

ADMINISTRATIVE PANEL DECISION

Rakuten Group, Inc. v. jin
Case No. D2023-2423

1. The Parties

The Complainant is Rakuten Group, Inc., Japan, represented by Demys Limited, United Kingdom.

The Respondent is jin, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <rakuten.vip> (“Disputed Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2023. On June 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 5, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 on June 12, 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 the Respondent of the Complaint, and the proceedings commenced on June 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 13, 2023.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on July 31, 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 Japanese technology conglomerate listed on the Tokyo Stock Exchange. The Complainant offers a wide range of products and services within the e-commerce, digital content, fintech, communications, and professional sports sectors. This includes online marketplaces, payment systems, e-commerce platforms, streaming services, and mobile applications.

The Complainant holds a number of trademark registrations for or containing RAKUTEN (“the Complainant’s Trademark”) around the globe. The relevant trademarks include the European Union Trademark Registration No. 4755741 for the mark “RAKUTEN” in Class 35 registered on June 29, 2007. Apart from the trademark registration above, the Panel notes that the Complainant holds the International Trademark Registration No. 1719866 for the mark “**Rakuten**” in Classes 9, 12, 16, 18, 21, 24, 25, 26, and 28 registered on September 8, 2022, and Hong Kong Trademark Registration No. 301278243 for the mark “Rakuten” in Classes 9, 16, 35, 36, 39, 41, 42, 43, 44, and 45 registered on January 29, 2009, where the Respondent is apparently located.

The Complainant’s Trademark is also fully incorporated in the Complainant’s domain name <rakuten.com> which resolves to the Complainant’s website at “https://www.rakuten.com/” (the “Complainant’s Website”).

The Disputed Domain Name <rakuten.vip> was registered on May 19, 2023. The Panel notes that the Disputed Domain Name currently resolves to a parking page which displays a message stating “Contact Domain Owner” and advertises “Epik” domain name registration and website hosting services.

5. Parties’ Contentions

A. Complainant

The Complainant’s primary contentions can be summarized as follows:

- (a) The Disputed Domain Name is identical or confusingly similar to the Complainant’s Trademark. The Complainant’s Trademark is reproduced in its entirety. The addition of the generic Top-Level Domain (“gTLD”) extension, “.vip” in the Disputed Domain Name does not distinguish it from the Complainant’s Trademark.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any authorization from the Complainant to use the Complainant’s Trademark as part of a domain name or otherwise. Moreover, the Disputed Domain Name is not being used in relation to a *bona fide* offering of goods or services and the Respondent is not making legitimate or fair use of the Disputed Domain Name.
- (c) Both the Respondent’s registration and use of the Disputed Domain Name establish the Respondent’s bad faith. Given the history of the Rakuten brand and reputation that the Complainant has acquired in the Complainant’s Trademark, the Respondent must have been fully aware of the existence of the Complainant’s rights in the Complainant’s Trademark when the Respondent registered and used the Disputed Domain Name. The Disputed Domain Name resolves to a parking page with no activity and amounts to passive holding.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three 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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations such as, *inter alia*, the trademarks listed in Section 4.

The Complainant's Trademark is wholly incorporated in the Disputed Domain Name without any other element. Furthermore, it is well established that the generic Top-Level Domain ("gTLD"), ".vip" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As such, the Panel finds that the Disputed Domain Name is identical to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent, which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a formal Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a formal Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (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 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 noncommercial 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.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

The Disputed Domain Name resolves to a website which advertises domain name registration and web hosting services. There is therefore no evidence to suggest that the Respondent has used, or has made any demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name that is in connection with a *bona fide* offering of goods or services, or that the Respondent is making legitimate, noncommercial or fair use of the Disputed Domain Name, without the intent to mislead and divert Internet users from the Complainant's Website and/or services.

Moreover, the Panel finds that the Disputed Domain Name is inherently misleading. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety without any other element. After reviewing the supporting evidence submitted by the Complainant, the Panel agrees that the Complainant's Trademark is well known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "Rakuten" are the Complainant's Website and third-party websites providing information about the Complainant and/or its products and services. Therefore, the Panel agrees that the Respondent must have been aware of the Complainant and its rights in the Complainant's Trademark when registering and using the Disputed Domain Name.

The Disputed Domain Name resolves to a website promoting domain name registration and web hosting services. This does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#). The Panel finds that the following factors support a finding that the Disputed Domain Name was registered and has been used by the Respondent in bad faith:

- (i) The degree of distinctiveness and reputation of the Complainant's Trademark;
- (ii) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use of the Disputed Domain Name; and
- (iii) The implausibility of any good faith use to which the inherently misleading Disputed Domain Name may be put.

In the circumstances, the Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <rakuten.vip>, be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: August 14, 2023