

## **ADMINISTRATIVE PANEL DECISION**

Münchener Rückversicherungs-Gesellschaft Aktiengesellschaft in München  
v. Shun Wang  
Case No. D2023-3622

### **1. The Parties**

The Complainant is Münchener Rückversicherungs-Gesellschaft Aktiengesellschaft in München, Germany, represented by Lorenz Seidler Gossel, Germany.

The Respondent is Shun Wang, China, self-represented.

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

The disputed domain name <squalify.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) in English on August 29, 2023. On August 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 of the Complaint, and the proceeding commenced on September 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2023. On September 27, 2023, the Center received the Respondent’s request for extension and the due date for Response was extended to October 7, 2023, pursuant to paragraph 5(b) of the Rules. The Response was filed with the Center in Chinese on October 6, 2023.

In addition, the Center received email communications from the Respondent in Chinese and English on September 11, September 13, and September 14, 2023, requesting, *inter alia*, that the language of the proceeding be Chinese.

The Center appointed Sebastian M.W. Hughes 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**

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

The Complainant is a listed reinsurance company incorporated in Germany and founded in 1880.

The Complainant is the owner of European Union trademark registration No. 018795418 for the trade mark SQUALIFY (the “Trade Mark”), with a filing date of November 17, 2022 and a registration date of August 25, 2023. The Complainant provides cyber risk quantification services under the Trade Mark via its website at “www.squalify.io” (the “Complainant’s Website”).

##### **B. Respondent**

The Respondent is an individual located in China.

##### **C. The Disputed Domain Name**

The disputed domain name was registered on May 9, 2023.

##### **D. Use of the Disputed Domain Name**

The disputed domain name is redirected to the Respondent’s Chinese language video sharing account under the name of “Squalify” hosted by Douyin.

It was previously offered for sale for EUR 99,999 via the English language website “www.bodis.com”.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

##### **B. Respondent**

The Respondent accepts that the disputed domain name is similar to the Trade Mark, but contends that the disputed domain name was registered before the Complainant’s application for registration of the Trade Mark in Europe proceeded to registration.

The Respondent contends that he has rights or legitimate interests in the disputed domain name; and the disputed domain name has not been registered and used in bad faith.

The Respondent also claims that the Complainant filed the Complaint in an attempt at Reverse Domain Name Hijacking (RDNH).

## 6. Discussion and Findings

### 6.1 Preliminary Issue: Language of the Proceeding

The language of the registration agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. However, paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Respondent has requested that the language of the proceeding be Chinese, for reasons including:

- (i) although the Respondent understands basic English, the Respondent's mother tongue is Chinese;
- (ii) the Respondent registered the disputed domain name at the Registrar's Chinese website;
- (ii) translating the Chinese language evidence relied upon the Respondent will involve additional expense and time.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel notes that one of the email communications sent to the Center by the Respondent was in English, and that the Respondent has been able to prepare and file its Response notwithstanding the fact the Complaint was filed in English.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

Having considered all the matters above, the Panel determines that:

- (i) it will accept the filing of the Complaint in English, and the Response in Chinese; and
- (ii) it will render this Decision in English.

### 6.2 Substantive Elements of the Policy

The Complainant must prove each of the three elements under paragraph 4(a) of the Policy in order to prevail.

#### A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark.

Although the Complainant's application for registration of the Trade Mark had not yet proceeded to registration at the time of registration of the disputed domain name, this is immaterial for the purposes of the first limb under paragraph 4(a) of the Policy (see [WIPO Overview 3.0](#), section 1.1):

"[...] the goods and/or services for which the mark is registered or used in commerce, the filing/priority date, date of registration, and date of claimed first use, are not considered relevant to the first element test. These factors may however bear on a panel's further substantive determination under the second and third elements. While the UDRP makes no specific reference to the date on which the holder of the trademark or service mark acquired its rights, such rights must be in existence at the time the complaint is filed. The fact that a domain name may have been registered before a complainant has acquired trademark rights does not by itself preclude a complainant's standing to file a UDRP case, nor a panel's finding of identity or confusing similarity under the first element.

Where a domain name has been registered before a complainant has acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith."

In addition, the screen shots of the Complainant's Website relied upon by the Complaint contain descriptions of three "success" stories of the Complainant providing cyber risk services in 2021 for a client in the automotive industry, in 2022 for another client in the automotive industry, and in 2022/2023 for a manufacturing client. Accordingly, there is sufficient evidence to demonstrate that the Complainant also possesses unregistered (or common law) rights in the Trade Mark (see [WIPO Overview 3.0](#), section 1.1.1). Disregarding the generic Top-Level Domain ".com", the disputed domain name is identical to the Trade Mark.

