

## **ADMINISTRATIVE PANEL DECISION**

Automobile Club di Brescia v. 葛荣凯 (ge rong kai)

Case No. D2023-2653

### **1. The Parties**

The Complainant is Automobile Club di Brescia, Italy, represented by Barzanò & Zanardo, Italy.

The Respondent is 葛荣凯 (ge rong kai), China.

### **2. The Domain Name and Registrar**

The disputed domain name <millemiglia.info> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on June 20, 2023. On June 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the detailed contact information. The Center sent an email communication to the Complainant on June 26, 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 amendment to the Complaint in English on June 26, 2023.

On June 26, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 26, 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 amendment to 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 in English and Chinese of the Complaint, and the proceedings commenced on July 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 4, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on August 11, 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 an Italian public entity owned by the Italian company ACI Brescia Service S.r.l. The two companies jointly organize the longstanding car race called "Mille Miglia", meaning one thousand miles, which takes place every year in May. First organized in 1927, the race, which has gained international distinction, is an open-road endurance car race for classic and vintage cars and the participation is limited to car models produced no later than the year 1957. The race travels round trip from Brescia to Rome, and totals a distance of one thousand miles.

The Complainant owns an international portfolio of trademark registrations for MILLE MIGLIA, including the following marks: European Union Trademark No. 001519511 for MILLE MIGLIA, registered on April 2, 2001, in classes 9, 28, and 41; and International Trademark Registration No. 555346 for MILLE MIGLIA, registered on June 23, 1990, in classes 3, 9, 18, 34, and 35. The Complainant also has a strong online presence and owns a large portfolio of official domain names, including the domain name <millemiglia.it>, which was registered in 1998 and which directs to the official website for its annual car race. The Complainant has also registered approximately 80 additional domain names containing its MILLE MIGLIA trademark.

The disputed domain name was registered on November 7, 2022, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directs to the Dan.com domain name resales platform, where the disputed domain name is offered for sale for USD 950.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant essentially contends that the disputed domain name is identical to its trademarks for MILLE MIGLIA, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are distinctive and well known, and submits company and marketing information concerning its operations and refers to prior UDRP cases in which the respective panels have acknowledged that the Complainant's MILLE MIGLIA mark is famous. The Complainant particularly contends that the Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with *bona fide* offering of goods or services. The Complainant contends that, on the contrary, the aforementioned elements suggest that the Respondent reserved the disputed domain name, which derives its value from being identical to the Complainant's trademark, to take unfair advantage of the Complainant's reputation. Finally, the Complainant also argues that the Respondent has engaged in a pattern of trademark-abusive domain name registrations referring to its involvement as the respondent in a number of previous UDRP cases in which the Respondent was found to have acted in bad faith. The Complainant concludes that the registration and use of the disputed domain name in the aforementioned circumstances constitutes registration and use of the disputed domain name in bad faith.

The Complainant requests that the disputed domain name be transferred to it.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

Pursuant to paragraph 11(a) of the Rules, the language of the 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 proceeding.

According to the Registrar's verification response, the Registration Agreement for the disputed domain name is in Chinese. Nevertheless, the Complainant filed both its Complaint and its amendment to the Complaint in English, and requests that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding, and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited in a timely manner by the Center in both Chinese and English to present his response and arguments in either Chinese or English, but chose not to do so); the fact that the disputed domain name contains the Complainant's trademark in its entirety, that the disputed domain name is written in Latin letters and not in Chinese characters and that the disputed domain name is linked to a website which is exclusively in the English language; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays and costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

### **6.2. Discussion and Findings on the Merits**

The Policy requires the Complainant to prove three elements:

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

Based on the evidence and arguments submitted, the Panel's findings are as follows:

#### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has shown that it has valid rights in the mark MILLE MIGLIA, based on its intensive use and registration of the same as trademarks in a number of jurisdictions.

Moreover, as to whether the disputed domain name is identical or confusingly similar to the Complainant's mark, the disputed domain name consists of only the Complainant's registered trademark for MILLE MIGLIA, followed by the generic Top-Level Domain ("gTLD"), ".info". The Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1, which states: "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." The Panel concludes that the disputed domain name contains only the Complainant's trademark MILLE MIGLIA, and that the disputed domain name is therefore identical to this trademark owned by the Complainant.

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's registered trademark, and that the Complainant has satisfied the requirements of the first element under the Policy.

## **B. Rights or Legitimate Interests**

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or, distributor of the Complainant, is not a *bona fide* provider of goods or services under the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name directs to the Dan.com domain name resales platform, containing only an offer for sale of the disputed domain name for USD 950, which is an amount which is presumably in excess of the out-of-pocket costs related to the disputed domain name. The Panel also notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. In the Panel's view, these elements show that the Respondent's intention was not to make any use of the disputed domain name as a *bona fide* provider of goods or services, or to make a legitimate noncommercial or fair use of the disputed domain name. Instead, it shows the Respondent's clear intention to mislead and divert Internet users for commercial gain to the Dan.com domain name resales platform offering the disputed domain name for sale, by taking unfair advantage of the goodwill and reputation of the Complainant's trademarks for MILLE MIGLIA.

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

## **C. Registered and Used in Bad Faith**

The registration of the disputed domain name, which is identical to the Complainant's trademarks for MILLE MIGLIA, is clearly intended to mislead and divert consumers away from the Complainant's official website to the website linked to the disputed domain name. The Panel also considers the Complainant's MILLE MIGLIA trademarks to be intensively used and famous, as has been recognized by the respective panels in previous UDRP cases, including *Automobile Club di Brescia v. Li Fanglin*, WIPO Case No. [D2015-0975](#). Based on the above facts, the Panel finds that the Respondent's registration of the disputed domain name constitutes an intentional attempt to target the Complainant's well-known trademark, of which the Respondent could not reasonably have been unaware. Furthermore, even a cursory Internet search at the time of registration of the disputed domain name would have shown that the Complainant owned the registered trademarks in MILLE MIGLIA and uses them extensively, including online. Given the above elements, the Panel finds that the registration of the disputed domain name was in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name currently directs to the Dan.com domain name resales platform, containing only an offer for sale of the disputed domain name for USD 950. There are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. This leads the Panel to conclude that the Respondent is using the disputed domain name merely to sell it for a price which is presumably in excess of the out-of-pocket costs related to the disputed domain name. In this regard, paragraph 4(b)(i) of the Policy states that such use constitutes direct evidence of bad faith. Additionally, the Panel also accepts the Complainant's argument that the Respondent has engaged in a trademark-abusive pattern of domain name registrations, based on his involvement in a number of prior UDRP cases including *INSPIRUS, LLC v. 葛荣凯 (Ge Rong Kai)*, WIPO Case No. [D2023-0974](#) and *Boursorama S.A. v. 葛荣凯 (Ge Rong Kai)*, WIPO Case No. [D2022-4242](#), and the

respective panels have found the Respondent's bad faith in both cases. Based on the aforementioned elements, the Panel concludes that it has been demonstrated that the Respondent is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish his good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 <millemiglia.info> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: August 24, 2023