

ADMINISTRATIVE PANEL DECISION

Xiaomi Inc. v. José María Talarn Brich, JM Corporate Services S.L.
Case No. D2024-0099

1. The Parties

The Complainant is Xiaomi Inc., China, represented by King & Wood Mallesons, China.

The Respondent is José María Talarn Brich, JM Corporate Services S.L., Spain.

2. The Domain Name and Registrar

The disputed domain name <xiaomiromania.com> is registered with OVH (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2024, 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 (XIAOMI S.R.L.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2024, 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 amendment to the Complaint on January 18, 2024.

On January 16, 2024, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is Spanish. On January 17, 2024, the Complainant confirmed its request that English be the language of the proceeding. On January 17, 2024, the Respondent objected to the Complainant’s request in English.

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 of the Complaint, and the proceedings commenced on January 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit a formal response but sent email communications on January 17 and 18, 2024. Accordingly, the Center notified the Commencement of Panel Appointment Process email on February 22, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on February 29, 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, XIAOMI INC. is a global consumer electronics manufacturer established in 2010 and based in China, which develops and produces a variety of goods such as smartphones, apps and other electronic products such as watches, wristbands, scales, headphones, external batteries, chargers, cameras and TVs under the trademarks XIAOMI, MI and REDMI.

In 2014 the Complainant sold more than 61 million handsets and launched its products in several territories.

In June 2021 Xiaomi was the world's largest smartphone brand by market-share and is currently the third-largest smartphone brand behind only Apple and Samsung.

The Complainant's products with the XIAOMI trademark are present in more than 100 countries and regions around the world.

In August 2021, the Complainant made the Fortune Global 500 list for the third time, ranking 338th, and it has repeatedly been recognized as one of the world's most valuable brands by independent data and consulting companies. For example, the Complainant was listed in the reputable Brands Top 100 global brands in 2019 (74th), 2020 (81st), 2021 (70th) and 2022 (97th).

The Complainant owns, among others, the following trademark registrations:

Trademark	No. Registration	Jurisdiction	Date of Registration
XIAOMI	1313041	Albania, Antigua and Barbuda, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belarus, Benelux, Bhutan, Bonaire, Sint Eustatius and Saba, Bosnia and Herzegovina, Botswana, Bulgaria, Cambodia, Croatia, Cuba, Curaçao, Netherlands (Kingdom of the), Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Eswatini, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Israel, Italy, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic (the), Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, New Zealand, North Macedonia, Norway, Oman, Poland, Portugal, Republic of Moldova (the), Romania , Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Sierra Leone, Sint Maarten (Dutch part), Slovakia, Slovenia, Spain , Sudan, Sweden, Switzerland, Syrian Arab Republic (the), Tajikistan, Tunisia, Türkiye,	April 14, 2016

		Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan, Viet Nam, Zambia, Zimbabwe, Colombia.	
XIAOMI	1352685	Albania, Algeria, Antigua and Barbuda, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belarus, Benelux, Bhutan, Bonaire, Sint Eustatius and Saba, Bosnia and Herzegovina, Botswana, Bulgaria, Cambodia, Colombia, Croatia, Cuba, Curaçao, Netherlands (Kingdom of the), Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Eswatini, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Hungary, Iceland, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic (the), Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Madagascar, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, New Zealand, North Macedonia, Norway, Oman, Poland, Portugal, Republic of Moldova (the), Romania , Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Serbia, Sierra Leone, Sint Maarten (Dutch part), Slovakia, Slovenia, Spain , Sudan, Sweden, Switzerland, Syrian Arab Republic (the), Tajikistan, Tunisia, Türkiye, Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan, Viet Nam, Zambia, Zimbabwe, Philippines.	June 16, 2016
XIAOMI	1177611	Albania, Antigua and Barbuda, Armenia, Australia, Azerbaijan, Bahrain, Belarus, Benelux, Bhutan, Bonaire, Bosnia and Herzegovina, Botswana, Colombia, Croatia, Cuba, Curaçao, Netherlands (Kingdom of the), Democratic People's Republic of Korea, Egypt, Eswatini, European Union Intellectual Property Office, Georgia, Ghana, Iceland, Iran (Islamic Republic of), Israel, Kazakhstan, Kenya, Kyrgyzstan, Lesotho, Liberia, Liechtenstein, Madagascar, Mexico, Monaco, Mongolia, Montenegro, Morocco, Namibia, New Zealand, North Macedonia, Norway, Oman, Republic of Moldova (the), Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Serbia, Sierra Leone, Sint Maarten (Dutch part), Sudan, Switzerland, Syrian Arab Republic (the), Tajikistan, Tunisia, Türkiye, Turkmenistan, Ukraine, United States of America, Uzbekistan, Viet Nam, Zambia, Mozambique.	November 28, 2012

The Complainant owns the domain name <mi.com>, which resolves to the Complainant's official website.