The Panel therefore finds that the disputed domain name is identical to the Trade Mark.

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

In light of the analysis below, it is not necessary to address this element.

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

The evidence relied upon by the Complainant as to its use of, and reputation in, the Trade Mark is as follows:

- (i) the registration details for the Trade Mark;
- (ii) its ownership of the domain name <squalify.io>; and
- (iii) screenshots of the Complainant's Website containing the three examples of use of its services under the Trade Mark referred to in Section 6.2.A. above.

The Complainant also claims gross sales of EUR 67.1 billion euros and a consolidated profit of EUR 3.4 billion euros in the 2022 fiscal years; and asserts that it employs 41,389 people.

The Panel has no reason to doubt these figures, but, notably, the Complainant has not provided any revenue or profit figures related to its use of the Trade Mark. The Complainant has also not submitted any evidence of its use of the Trade Mark in China where the Respondent is located.

In addition to the Respondent's prior offer for sale via the "www.bodis.com" website, the Complainant relies upon an offer to sell the disputed domain name for EUR 100,000 in response to a third party enquiry made on behalf of the Complainant prior to the filing of this Complaint.

The Respondent contends that he registered the disputed domain name as a valuable domain name, consisting of the dictionary word "qualify" prefaced by the letter "s" (which could stand for – for example - "super", "service" or "sports") without being aware of the Complainant and of its Trade Mark. The Respondent prays in aid well-known brands in China such as Tmall, Vmall, Ename, and Ctrip; as well as global brands such as iPhone and iCloud – each of which consist of a combination of a single letter followed by a dictionary word.

The Respondent also contends that he owns three other domain names, namely <ohome.com>, <udaily.com>, and <fbill.com>, registered in such manner, by providing a screenshot of a list of these domain names apparently accessed through the Respondent's account with the registrar for these domain names. However, the screenshot provided by the Respondent for these domain names does not include his name or other details. The Panel further notes that the only apparent connection between the Whois records for such domain names, and the Respondent, is reference to an address in Chongqing, China (the Registrar has also confirmed in this case that the Respondent is located in Chongqing, China).

The Respondent also provides evidence showing that there are third parties unrelated to the Complainant who own trade mark registrations for SQUALIFY or domain names incorporating the term "Squalify".

The Respondent submits that the third party who contacted the Respondent to enquire about the possible sale of the disputed domain name did not disclose that he was the agent of, or had any connection with, the Complainant. The Respondent further submits that the price offered (EUR 100,000) is an average market price for such valuable domain names and thus cannot be indicative of any bad faith on the part of the Respondent.

In all the circumstances, the Panel considers it is plausible that the Respondent did not know of the Complainant and of the Trade Mark at the time of registration of the disputed domain name.

Accordingly, and in light also of the registration of the Trade Mark after the registration of the disputed domain name, the apparent *de minimis* use of the Trade Mark, the lack of any evidence of use by the Complainant of the Trade Mark in China, and the third parties' use of the term "Squalify", the Panel is unable to conclude, on the balance of probabilities, that there is sufficient evidence to show that the Respondent, in registering the disputed domain name, was targeting the Complainant and its Trade Mark (see *Sage Global Services Limited v Narendra Ghimire, Deep Vision Architects*, WIPO Case No. [DAI2023-0010](#)).

Accordingly, the Complainant has failed to prove the third element under paragraph 4(a) of the Policy.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if "after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding".

RDNH is furthermore defined under the Rules as "using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a domain name" (see [WIPO Overview 3.0](#), section 4.16).

The Respondent seeks a finding of RDNH, primarily on the basis that the Complainant, being legally represented, should be held to a higher standard; and that this is a "Plan B" case initiated following an unsuccessful attempt to acquire the disputed domain name from the Respondent.

It is puzzling that the Complainant did not submit more evidence of its use and reputation in the Trade Mark, particularly in China, prior to the registration of the disputed domain name. However, the manner of use of the disputed domain name, in particular the prior offer for sale via the English language "www.bodis.com" website, is not supportive of a finding of RDNH in this proceeding (see also *Sage Global Services Limited v Narendra Ghimire, Deep Vision Architects*, *supra*).

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Dated: November 17, 2023