

## ADMINISTRATIVE PANEL DECISION

On AG and On Clouds GmbH v. Kasper Skovse, leenhan (주식회사 리앤한), Lukas Osterhagen, Kristin Ritter, Baochunbin (宝春斌), Chenjun (陈军), Jason Rice, Client Care, Web Commerce Communications Limited, Joseph Graham, ZhouRunFa  
Case No. D2023-3558

### 1. The Parties

The Complainants are On AG, Switzerland, and On Clouds GmbH, Switzerland, represented by Rentsch & Partner, Switzerland.

The Respondents are Kasper Skovse, Germany, leenhan (주식회사 리앤한), Republic of Korea, Lukas Osterhagen, Germany, Kristin Ritter, Germany, Baochunbin (宝春斌), China, Chenjun (陈军), China, Jason Rice, United States of America ("USA"), Client Care, Web Commerce Communications Limited, Malaysia, Joseph Graham, USA, ZhouRunFa, China.

### 2. The Domain Names and Registrars

The disputed domain names <oncloud-ayakkab.com>, <oncloudayakkab.com>, <oncloudmonsterdublin.com>, <oncloudmonsterfinland.com>, <oncloudmonster-nz.com>, <oncloudmonsteroslo.com>, <oncloudmonster-romania.com>, <oncloudshoesgreece.com>, <oncloudsveriges.com>, <oncloudxfactoryoutlets.com>, <oncloudxoutletmall.com>, <onrunningayakkabturkey.com>, <onrunningfactoryoutletshop.com>, <onrunning-greece.com>, <onrunninginargentina.com>, <onrunningnederlandoutlet.com>, <onrunningoutletfactory.com>, <onrunningsalecanada.com>, <onrunsshoes.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

The disputed domain name <oncloudsverige.com> is registered with Key-Systems GmbH (the "Registrar").

The disputed domain name <onrunkorea.com> is registered with Gabia, Inc. (the "Registrar").

The disputed domain name <onrunninggroutlet.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

The disputed domain name <onrunningromaniai.ro> is registered with ROTLD (the "Registrar").

The disputed domain names <onrunning-shoes.com> and <onshoes.net> are registered with Xiamen ChinaSource Internet Service Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2023. On August 24, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 25, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainants on August 25, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint in English on August 28, 2023.

On August 25, 2023, the Center informed the parties in Korean, Chinese and English, that the language of the registration agreement for the disputed domain name <onrunkorea.com> is Korean, and that the language of the registration agreement for the disputed domain names <onrunning-shoes.com> and <onshoes.net> is Chinese. On August 28, 2023, the Complainants requested English to be the language of the proceeding. The Respondents did not submit any comment on the Complainants’ submission.

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 Respondents in Korean, Chinese and English of the Complaint, and the proceedings commenced on August 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2023. The Respondents did not submit any formal response. The Center received an email from the Respondent leenhan (주식회사 리앤한) on September 6, 2023. On September 22, 2023, the Center informed the Parties that it would proceed to panel appointment.

Between August 25, 2023 and August 28, 2023, the Center informed the Parties about the expiration of the disputed domain names <onshoes.net>, <onrunkorea.com>, <onrunningromaniai.ro>, <onrunninggroutlet.com>, <onrunning-greece.com>, <onrunninginargentina.com> <onrunsshoes.com> <onrunningfactoryoutletshop.com> <onrunningsalecanada.com> <oncloud-ayakkab.com>, <onrunningayakkabturkey.com> <oncloudmonster-nz.com>, <oncloudmonster-romania.com>, <oncloudmonsterfinland.com>, <oncloudmonsteroslo.com>, <oncloudmonsterdublin.com>, and invited the Parties to proceed to renewal of the said domain names. The Panel notes that subsequent to discussions between the Complainant and the Registrars, all of the above-mentioned disputed domain names may not have been renewed by the Parties. In this regard, the corresponding Registrars confirmed that some of the disputed domain names may have already been deleted or will shortly be deleted.

The Center appointed Moonchul Chang as the sole panelist in this matter on October 24, 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 Complainants are well-established providers of sports apparel and shoes, in particular running shoes, which can be bought at over 6500 premium retail stores in over 50 countries or online through the Complainants' website operating under the domain name <on-running.com>. In addition to its European headquarters in Zurich, in Switzerland, the Complainants have offices in the USA, Canada, Japan, Australia, Germany, Brazil, China and Viet Nam.

