

ADMINISTRATIVE PANEL DECISION

DSM IP Assets B.V. v. Martin Yao

Case No. D2024-0253

1. The Parties

The Complainant is DSM IP Assets B.V., Netherlands (Kingdom of the), represented by Legaltree, Netherlands (Kingdom of the).

The Respondent is Martin Yao, China.

2. The Domain Name and Registrar

The disputed domain name <dsm-chem.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (NameSilo, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 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 January 26, 2024.

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 sent email communications to the Center on February 4, 8, and 19, 2024 indicating that they had or intended to cancel the Domain Name. The Center sent a possible settlement email to the Parties on February 6, 2024. The Complainant did not request a suspension of the proceedings. The Respondent did not submit any formal response. The Center notified the commencement of panel appointment process on February 21, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on February 28, 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.

On February 28, 2024, the Respondent sent a fourth email to the Center, essentially identical to the earlier emails.

4. Factual Background

The Complainant is a Dutch company that is part of a broader corporate group that produces a variety of chemical raw materials and pharmaceutical products. The Complainant manages the IP assets for the broader corporate group that has traded under the DSM name since its predecessor in title was established in 1902.

The Complainant holds a registered trade mark consisting of the letters “DSM” (the DSM Mark) in a number of jurisdictions including a Benelux registration for goods in classes 1, 2, 3, 4, 5, 7, 8, 9, 11, 16, 17, 18, 19, 20, 21, 22, 23 (Registration No. 95046 with a registration date of June 1, 1974).

The Domain Name was registered on August 1, 2022. The Domain Name is presently inactive but prior to the commencement of the proceeding resolved to the Complainant’s official website at “www.dsm.com” (“Complainant’s Website”).

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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the DSM Mark, having registered the DSM Mark in a number of jurisdictions including Benelux and the European Union. The Domain Name is confusingly similar to the DSM Mark since it adds the descriptive abbreviation “-chem” to the wholly incorporated DSM Mark.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the DSM Mark. The Respondent is not commonly known by the DSM Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather, the Domain Name resolves to the Complainant’s Website at “www.dsm.com” and it is likely that the Respondent is using or intends to use the Domain Name to steal data from the Complainant, hack into the Complainant or other fraud or cybercrime activities, which does not provide the Respondent with rights or legitimate interests in the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Domain Name is likely being used to impersonate the Complainant in some way to perpetuate a fraud.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. Rather the Respondent sent four email communications to the Center to the effect that it had “cancelled the Domain Name”.

6. Discussion and Findings

A. Consent to Remedy

The Respondent has consented to the cancellation of the Domain Name, being the remedy sought in the Complaint. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") section 4.10, states, in response to the question "How do panels handle cases involving a respondent's informal or unilateral consent for the transfer of the domain name to the complainant outside the 'standard settlement process' described above?" that:

"Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the 'standard settlement process' described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).

In some cases, despite such respondent consent, a panel may in its discretion still find it appropriate to proceed to a substantive decision on the merits. Scenarios in which a panel may find it appropriate to do so include (i) where the panel finds a broader interest in recording a substantive decision on the merits – notably recalling UDRP paragraph 4(b)(ii) discussing a pattern of bad faith conduct, (ii) where while consenting to the requested remedy the respondent has expressly disclaimed any bad faith, (iii) where the complainant has not agreed to accept such consent and has expressed a preference for a recorded decision, (iv) where there is ambiguity as to the scope of the respondent's consent, or (v) where the panel wishes to be certain that the complainant has shown that it possesses relevant trademark rights."

The Panel does not consider the present matter an appropriate matter to exercise its discretion to proceed to a substantive decision on the merits. The Panel notes its obligation pursuant to paragraph 10(c) of the Rules to ensure that the administrative proceeding takes place with due expedition.

The Panel is satisfied that the Respondent, by its emails of February 4, February 8, February 19 and February 28, 2024, has provided a genuine, unconditional and unilateral consent to the cancellation of the Domain Name and the Panel so orders the cancellation of the Domain Name.

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 Domain Name <dsm-chem.com> be cancelled.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: March 5, 2024