

ADMINISTRATIVE PANEL DECISION

Chambre Franco – Allemande De Commerce Et D’Industrie v.
JUNGYUHKOOK
Case No. D2023-2104

1. The Parties

The Complainant is Chambre Franco – Allemande De Commerce Et D’Industrie, France, represented by Jacobbaci Coralys Harle, France.

The Respondent is JUNGYUHKOOK, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <widaf.com> is registered with Megazone Corp., dba HOSTING.KR (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 11, 2023. On May 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On May 18, 2023, the Center notified the Parties in both English and Korean that the language of the registration agreement for the disputed domain name is Korean. On May 18, 2023, the Respondent submitted a request for Korean to be the language of the administrative proceeding along with a brief informal response. On May 22, 2023, the Complainant submitted a request for English to be the language of the administrative proceeding.

The Center verified that 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 of the Complaint in both English and Korean, and the proceedings commenced on May 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2023. The Respondent did not submit

any formal response. Accordingly, the Center notified that it would proceed to Panel appointment on June 16, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on July 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 is a French non-profit organization which promotes economic relations between France and Germany. The Complainant administers and organizes a test which measures proficiency in business German which is called the WiDaF test. The Complainant owns the following trademark registrations to WiDaF:

- WIDAF stylized: French trademark registration number 3437558, registered on August 4, 2006;
- WIDAF and Device: European Union trademark registration number 011080587, registered on January 2, 2013; and
- WIDAF text mark: International trademark registration number 1345178 registered on December 28, 2016, designating Türkiye, Switzerland, China, Egypt, Morocco, Monaco, and the United States of America.

The Respondent appears to be an individual with an address in the Republic of Korea.

The disputed domain name was registered on July 4, 2020 and resolves to a website showing pay-per-click links to English language study services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name consists of "widaf" and is therefore identical to the WIDAF trademark in which the Complainant has rights.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of 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.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the disputed domain name is used for a parking page which has links to services related to the study of the English language, which is similar to the German language comprehension test offered by the Complainant, and thus, it is likely for the Respondent to have registered the disputed domain name in order to confuse Internet users and attract them to the Respondent's website for commercial gains. The Complainant also contends that in its communication with the Respondent before its filing of the UDRP Complaint, the Respondent attempted to sell the disputed domain name to the Complainant for USD 18,000 which is considerably more than his out-of-pocket costs directly related to the disputed domain name, and shows that the Respondent registered the disputed domain name in order to create confusion and resell it for valuable consideration in excess of his out-of-pocket costs directly related to the disputed domain name. The Complainant also points out that the Respondent has seven prior WIPO UDRP decisions against him, which is further evidence of the Respondent's bad faith.

B. Respondent

The Respondent did not submit a formal reply to the Complainant's contentions. But in an informal communication of May 18, 2023, the Respondent stated that he did not register the disputed domain name for the purpose of sale, and it was listed for sale by mistake. The Respondent also stated that he did not earn any profits from the disputed domain name. The Respondent is also claiming that he registered the disputed domain name in 2020 while the Complainant's trademarks were registered in 2023.

6. Discussion and Findings

A. Language of the proceeding

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their positions on this point. The Respondent chose not to submit a formal response.

The Panel finds it proper and fair to render this decision in English. Given the fact that the Complainant is based in France and the Respondent is based in the Republic of Korea, English would appear to be the fairest neutral language for rendering this decision. Further, the Respondent responded in English to the Complainant's offer for purchase of the disputed domain name which displayed sufficient knowledge in the English language for the purpose of this proceeding. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no formal Response was submitted in Korean. In addition, according to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1, the Panel can take into consideration prior cases involving the Respondent in a particular language. In this regard, there are a number of prior WIPO UDRP decisions involving a respondent in the Republic of Korea by the name of "Jungyuhkook", and the panels in all the cases rendered decisions in English, deciding that the Respondent has sufficient knowledge of English to be able to understand the decision in English, or that he would not be unduly prejudiced by rendering the decision in English. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient, given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark WIDAF.

The disputed domain name solely consists of the term "widaf", and is therefore, identical to the Complainant's trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no substantive Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name corresponds exactly to the Complainants' trademark, and it carries a high risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Section 3.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") provides that bad faith under the UDRP is "broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark". Here, evidence suggests that the Respondent likely knew of the Complainant when registering the disputed domain name. First of all, the Panel finds that "widaf" is a distinctive term, and the Respondent has given no explanation for having registered a domain name containing this particular term. Further, information on the Complainant and its trademark would have been easily discoverable through an Internet search. While the Respondent is claiming that the disputed domain name was registered in 2020 before the Complainants' trademarks, the Panel notes that all of the Complainant's trademarks were registered before 2020 (*i.e.* in 2003, 2015 and 2016).

Also, by linking the disputed domain name with a parking page displaying pay-per-click links to language learning services that are related to the services of the Complainant, the Respondent created a likelihood of confusion and likely benefited commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy.

Lastly, the Panel takes note of the various prior UDRP decisions rendered against the Respondent that indicate a pattern of bad faith conduct on part of the Respondent as described under paragraph 4(b)(ii) of the Policy, *e.g.*, *Fundación Universitaria Iberoamericana (Funiber) v. Jungyuhkook*, WIPO Case No. [D2019-2743](#); *Institut de Recherche Biologique – IRB v. Jungyuhkook*, WIPO Case No. [D2018-2125](#).

Accordingly, the Panel finds that the third element has been established.

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 <widaf.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: July 31, 2023