The Complainants own among other the following trademarks:

International Trademark No. 1050016 - ON, registered April 21, 2010,  
 International Trademark No. 1185372 - ON RUNNING, registered October 25, 2013,  
 International Trademark No. 1361124 - CLOUD, registered May 4, 2017,  
 International Trademark No. 1690468 - ON CLOUD SHOES, registered August 19, 2022,  
 International Trademark No. 1690464 - ON SHOES, registered August 19, 2022,  
 International Trademark No. 1690465 - CLOUD SHOES, registered August 19, 2022,  
 International Trademark No. 1503051 - ON (logo), registered September 24, 2019,  
 International Trademark No. 1258068 - RUN ON CLOUDS., registered May 22, 2015,  
 International Trademark No. 1369343 - CLOUD X, registered August 21, 2017,  
 International Trademark No. 1647337 - CLOUDMONSTER, registered October 5, 2021.

The Respondents own the following the disputed domain names.

Disputed domain names	Date of Registration	Registrar
1) onclouxdoutletmall.com	2022-08-05	Alibaba.com Singapore E-Commerce Private Limited
2) onrunningoutletfactory.com	2022-02-16	
3) oncloudxfactoryoutlets.com	2022-05-14	
4) oncloudshoesgreece.com	2023-03-23	
5) onrunning-greece.com	2022-10-09	
6) onrunninginargentina.com	2022-09-23	
7) onrunningromaniai.ro	2022-09-13	ROTLD
8) onrunning-shoes.com	2022-07-05	Xiamen ChinaSource Internet Service
9) onrunkorea.com	2021-07-27	Gabia
10) oncloudsverige.com	2021-07-05	Key-Systems GmbH
11) oncloudsveriges.com	2023-04-14	Alibaba.com Singapore E-Commerce Private Limited
12) onrunningnederlandoutlet.com	2022-05-18	
13) onrunninggroutlet.com	2022-09-23	Hosting Concepts B.V
14) onrunsshoes.com	2022-10-27	Alibaba.com Singapore E-Commerce Private Limited
15) onrunningfactoryoutletshop.com	2022-10-11	
16) onrunningsalecanada.com	2022-10-21	
17) oncloudayakkab.com	2022-07-18	
18) oncloud-ayakkab.com	2022-11-17	
19) onrunningayakkabiturkey.com	2022-10-20	
20) onshoes.net	2022-09-18	Xiamen ChinaSource Internet Service
21) oncloudmonster-nz.com	2022-10-18	Alibaba.com Singapore E-Commerce Private Limited
22) oncloudmonster-romania.com	2022-10-18	
23) oncloudmonsterfinland.com	2022-10-18	
24) oncloudmonsteroslo.com	2022-10-18	
25) oncloudmonsterdublin.com	2022-10-18	

## 5. Parties' Contentions

### A. Complainants

The Complainants assert that they have established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain names.

### B. Respondents

The Respondents did not formally reply to the Complainants' contentions. However, on September 6, 2023, the Center received an informal communication from one of the Respondents stating that a third party is currently in charge of the disputed domain name <onrunkorea.com>.

## 6. Discussion and Findings

### 6.1. Preliminary Issue:

#### A. Consolidation of Multiple Respondents

The Panel has considered the possible consolidation of the Complaint for the disputed domain names at issue. According to section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The Panel notes the following factors of the disputed domain names and arguments submitted by the Complainants in favor of the consolidation: (i) The Complainants show that the websites under the 25 disputed domain names are essentially identical, which indicates that all of these websites are controlled by the same person; (ii) all of disputed domain names went under privacy and proxy during the similar period of 2021-2023; (iii) all disputed domain names target the Complainants' trademark.

In consideration of all the above the Panel notes that, as the Complainants have argued, there appears *prima facie* to be one single Respondent. Furthermore, the Respondents did not submit any arguments to rebut this inference. The Panel finds therefore that consolidation is fair to both Parties, as the Respondents have been given an opportunity to object to consolidation through the submission of their Response but have chosen not to do that. Therefore, the Panel will refer hereafter to the Respondents as "the Respondent".

#### B. Language of Proceedings

According to paragraph 11 of the Rules, the language of the administrative proceeding shall be the language of the registration agreement unless the Panel determines otherwise or is otherwise agreed to by the Parties. In the present case, the Registrars confirmed that the language of the registration agreement for the disputed domain name <onrunkorea.com> is Korean and those for the disputed domain names <onrunning-shoes.com> and <onshoes.net> are Chinese.

However, the Complaint was filed in English. The Complainants request for English to be the language of the administrative proceedings for the following reasons: (i) all 25 disputed domain names are all under common control, as they are essentially identical; (ii) the consolidation of the complaint in the same language, namely English, would be fair and equitable to all parties as well as efficient, given that pure fake webshops are operated under the disputed domain names; (iii) the three fake webshops operated under the disputed domain names are all in English; (iv) the Respondents are therefore very familiar with the requested language English. On the other hand, the Respondents did not respond to the Complaint.

