

## ADMINISTRATIVE PANEL DECISION

Tencent Holdings Limited v. 龚晓林 (Gong Xiao Lin), 珠海艺诚网络科技有限公司 (Zhuhai SkillCredit Network Technology Co., Ltd.)  
Case No. D2023-5247

### 1. The Parties

The Complainant is Tencent Holdings Limited, Cayman Islands, United Kingdom, represented by Kolster Oy Ab, Finland.

The Respondent is 龚晓林 (Gong Xiao Lin), 珠海艺诚网络科技有限公司 (Zhuhai SkillCredit Network Technology Co., Ltd.), China.

### 2. The Domain Name and Registrar

The disputed domain name <wechatpower.com> is registered with Xin Net Technology Corp. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 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 December 22, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Complainant filed an amendment to the Complaint in English.

On December 22, 2023, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On the same day, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to 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 in Chinese and English of the Complaint, and the proceedings commenced on January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent sent three informal email communications in Chinese and English to the Center on January 10, 2024. The Response was filed with the Center in English on January 30, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on February 8, 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, headquartered in Shenzhen, China, provides Internet, mobile, and telecommunication services and products, including in entertainment, artificial intelligence, and technology in China and globally. One of its most popular products is the WeChat social media application. First released in 2011, WeChat became the world's largest standalone mobile application in 2018 with over 1 billion monthly active users. WeChat provides text messaging, hold-to-talk voice messaging, broadcast messaging, video conferencing, video games, sharing of photographs and video, and location sharing. The Complainant holds trademark registrations for WECHAT in multiple jurisdictions, including the following:

- European Union trade mark number 010344621, registered on March 21, 2012, specifying goods and services in classes 9 and 38; and
- United States of America trademark registration number 4442135, registered on December 3, 2013, specifying goods and services in classes 9 and 38.

Further, the Complainant's related company 腾讯科技(深圳)有限公司 (Tencent Technology (Shenzhen) Co., Ltd. holds Chinese trademark registration number 13863523 for WECHAT, registered on March 7, 2015, specifying goods in class 9.

The above trademark registrations remain current.

The Respondent is an individual and a company based in Zhuhai, China.

The disputed domain name was registered on November 6, 2014. It does not resolve to any active website; rather, it is passively held.

#### **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 confusingly similar to the Complainant's WECHAT mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not allowed the Respondent to register or use, whether by license or otherwise, the Complainant's trademarks or the disputed domain name. The disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied any elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that “WeChatPower” is not equal to “WeChat”. The three words “We Chat Power” are widely used by people and do not belong to the Complainant. There are other domain names containing “WeChat” as their initial element. The Respondent asks whether they will all be prosecuted by the Complainant. The Respondent registered the disputed domain name in 2014 and provides proof of its management and renewal. The Respondent’s website has never used the Complainant’s trademarked words and there is no trademark infringement.

## **6. Discussion and Findings**

### **6.1 Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name 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 and the amendment to the Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name comprises Latin characters that combine the Complainant’s WECHAT trademark and the English word “power”, indicating that the Respondent has considerable knowledge of English names and trademarks of the Complainant; and conducting the proceeding in English would not cause prejudice or unfairness to the Respondent.

The Response was filed in English. The Respondent did not comment on the language of the proceeding.

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, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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.

The burden of proof of each element is borne by the Complainant.

## 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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the WECHAT trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Although the addition of another term (here, "power") may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy because the mark remains clearly recognizable within the disputed domain name. The only additional element in the disputed domain name is the generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name is passively held. The Complainant submits that it has not allowed the Respondent to register or use, whether by license or otherwise, its trademarks or the disputed domain name. These circumstances indicate that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods and services, nor making a legitimate noncommercial or fair use of the disputed domain name. Further, the Registrar has confirmed that the Respondent's names are "龚晓林 (Gong Xiao Lin)" and "珠海艺诚网络科技有限公司 (Zhuhai SkillCredit Network Technology Co., Ltd.)", neither of which resembles the disputed domain name. Nothing in the record indicates that the Respondent (either as an individual, organization, or business) has been commonly known by the disputed domain name.

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 argues that the three words that compose the disputed domain name (i.e., we, chat, power) are widely used by people and do not belong to the Complainant. However, the Panel notes that, while each of these words is an ordinary English word, the combination of them does not form a phrase, is not even grammatical, and is not widely used at all. The combination of "we" followed by "chat" comprises the Complainant's WECHAT mark, and the Panel finds that the most likely explanation for the composition of the disputed domain name is to combine that mark with another word. The Respondent also notes that it acquired and renewed the disputed domain name. However, the mere registration and renewal of a domain name does not generate rights and legitimate interests for the purposes of the Policy, otherwise no claim

could ever succeed, which would be an illogical result. Accordingly, the Panel finds that 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.

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

### **C. Registered and Used 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. See [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name was registered on November 6, 2014, which was later than the earlier registrations of the Complainant's WECHAT marks set out in section 4 above. The disputed domain name wholly incorporates the WECHAT mark as its initial element. The disputed domain name was registered three years after the Complainant launched the WECHAT social media application. As noted in section 6.2B above, the composition of the disputed domain name indicates that it was most likely intended as a combination of the WECHAT mark and another word. Moreover, the Respondent did not provide any explanation for the choice of "we", "chat", and "power" to register the disputed domain name except that these words have been used by many people. In view of these circumstances, the Panel finds it likely that the Respondent had the Complainant's WECHAT mark in mind when it registered the disputed domain name.

As regards use, the disputed domain name does not resolve to any active website. Prior panels under the Policy have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); and [WIPO Overview 3.0](#), section 3.3. In the present case, the Panel takes note of the massive popularity of the Complainant's WECHAT social media application. The disputed domain name wholly incorporates the WECHAT mark, adding only the English word "power". The Respondent provides no explanation of any actual or intended good faith use of the disputed domain name.

The Respondent asks whether the Complainant will prosecute other domain names containing "WeChat" as their initial element. The Panel considers this irrelevant in the present proceeding because the Complainant is under no obligation to file complaints against all abusive domain names at the same time. The Respondent also alleges that its website has never used the Complainant's trademarked words and that there is no trademark infringement. However, the Panel reiterates that the Respondent has failed to provide any explanation of any actual or intended good faith use of the disputed domain name, despite having held the registration for over nine years.

Accordingly, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not preclude a finding of bad faith under the Policy.

Therefore, 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 <wechatpower.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: February 19, 2024