

ADMINISTRATIVE PANEL DECISION

Algeco v. yu qing qing (于青青)

Case No. D2023-4849

1. The Parties

The Complainant is Algeco, France, represented by Nameshield, France.

The Respondent is yu qing qing (于青青), China, self-represented.

2. The Domain Name and Registrar

The disputed domain name <algeco.online> 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 November 22, 2023. On November 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 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 sent an email communication to the Complainant on November 29, 2023, providing the complete registrant 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 November 29, 2023.

On November 29, 2023, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. On November 29, 2023, the Complainant requested English to be the language of the proceeding. The Respondent objected to the Complainant's request and requested Chinese to be the language of the proceeding on November 29, 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 in Chinese and English of the Complaint, and the proceedings commenced on December 6, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was December 26, 2023. The Respondent did not submit any response. On January 3, 2024, the Center notified the Parties that it would proceed to Panel Appointment.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on January 15, 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 a company headquartered in France and established in the early 1950's. The Complainant's principal business is providing modular space and secure storage solutions for businesses and public sector agencies.

The Complainant owns an international trademark portfolio for the ALGECO marks, including, but not limited to, International Trademark Registration number 386452 for ALGECO registered on January 27, 1972; and International Trademark Registration number 1099894 for ALGECO registered on October 21, 2011. The Complainant also owns a domain name portfolio for domain names incorporating the same marks, including the domain name <algeco.com> registered since August 11, 1997.

The disputed domain name <algeco.online> was registered on November 14, 2023, and directs to an active, parked page on the "Dan.com" domain name resales platform, offering the disputed domain name for sale for a listed "Buy now" price of USD 1,450 or a listed "Lease to own" price of USD 100 per month.

The Respondent is yu qing qing (于青青), based in China, self-represented.

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 to its prior registered trademark. The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that he or she is not related in any way with the Complainant. Furthermore, the Complainant argues that the disputed domain name points to a parking page where the domain name is offered for sale for USD 1,450, which the Complainant contends constitutes a general offer to sell the disputed domain name for an amount clearly in excess of the out-of-pocket expenses related to the disputed domain name. The Complainant argues that this evidences the Respondent's lack of rights or legitimate interests as well as the Respondent's bad faith. The Complainant also contends that given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks and that such registration therefore constitutes a registration in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions but requested Chinese to be the language of the proceeding on November 29, 2023.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), 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.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the English language is the language most widely used in international relations and is one of the working languages of the Center; the fact that the disputed domain name is formed by words in Roman characters (ASCII) and not in Chinese script and that in order to proceed in Chinese, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings.

The Respondent requested Chinese to be the language of the proceeding based on the following arguments: his/her native language is Chinese and his/her English is limited, so that conducting the proceedings in Chinese will allow him/her to more accurately and fully understand and participate in the case; and, the Respondent argues, it was the Complainant's own choice to file a complaint against a domain name owner who speaks Chinese, so that the Complainant should anticipate that such proceedings need to be conducted in Chinese.

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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, and particularly also the fact that the Respondent only answered regarding the language of the proceeding but otherwise acted passively in this proceeding and chose not to submit a reply on the merits of the Complaint (which could be submitted in either Chinese or English), and some of the content of the website at the disputed domain name is in English, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues: Three Elements

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.

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.

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.

The Panel finds the first element of the Policy has been established.

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 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. According to the evidence, the Respondent has only connected the disputed domain name to a parked page on the “Dan.com” domain name resales platform, offering it for sale for a “Buy now” price of USD 1,450 or a “Lease to own” price of USD 100 per month, which is most likely in excess of out-of-pocket costs relating to the disputed domain name.

Moreover, the disputed domain name being identical to the Complainant’s mark carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that registration of the disputed domain name, which is identical to the Complainant’s longstanding and intensively used trademarks that have been registered decades before the registration date of the disputed domain name, by the Respondent, who is entirely unaffiliated with the Complainant, can by itself create a presumption of bad faith of the Respondent (see in this regard *Alain Afflelou Franchiseur v. Lihongbo, Lihongbo*, WIPO Case No. [D2020-2075](#), and [WIPO Overview 3.0](#), section 3.1.4). The Panel also notes that even a cursory Internet search at the time of the registration of the disputed domain name would have made it clear to the Respondent that the Complainant owns prior rights in its trademarks for ALGECO. Based on the available record, the Panel accepts that the Respondent has registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the evidence of use of the website linked to the disputed domain name demonstrates that the Respondent is attempting to sell the disputed domain name for an amount most likely in excess of the Respondent’s out-of-pocket costs related to the disputed domain name, *i.e.*, a “Buy now” price of USD 1,450 or a “Lease to own” price of USD 100 per month. This leads the Panel to conclude, on balance of the probabilities, that the Respondent is using the disputed domain name to try to sell it to the Complainant, who is the owner of the corresponding trademark for ALGECO, or to other parties and to obtain financial benefits through such sale. The Panel notes that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(i) of the Policy.

The Panel finds that the Complainant has established the third element 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 <algeco.online> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: January 26, 2024