Here, the Panel observes that the Center, for its part, has notified the Respondents of the Complaint in English, Chinese and Korean. The spirit of paragraph 11 of the Rules is to ensure fairness in the selection of the language of the proceeding by giving full consideration, *inter alia*, to the parties' level of comfort with each language, expenses to be incurred, and possibility of delay in the proceeding in the event translations are required, and other relevant factors.

In consideration of the above circumstances and in the interest of fairness to both Parties, the Panel concludes, in view of all of the above, that it will accept the Complaint as filed in English and that it is appropriate to render this Decision in English.

### **C. Identity of Respondent**

The Panel notes that the paragraph 1 of the UDRP Rules provides that the respondent is "the holder of a domain name registration against which a complaint is initiated". In addition, the paragraph 4(b) of the UDRP Rules provides that any updates to the Respondent's data must be made before the two (2) business day period concludes or before the Registrar verifies the information requested and confirms the Lock to the UDRP Provider, whichever occurs first. Further, in the cases involving a privacy or proxy service and irrespective of the disclosure of any underlying registrant, the appointed panel retains discretion to determine the respondent against which the case should proceed. Section 4.4.5 of [WIPO Overview 3.0](#). In the present case involving a privacy or proxy registration service initially named as the Respondent, on receipt from the registrar of information relating to an underlying or beneficial registrant the Center provided the disclosed underlying registrant information to the Complainant and the Complainant amended the Complaint to reflect such information. In this circumstance, and following the communication received on September 6, 2023, stating that a third party is currently in charge of the disputed domain name <onrunkorea.com>, the Panel considers that irrespective of any modifications of the Respondent's data following the two (2) business day period the Respondent is the holder of a domain name registration against which the Complaint is initiated in the present case.

### **6.2. Substantive Issues**

Dealing with the Respondent's failure to submit a substantive response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Under paragraph 4(a) of the Policy, the Complainants must demonstrate that the three elements enumerated in paragraph 4(a) of the Policy have been satisfied. These elements are that:

- (i) the disputed domain names are identical or confusingly similar to the Complainants' trademark or service mark; and
- (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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

Each of the disputed domain names includes the Complainants' trademarks either ON, ON RUNNING, CLOUD, ON CLOUD, ON SHOES, CLOUD SHOES, RUN ON SHOES, CLOUD X or CLOUDMONSTER with addition of descriptive or geographic word. The Panel's assessment of identity or confusing similarity involves a straightforward comparison between the disputed domain name and the textual components of the relevant mark. Adding such term does not prevent a finding of confusing similarity and does not change the overall impression of the disputed domain name as being confusingly similar to the Complainant's trademark. Section 1.8 of the [WIPO Overview 3.0](#). Numerous UDRP panels have held that where a domain name incorporates a complainant's trademark in its entirety, or where at least a dominant feature of the

relevant mark is recognizable in the domain name, it is sufficient to consider the domain name “confusingly similar” to that mark within the meaning of the Policy. Section 1.7 of [WIPO Overview 3.0](#). In addition, the generic Top-Level Domain (“gTLD”) “.com” or “.net” or the country code Top-Level Domain (“ccTLD”) “.ro” is disregarded under the confusing similarity test. Section 1.11.1, [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the first element under paragraph 4(a) of the Policy has been met by the Complainants.

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

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production of evidence shifts to the Respondent. Section 2.1 of [WIPO Overview 3.0](#).

Firstly, the Complainants contend that the Respondents do not have any *bona fide* interest to use the disputed domain names. The disputed domain names were registered recently during the period of 2021-2023, whereas the trademarks of the Complainants are well known and have long been protected. Further, all the Respondents did not reply to the Complaint. Secondly, the Complainants contend that the Respondent was copying of the Complainants’ website on its fake website and its use of the Complainants’ Marks and logo throughout its website. Here, the Respondent failed to come forward with any appropriate allegations or evidence that might demonstrate its rights or legitimate interests in the disputed domain names to rebut the Complainants’ *prima facie* case. Further, there is no evidence presented to the Panel that the Respondent has used, or has made demonstrable preparations to use, the disputed domain names in connection with a *bona fide* offering of goods or services or is making a legitimate noncommercial or fair use of the disputed domain names. Thirdly, there is no evidence to suggest that the Respondent has been commonly known by the disputed domain names. In the consideration of the above circumstances the Panel finds that the Complainants have made out a *prima facie* case and the Respondents failed to come forward with any appropriate evidence that might rebut the Complainants’ *prima facie* case.

Accordingly, the Panel concludes that the Complainants have satisfied the second element under paragraph 4(a) of the Policy in the present case.