The disputed domain name <xiaomiromania.com> was registered on January 23, 2017, and it resolves to a website that operates an online store that purportedly offers electronic devices and accessories.

4.1 Language of the Proceedings

The Complaint was filed in English.

In accordance with paragraph 11 of the Rules, the language of the proceedings is to be Spanish, unless otherwise agreed by the Parties, and subject to the Panel's decision, considering the circumstances of the case.

In the Complaint, the Complainant requested English to be the language of the proceedings, arguing (i) that when registering the disputed domain name "xiaomiromania.com", the Respondent did not use "Rumania" but chose the English word "Romania" as the suffix of the disputed domain name and that therefore the domain name should be read as the Complainant's trademark XIAOMI plus the English name of the country "Romania", (ii) that the disputed domain name resolves to a website that sells products with English descriptions, (iii) that at the time of filing of the Complaint, the language of the Registration Agreement for the disputed domain name (with OVH sas) was English, (iv) that when the Center notified the Complaint to the Respondent in both English and Spanish, said Respondent replied in English and did not submit evidence showing that English should not be a proper language of this proceeding, (v) that the Respondent has a store in Romania and that most of the content of the website to which the disputed domain name has resolved is in Romanian, (vi) that the Complainant does not see any reason why the Respondent tries to choose Spanish as the Language of Proceedings except for causing huge and heavy time and monetary burdens on the Complainant, (vii) that the Respondent is able to understand English, and (viii) that the Complainant would incur substantial expenses and the proceedings would be significantly delayed if the Complainant were to be required to translate the Complaint into Spanish.

The Respondent replied to the Complainant's communication regarding the language of proceedings indicating that he prefers that the proceedings be substantiated in Spanish.

Therefore, there is no agreement between the Parties on the language of the proceedings.

The Panel notes that the website to which the disputed domain name resolves comprises some terms in English, that the content displayed on the website to which the disputed domain name resolves advertises an online store that apparently serves the Romanian market and delivers products in Romanian territory and that said website also advertises a physical store in Romania, as well as that the Respondent has indeed communicated with the Center in English. Taking these facts into account, and that the native language of the Respondent, a Chinese entity, is Chinese, and that the Respondent (notwithstanding the fact that he has declared to reside in Spain) has chosen to register a domain name which alphanumeric string purports to be related to Romania where Romanian is spoken, and seems to conduct business in the Romanian market, it is reasonable to infer that English is a neutral language in which both Parties are able to communicate.

Therefore, and in order to preserve the spirit of the Policy, which is to provide an agile, expeditious, and low-cost proceeding, the Panel decides that, in accordance with the powers granted under paragraph 11 of the Rules, the language of the proceedings shall be English (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

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 the following:

I. Identical or Confusingly Similar

That XIAOMI is a highly distinctive trademark in respect of the goods and services of the Complainant.

That the disputed domain name is identical or confusingly similar to the Complainant's trademark XIAOMI as it begins with the Complainant's registered trademark and is followed by the location 'romania' which can be disregarded for purposes of comparing the disputed domain name to the Complainant's trademark.

II. Rights or Legitimate Interests

That the Respondent does not own and has not used in good faith any trademarks for XIAOMI and that there is no evidence that the Respondent is commonly known by or referred to as XIAOMI.

That the Respondent did not register the disputed domain name in good faith and that the XIAOMI trademark is not clearly descriptive or the generic designation of: a) the character or quality of the wares, services or business of the Complainant; b) the conditions of, or the persons employed in the production of the wares, performance of the services or operation of the business of the Complainant; or c) the place of origin of the wares, services or business of the said Complainant.

That the Respondent has not used the disputed domain name in good faith in association with a noncommercial activity.

That it is inconceivable that the Respondent had not heard of the Complainant or its XIAOMI trademark and products/services at the time when he registered the disputed domain name, given the fame of the Complainant and its globally known XIAOMI trademark, which existence predates the Respondent's registration of the disputed domain name.

That the Respondent's website offers the Complainant's XIAOMI smartphones and products and offers services in connection with them.

That the Complainant is not affiliated with, nor does it endorse or sponsor the Respondent's use of the disputed domain name.

That the Complainant and the Respondent have no relationship which would give rise to any license, permission, or other right by which the Respondent could own or use any domain name incorporating the Complainant's XIAOMI trademark.

That the Respondent is not making legitimate or fair use of the disputed domain name in connection with a bona fide offering of goods or services.

III. Registered or Used in Bad Faith

That the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

That the Respondent uses the disputed domain name to resolve to a website, which is headed 'xiaomiromania', which term is identical or confusingly similar to the Complainant's trademark XIAOMI.

That the Respondent also introduces himself as "Xiaomi Mi store in Romania (Magazinul Xiaomi Mi în România)."

