valvoline".

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Based on the given evidence, the Panel finds the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant registered the VALVOLINE trade mark in China and internationally. The Panel notes that the disputed domain name is identical to the Complainant's trade name "Valvoline" save for the addition of the word "rebates". The term "Valvoline" has no other meaning in English which shows that the Respondent seeks to target the Complainant through the disputed domain name. The Panel finds that the Respondent has registered the disputed domain name to attract Internet users to the website at the disputed domain name for commercial gain in accordance with paragraph 4(b)(iv) of the Policy.

The Panel is also satisfied that the Respondent has engaged in a pattern of registering domain names corresponding to marks held by third parties. The Respondent has been involved in other unsuccessful domain name cases and is the current registrant of a number of domain names incorporating well-known marks.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under 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, <valvolinerebates.com>, be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: December 28, 2022