

ADMINISTRATIVE PANEL DECISION

HexArmor, Limited Partnership v. 吴清儒 (wu qing ru)

Case No. D2023-3517

1. The Parties

The Complainant is HexArmor, Limited Partnership, United States of America (“United States”), represented by Price Heneveld LLP, United States.

The Respondent is 吴清儒 (wu qing ru), China.

2. The Domain Name and Registrar

The disputed domain name <hexarmor.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 August 18, 2023. On August 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 25, 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 August 30, 2023.

On August 25, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 28, 2023, the Complainant submitted a 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 September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 2, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on October 9, 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 manufacturer and supplier of protective clothing, gear, and equipment. The Complainant advertises and promotes its products worldwide using the HEXARMOR marks. The mark was first registered in 2005 in the United States and later in multiple countries including China. The Complainant has many trade mark registrations and the most relevant ones are listed below:

Trade Mark	Registration Number	Registration Date	Jurisdiction
HEXARMOR	9145096	March 7, 2012	China
HEXARMOR 海克斯阿莫	22748522	February 14, 2019	China
HEXARMOR 海克斯阿莫	39141709	April 14, 2020	China
HEXARMOR	39142860	April 14, 2020	China
HEXARMOR	2924762	February 8, 2005	United States
HEXARMOR	5249370	July 25, 2017	United States
HEXARMOR	6006252	March 10, 2020	United States

The Complainant owns and operates domain names, many of which contain the HEXARMOR mark in its entirety.

The Respondent is an individual based in China. The Respondent has been the named respondent in at least two other URDP proceedings.

The disputed domain name <hexarmor.info> was registered on May 25, 2023. At the date of this Complaint, the disputed domain name resolved to a marketplace webpage which offers to sell the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- (a) The disputed domain name is confusingly similar to its trade marks. The disputed domain name wholly incorporates the Complainant's HEXARMOR trade marks. The use of the generic Top-Level Domain ("gTLD") ".info" in the disputed domain name is typically irrelevant to the consideration of confusing similarity;
- (b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorisation or license to use the Complainant's trade marks. The Respondent is not commonly known by the disputed domain name. The Respondent's only use of the disputed domain name is to offer it for sale. The Respondent has not shown any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, or to have a legitimate noncommercial or fair use of the disputed domain name. In fact, the use of the disputed domain name implies an affiliation and suggests an intent to mislead for commercial gain; and

(c) The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name over 15 years after the Complainant began using its trade marks and over 15 years after first registering its first HEXARMOR mark. The Complainant's marks are distinctive with wide and extensive use. It is highly likely that the Respondent knew or should have known of the rights of the Complainant in the registered HEXARMOR marks at the time of obtaining the disputed domain name. The disputed domain name impersonates the Complainant's marks, constituting bad faith. By redirecting the disputed domain name to the domain name marketplace, the Respondent registered the disputed domain name to profit off the Complainant. The Respondent is engaged in a pattern of registering domain names to which it is not entitled.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue - Language of the Proceeding

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, 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 name is Chinese. There is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language of the proceeding under the following grounds:

- a) the Respondent has been a party to at least two other English-language UDRP proceedings;
- b) the disputed domain name includes Latin characters rather than Chinese characters;
- c) the information on the website associated with the disputed domain name is in English;
- d) the currency accepted on the website under the disputed domain name is USD;
- e) translation of the Complaint and continuation of the proceeding in Chinese would cause the Complainant to incur extra expenses and lead to a delay in the proceeding;
- f) the use of the ".info" gTLD suggests that the Respondent was seeking a global target audience including English-speaking audience; and
- g) English is a common international language.

In accordance with paragraph 11(a) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding;
- the website under the disputed domain name is wholly in English;
- an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. [D2008-1191](#), that a respondent's failure to respond to a preliminary determination by the Center as to the language of the proceeding "should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint".

6.2 Substantive Issues

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights to;
- (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.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name <hexarmor.info> is identical to the Complainant's trade mark HEXARMOR. The disputed domain name incorporates the HEXARMOR trade marks in full and followed by the gTLD ".info". The gTLD is generally disregarded when considering the first element. (See section 1.11.1, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not asserted any rights or legitimate interests in relation to the disputed domain name.

The Complainant asserts that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's HEXARMOR trade marks or to apply for registration of the disputed domain name. The disputed domain name resolves to a marketplace website offering for sale the disputed domain name. There is no evidence that the Respondent is commonly known by the name "HexArmor".

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

Therefore, based on the evidence presented, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not provided any evidence to rebut this claim, and henceforth, the Panel concludes that the Respondent has no rights or legitimate interests in relation to the disputed domain name.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant has registered the HEXARMOR trade marks, and the use of the Complainant's HEXARMOR trade marks cannot be a coincidence. The HEXARMOR trade marks are used by the Complainant to conduct its business and the Complainant has used the trade marks for over 18 years.

The Panel is satisfied that the Respondent was aware of the Complainant and its HEXARMOR trade marks when he or she registered the disputed domain name.

The Respondent has registered the disputed domain name to attract Internet users to the website for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. The disputed domain name directs Internet users to its listing for sale on a marketplace webpage. As mentioned above, the Respondent has also been the named respondent in at least two other UDRP disputes. The Respondent is clearly a serial cybersquatter.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied 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 name <hexarmor.info> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: October 24, 2023