

ADMINISTRATIVE PANEL DECISION

GROUP Fourteen IP Pty Ltd. v. LuXiangPing

Case No. D2023-0391

1. The Parties

The Complainant is GROUP Fourteen IP Pty Ltd., Australia, represented by IP Twins, France.

The Respondent is LuXiangPing, China.

2. The Domain Name and Registrar

The disputed domain name <grown-chemist.com> is registered with 22net, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 28, 2023, 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 January 30, 2023, 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 February 1, 2023.

On January 30, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On February 9, 2023, 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 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 in English and Chinese of the Complaint, and the proceedings commenced on February 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 3, 2023.

The Center appointed Joseph Simone as the sole panelist in this matter on March 13, 2023. 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, GROUP Fourteen IP Pty Ltd, is a key actor of the cosmetic field and produces scientifically innovative formulas that aim to improve skin cell health founded in 2008 and sold internationally.

The group has more than 9,000 employees worldwide.

The Complainant has an extensive global portfolio of GROWN ALCHEMIST trademarks, including the following:

- International Trade Mark Registration No. 1130921 for GROWN ALCHEMIST in Classes 3 and 35, designating a number of jurisdictions including China, registered on July 16, 2012; and
- Australian Trade Mark Registration No. 1497869 for GROWN ALCHEMIST in Classes 3 and 35, registered on June 22, 2012.

The disputed domain name was registered on March 24, 2022.

The Complainant asserts that at the time of filing of the Complaint, the disputed domain name resolved to a page offering to sell the disputed domain name. At the time of this decision, the disputed domain name resolves to a parking page.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the GROWN ALCHEMIST trade marks and that it has acquired a strong reputation in its field of business.

The Complainant further notes that the disputed domain name registered by the Respondent is confusingly similar to the Complainant's GROWN ALCHEMIST trade marks.

The Complainant asserts that it has not authorized the Respondent to use any of its GROWN ALCHEMIST marks, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant presents evidence showing that the disputed domain name was offered for sale, and that it is implausible that the Respondent registered the disputed domain name in good faith, and that any use of the disputed domain name must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Language of Proceedings

In accordance with paragraph 11(a) of the Rules:

“[...] 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 names is Chinese. Hence, the default language of the proceeding should be Chinese.

However, the Complainant filed the Complaint in English, and requested that English be the language of the proceeding, asserting that the Complainant is not familiar with the Chinese language, the disputed domain name only contains Latin letters instead of Chinese characters, the disputed domain name resolved to a website in English with prices displayed in United States dollars, and to proceed in the Chinese language the Complainant would have to retain specialized translation services at a cost that is likely to be higher than the overall cost of the present proceeding.

The Respondent was notified in both Chinese and English of the language of the proceeding and the Complaint, and the Respondent did not comment on the language of the proceeding or submit any response.

Considering the circumstances in this case, the Panel has determined that the language of the proceeding shall be English, and the Panel has issued this decision in English. The Panel further finds that such determination would not cause any prejudice to either Party and would ensure that the proceeding takes place with due expedition.

B. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the GROWN ALCHEMIST trade mark.

Disregarding the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain name incorporates the Complainant’s trade mark GROWN ALCHEMIST in its entirety.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the GROWN ALCHEMIST trade mark and in showing that the disputed domain name is confusingly similar to its mark.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a complainant is required to establish a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been made out, the respondent bears the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has established its *prima facie* case with satisfactory evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Therefore, the Respondent has not shown that prior to the notice of the dispute, it has used or has demonstrated its preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is also no evidence showing that the Respondent has been commonly known by the disputed domain name or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular, but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the GROWN ALCHEMIST trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Panel also accepts the Complainant's contention that the Respondent registered the disputed domain name primarily for the purpose of selling it to the Complainant (or a competitor of the Complainant) for valuable consideration in excess of its documented out-of-pocket costs directly related to the disputed domain name, as evidenced by the fact that the disputed domain name resolved to a page offering to sell the disputed domain name at the time of filing this Complaint. See paragraph 4(b)(i) of the Policy.

In light of the foregoing facts, there are no plausible good faith reasons for the Respondent to have registered and used the disputed domain name, especially considering the relevant circumstances.

The Panel therefore finds that the Respondent registered and used the disputed domain name 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 <grown-chemist.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: March 21, 2023