

ADMINISTRATIVE PANEL DECISION

Click Sales, Inc. v. Weng Long Chen and 铁 陈
Case No. D2023-2363

1. The Parties

Complainant is Click Sales, Inc., United States of America (“United States”), represented by Holland & Hart, LLP, United States.

Respondents are Weng Long Chen and 铁 陈, China.

2. The Domain Names and Registrar

The disputed domain names <clickbank-analysis.com>, <clickbank-audit.com>, and <clickbank-eve.com> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2023. On June 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on June 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint or to file a separate complaint for each of the disputed domain names. Complainant filed an amended Complaint on June 21, 2023.

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 Respondents of the Complaint, and the proceedings commenced on July 13, 2023. In accordance with the Rules, paragraph 5, the due date for the Response was August 2, 2023. Respondents did not submit any response. Accordingly, the Center notified the Parties of Respondents’ default on August 3, 2023.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on August 7, 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

Complainant, formed in 1998 in California, United States, provides global online retail services and hosts an affiliate online marketplace for customers in 190 countries around the world. Its primary business website is at the domain name <clickbank.com>.

Complainant is the proprietor of several trademark registrations, including United States Trademark Registration No. 3025708 for CLICKBANK (word mark), registered on December 13, 2005, for services in class 35.

The disputed domain names were registered on the following dates:

- <clickbank-analysis.com> on April 23, 2023;
- <clickbank-audit.com> on May 4, 2023; and
- <clickbank-eve.com> on May 5, 2023.

At the time of this Decision, the disputed domain names did not resolve to active websites. The record contains evidence that the disputed domain name <clickbank-analysis.com> previously resolved to a website featuring Complainant's CLICKBANK logo and color scheme and invited Internet users to enter their login information and password.

5. Parties' Contentions

A. Complainant

1. Request to consolidate proceedings

Complainant requests consolidation of the proceedings for the following reasons: the disputed domain names share the same Registrar, the disputed domain names were registered within a period of two weeks, the disputed domain names employ a similar naming convention, the disputed domain names use the same email server, none of the disputed domain names resolve to an active website, registrant addresses appear false and therefore cannot distinguish the identified registrants, and the identified registrants share the same surname, Chen. Complainant states that the disputed domain names are under common control.

2. Substantive contentions

Under the first element, Complainant states that the disputed domain names comprise its CLICKBANK mark, followed by a hyphen and the terms "audit", "analysis", or "eve". Thus, the CLICKBANK mark is clearly recognizable within the disputed domain names. The hyphen clearly distinguishes CLICKBANK from the remainder of the elements in the disputed domain names.

Under the second element, Complainant states that Respondents registered the disputed domain names well after Complainant established rights in its CLICKBANK Mark. Respondents registered the disputed domain names without Complainant's permission or consent. Respondents are not and never have been associated or affiliated with Complainant and Complainant has never authorized Respondents to use any of its trademarks. The CLICKBANK mark is well known and famous and Respondents were therefore aware of Complainant's rights.

Under the third element, Complainant states that the disputed domain name <clickbank-analysis.com> previously resolved to a website featuring Complainant's identical color blue, white, and gray color scheme

and logo and requesting site visitors' username and password. Complainant states that Respondents were likely effecting a phishing scheme aimed at misleading Complainant's customers into providing their ClickBank login information. The other disputed domain names were being passively held in bad faith. Respondents have registered the disputed domain names with actual knowledge of Complainant's rights.

Complainant requests transfer of the disputed domain names.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Issue - Consolidation of Multiple Respondents

Pursuant to paragraph 10 of the Rules:

- (a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.
- (b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

[...]

- (e) A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

The principles to assess a request to consolidate multiple respondents are set forth in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

Noting the circumstances of the case, the Panel considers the disputed domain names to be under common control. While the disputed domain names were registered on separate dates under different names, the Panel notes that the disputed domain names reflect similar naming patterns, consisting of Complainant's CLICKBANK mark and the terms "analysis", "audit", and "eve". All three disputed domain names were registered in a short period of time by registrants located in China with the same surname, using the same email server and using the same Registrar.

Respondents do not challenge Complainant's assertions nor offer any alternative explanation for these circumstances. Accordingly, the Panel accepts Complainant's request to consolidate the present proceedings pursuant to the Rules, paragraph 10(e). Respondents are hereinafter referred to as "Respondent".

6.2 Substantive Issues

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) Respondent has registered and is using the disputed domain names in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the CLICKBANK mark through registration in the United States. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See [WIPO Overview 3.0](#), section 1.2.1.

In comparing Complainant’s CLICKBANK mark with the disputed domain names, the Panel finds that the disputed domain names are confusingly similar to this mark as the mark is clearly recognizable within the disputed domain names, followed by a hyphen and the terms “analysis”, “audit”, and “eve”, respectively. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain (“gTLD”) such as “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names. Respondent is not authorized by Complainant and has no rights in the CLICKBANK mark, nor is Respondent commonly known by the disputed domain names.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant’s *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain names, or that there are any circumstances or activities that would establish Respondent’s rights therein. There is no evidence of legitimate noncommercial use or a *bona fide* offering of goods or services. The disputed domain names comprise Complainant’s CLICKBANK mark plus dictionary terms. Such composition cannot constitute fair use as it impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The evidence in the record establishes that two of the disputed domain names, namely, <clickbank-audit.com> and <clickbank-eve.com>, have not been used to resolve to any website. Complainant provides evidence establishing that the third disputed domain name, namely, <clickbank-analysis.com>, was used by Respondent to impersonate Complainant in an attempt to defraud third parties. Such use can never confer rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain names. Complainant's registered rights in its CLICKBANK mark predates the registration of the disputed domain names by more than 15 years. The disputed domain names reflect Complainant's well-established mark together with the dictionary terms "analysis", "audit", and "eve", respectively. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity, as in this case, can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds the evidence in the record establishes that Respondent used the disputed domain name <clickbank-analysis.com> in an attempt to pass itself off as Complainant to perpetuate what appears to be a fraudulent scheme to obtain login information from Complainant's customers. The Panel finds that Respondent thereby attempted to impersonate Complainant for commercial gain, indicating bad faith in registration and use of the disputed domain name. See [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain names <clickbank-audit.com> and <clickbank-eve.com> do not resolve to an active website. The Panel finds that Respondent has, on balance, demonstrated bad faith by passive holding of these disputed domain names. Such a finding is consistent with previous UDRP decisions, such as *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). See also [WIPO Overview 3.0](#), section 3.3. In particular, the disputed domain names reflect Complainant's registered and long-established CLICKBANK mark. Respondent failed to provide any evidence of a connection to a legitimate business related to Complainant's marks. Respondent has failed to provide any evidence of actual or contemplated good-faith use of the disputed domain names. Under the circumstances, and considering in particular the close proximity of the other disputed domain name <clickbank-analysis.com> and its use for fraudulent purposes, the Panel does not find any such use plausible.

The Panel therefore finds that Complainant has established 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 names, <clickbank-analysis.com>, <clickbank-audit.com>, and <clickbank-eve.com>, be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: August 21, 2023