That the disputed domain name resolves to a website which is selling a range of household consumer goods such as smartphones, earphones and headphones, scooters, speakers, printers, smart watches, which website also uses the color orange in its logo, just as the Complainant does at its official site.

That the Respondent is clearly aware of the Complainant's XIAOMI trademark because it is selling the Complainant's XIAOMI products. Furthermore, that the disputed domain name resolves to a webpage that copies images and text directly from the Complainant's website and in which the Complainant owns the copyright.

That is clear that at the time the Respondent registered the disputed domain name, the Respondent was well aware of the Complainant, its products and its XIAOMI trademark. That the website to which the disputed domain name resolves sells the Complainant's products. That the intention of the Respondent was to use the disputed domain name to attract, for profit, Internet users to his website.

That the use of the disputed domain name by the Respondent is also misleading by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location of a product or service on the Respondent's website, as the Respondent sells a wide range of products which are not in fact produced by the Complainant (thereby not being "Xiaomi Products").

That the Respondent states in the website to which the disputed domain name resolves: "We have one physical store in Sibiu where we offer you the most famous Xiaomi and Nillkin gadgets", which fact is considered by the Complainant as an attempt to impersonate the Complainant.

B. Respondent

The Respondent sent email communications from the email confirmed by the Registrar and from an email address of the disputed domain name. The Panel notes that the registrant confirmed that the email communications are related. In these email communications, the Respondent requested Spanish to be the language of the proceeding, and confirmed that he has a company in Barcelona, Spain.

The Respondent did not submit a formal response.

6. Discussion and Findings

Given the Respondent's failure to reply to the Complainant's contentions, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The disputed domain name <xiaomiromania.com> is confusingly similar to the XIAOMI trademark because it reproduces it entirely ([WIPO Overview 3.0](#), section 1.7), and because the incorporation of a geographical term "romania" does not prevent a finding of confusing similarity, because the Complainant's trademark XIAOMI is recognizable in the disputed domain name ([WIPO Overview 3.0](#), section 1.8; see

Playboy Enterprises International, Inc. v. Zeynel Demirtas, WIPO Case No. [D2007-0768](#); *InfoSpace.com, Inc. v. Hari Prakash*, WIPO Case No. [D2000-0076](#); *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) and *Six Continents Hotels, Inc., Inter-Continental Hotels Corporation v. South East Asia Tours*, WIPO Case No. [D2004-0388](#)).

The addition of the generic Top-Level Domain (“gTLD”) “.com” to the disputed domain name constitutes a technical requirement of the Domain Name System (“DNS”). Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

Based on the available record, 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 to 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 to 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 to 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Complainant has asserted that there is no evidence of the Respondent’s use of the disputed domain name in connection with a bona fide offering of goods or services, and that the Respondent has not been licensed or otherwise permitted by the Complainant to use the XIAOMI trademark, or to register the disputed domain name (see *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. cenk erdogan*, WIPO Case No. [D2023-3044](#); *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. Nick Lamba*, WIPO Case No. [D2023-2573](#) and *Autodesk, Inc. v. Brian Byrne, meshIP, LLC*, WIPO Case No. [D2017-0191](#)). The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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.

The Complainant has ascertained its rights over the XIAOMI trademark. The Panel estimates that, based on the evidence on record, the XIAOMI trademark is well-known. The dates of registration of the Complainant’s trademarks significantly precede the date of registration of the disputed domain name.

In the present case, the Panel notes that the Respondent registered the disputed domain name on January 23, 2017, well after the Complainant obtained its first registrations for the XIAOMI trademark and began using said mark. The Respondent's bad faith registration is evidenced by the fact that (1) the XIAOMI trademark is registered in several jurisdictions, including Romania, to which market the Respondent apparently caters through online and physical stores; (2) said trademark XIAOMI is also registered in Spain, where the Respondent has declared to be domiciled; (3) the disputed domain name is confusingly similar to the well-known XIAOMI trademark, as it incorporates it entirely; (4) the content displayed on the website to which the disputed domain name resolves resembles that of the Complainant's own official website found at <mi.com>; (5) the Complainant has submitted evidence of extensive, worldwide use of the XIAOMI trademark prior to the date of registration of the disputed domain name; and (6) through the website to which the disputed domain name resolves, the Respondent makes available images which copyrights apparently belong to the Complainant, and purportedly offers the same type of products that the Complainant sells. On the uncontroverted evidence, the Panel finds that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

The evidence submitted by the Complainant also shows that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#)0365; and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Panels have held that the use of a domain name for illegal activity (here, impersonation/passing off) constitutes bad faith. (See the Panel's determination on impersonation in the analysis of the second factor of the Policy, supra). [WIPO Overview 3.0](#), section 3.4.

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

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 <xiaomiromania.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: March 14, 2024