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

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name “has been registered and is being used in bad faith”. Thus, for the Complaint to succeed, a UDRP Panel must be satisfied that a domain name has been registered and is being used in bad faith. These requirements are conjunctive; each must be proven or the Complaint fails. In this proceeding, the Panel needs look no further than the Complaint to determine that the Complainants have established that the Respondent registered and has used the disputed domain names in bad faith.

First, the Complainants obtained the registration of the International Trademarks much earlier than the Respondents registered the disputed domain names. Having considered that the Complainants’ trademarks are internationally well known, it is highly likely that the Respondents have been aware of the reputation of the Complainants’ Marks when registering a confusingly similar domain name that full incorporates the Complainants’ mark plus the geographical or descriptive term. Thus, it is considered bad faith that the Respondents deliberately chose the disputed domain names to create a likelihood of confusion with the Complainants’ trademark so as to create a false association or affiliation with the Complainants.

Secondly, the Complainants contend that each of all disputed domain names resolves to the same fake website which copies the Complainants’ original online shop on the website <on-running.com>. In addition, the online shops contain the Complainants’ logo which logo protected as International Registration No. 1503051. Thus, the 25 fake online shops impersonate the Complainants by using their name and logo. Further, the same fake online shops were appeared in the previous UDRP cases *On AG and On Clouds*

GmbH, c/o On AG v. Stefan Neumann, Patrick Kalb, Lukas Ziegler, Katja Eberhardt; Mathias Hartman / Domain Administrator; Bettina Presser / Domain Admin, Privacy Protect LLC; Johanna Koehler / Domain Administrator; Mitja Schmidt / Domain Administrator; Helle Mynster / Domain Administrator; Tonnis Wolthuis / Domain Administrator, WIPO Case No. [D2020-2943](#). On AG and On Clouds GmbH v. Domain Admin, Whoisprotection.cc / Kerstin Frankfurter / Name Redacted / Name Redacted / Name Redacted / Casey Williams / Name Redacted, WIPO Case No. [D2021-0925](#), On AG, On Clouds GmbH v. Web Commerce Communications Limited, Domain Admin, Whoisprotection.cc / Christin Schmidt, Sandra Naumann, Jana Papst, WIPO Case No. [D2021-2263](#), On AG, On Clouds GmbH v. Domain Admin, Whoisprotection.cc, Client Care, Web Commerce Communications Limited, Barbara Gaertner, Katja Sommer, Marina Abend, and Name Redacted, WIPO Case No. [D2021-2861](#) and On AG and On Clouds GmbH v. Domain Administrator, See [PrivacyGuardian.org/Mike Kalb, Tobias Bader, Sandra Wurfel, Kristian Mauer, Mathias Schultheiss, Lauren Duirs](#); Domain Admin, Whoisprotection.cc/ Leah Hahn; Web Commerce Communications Limited, Client Care and Whoisprotection.cc, Domain Admin, WIPO Case No. [D2021-4340](#) with similar domain names.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. Section 3.1 of the [WIPO Overview 3.0](#). Here, given the totality of the circumstances, particularly the use of the disputed domain names to apparently impersonate the Complainants' website, the Respondent's lack of participation in the proceeding, and the Respondent's use of a privacy and proxy service to mask its details on the publicly available WhoIs, the Panel considers that the Respondents use the disputed domain names in bad faith. Accordingly, the Panel concludes that the Complainants have satisfied the third element under paragraph 4(a) of the Policy in the present case.

## 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 <oncloud-ayakkab.com>, <oncloudayakkab.com>, <oncloudmonsterdublin.com>, <oncloudmonsterfinland.com>, <oncloudmonster-nz.com>, <oncloudmonsteroslo.com>, <oncloudmonster-romania.com>, <oncloudshoesgreece.com>, <oncloudsverige.com>, <oncloudsveriges.com>, <oncloudxfactoryoutlets.com>, <oncloudxoutletmall.com>, <onrunkorea.com>, <onrunningayakkabiturkey.com>, <onrunningfactoryoutletshop.com>, <onrunning-greece.com>, <onrunninggroulet.com>, <onrunninginargentina.com>, <onrunningnederlandoutlet.com>, <onrunningoutletfactory.com>, <onrunningromaniai.ro>, <onrunningsalecanada.com>, <onrunning-shoes.com>, <onrunsshoes.com>, <onshoes.net> be transferred to the Complainants.<sup>1</sup>

*/Moonchul Chang/*

**Moonchul Chang**

Sole Panelist

Date: November 16, 2023

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<sup>1</sup> The Panel notes that the status of some of the disputed domain names is not clear. It may be that some of the disputed domain names were not renewed by the Parties. The Panel notes that the implementation of this decision is a matter for the relevant Registrars.