

## **ADMINISTRATIVE PANEL DECISION**

Shenzhen Lexin Software Technology Co., Ltd. v. fiet fiet, fiet  
Case No. D2023-4585

### **1. The Parties**

The Complainant is Shenzhen Lexin Software Technology Co., Ltd., China, represented by Chance Bridge Law Firm, Beijing, China.

The Respondent is fiet fiet, fiet, Australia.

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

The disputed domain name <lexin.bio> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 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 November 9, 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 November 13, 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 November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on January 9, 2024. 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 part of a Chinese group of companies that offers credit technology-empowered personal financial services, founded in 2013.

The Complainant owns a large portfolio of LEXIN trademarks, including the Chinese Trademark Registrations Nos. 21526860, 26283174, 26295735 and 36432965, respectively registered on November 28, 2017, April 28, 2019, October 14, 2019 and June 21, 2020.

The disputed domain name was registered by the Respondent on June 13, 2023. When registering the disputed domain name, the Respondent identified himself as “fiet fiet, fiet”, from Australia.

The Panel accessed the disputed domain name on January 20, 2024, when it was not linked to any active website<sup>1</sup>. From the evidence provided by the Complainant, the disputed domain name was previously used to host a website reproducing the Complainant’s trademark LEXIN, and promoting similar financial services as the Complainant.

#### **5. Parties’ Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant has prior tradename, domain name and trademark rights over the term “Lexin”. “Lexin” is not a common word or dictionary word in English. The main part of the disputed domain name is “lexin”; “.bio” is a suffix of the generic Top Level Domain (“gTLD”) name that does not alter the similarity between the disputed domain name and the Complainant’s prior rights.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent and the Complainant do not have any relationship. The Complainant’s trademarks have been continuously and widely used for many years and have gained considerable reputation and goodwill worldwide. The Respondent used the disputed domain name to link to a website reproducing the Complainant’s trademarks and service descriptions, deliberately causing confusion with products and services provided by the Complainant and with the Complainant’s website, misleading Internet users. The Complainant received a number of emails asking whether such website was owned by the Complainant. The Respondent must have been aware of the Complainant’s trademarks when it registered the disputed domain name. The Respondent does not have any legitimate rights and interests in the disputed domain name, nor have any legitimate reason to register or use the disputed domain name. In fact, the website

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<sup>1</sup> Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8, “[n]oting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name...”.

linked to the disputed domain name has only existed for a short period of time, and is not currently available, which does not constitute fair use or non-commercial legal use. It also indicates that the Respondent has no real and legitimate intention to use the disputed domain name. Finally, there is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks.

- The disputed domain name was registered and is being used in bad faith. The Complainant has received a large number of complaint emails concerning the website that used to be linked to the disputed domain name, which is suspected of financial fraud and of generating illegal benefits to the Respondent. Before the website became inactive, it reproduced the Complainant's trademark LEXIN, and used the same service description as the Complainant's service content, without authorization. At present, the website has been disconnected, but it still prevents the Complainant from registering and using the disputed domain name. Disabling the website that used to link to the disputed domain name was a way to avoid drawing the attention of the police to financial fraud. If the disputed domain name is not terminated or transferred, illegal acts may reappear at any time. Finally, the Respondent clearly wanted to hide his true registration information.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove 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 in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Annexes 7 - 10 to the Complaint show registrations of LEXIN trademarks obtained by the Complainant, in China, as early as in 2017.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is well established that the addition of a gTLD, such as ".bio", is typically disregarded when determining whether a domain name is confusingly similar to a complainant's trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds no indication that the Respondent is commonly known by the disputed domain name.

Although the disputed domain name is not currently linked to any active website, the Complainant brought evidence that it recently resolved to a website which reproduced the Complainant’s trademark and logo, in connection with the promotion of similar services. Therefore, considering that the Complainant does not recognize the Respondent as its authorized representative, nor has it granted the Respondent any permission for such reproductions of trademarks and contents, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Also, panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of apparently false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The disputed domain name includes the distinctive trademark LEXIN, which has no dictionary meaning in English. Furthermore, when the disputed domain name was registered (in 2023) the LEXIN trademark was already connected with the Complainant's services. Therefore, the Panel concludes that it is not likely that the Respondent was not aware of the Complainant's trademark and that the registration of the disputed domain name was a mere coincidence.

Actually, the recent use of the disputed domain name to resolve to a webpage similar to the Complainant's official website is evidence that the Respondent targeted the Complainant when registering the disputed domain name. Such content at the website linked to the disputed domain name – including reproductions of the Complainant's trademark and the description of the respective services – indicates that the Respondent has intentionally attempted to attract, through the registration and use of the disputed domain name, the Complainant's customers, for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website.

Panels have held that the use of a domain name for illegal activity (here, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain name constitutes bad faith 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 <lexin.bio> be transferred to the Complainant.

*/Rodrigo Azevedo/*

**Rodrigo Azevedo**

Sole Panelist

Date: January 23, 2024