

ADMINISTRATIVE PANEL DECISION

Paladin Brands Group, Inc. v. 金光勤 (jinguangqin), 无锡市裕昌化工机械有限公司 (wuxishi yuchang huagongjixie youxiangongsi)
Case No. D2024-0839

1. The Parties

The Complainant is Paladin Brands Group, Inc., United States of America (“United States”), represented by Nyemaster Goode PC, United States.

The Respondent is 金光勤 (jinguangqin), 无锡市裕昌化工机械有限公司 (wuxishi yuchang huagongjixie youxiangongsi), China.

2. The Domain Name and Registrar

The disputed domain name <jctattachments.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 February 10, 2024. On February 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 28, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. On the same day, the Center sent an email communication to the Complainant 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 in English on March 4, 2024.

On February 28, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 1, 2024, the Complainant requested 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 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 English and Chinese of the Complaint, and the proceedings commenced on March 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 27, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 3, 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 the Paladin group, which manufactures coupler systems and attachment tools for machinery across a variety of industries. The Complainant holds various trademark registrations in the United States, including the following:

- number 3190013 for JRB, registered on December 26, 2006 with a claim of first use in commerce in January 2001, specifying goods in international class 7;
- number 4549086 for JRB BY PALADIN and a sword and shield device, registered on June 10, 2014 with a claim of first use in commerce on August 31, 2013, specifying goods in international class 7;
- number 4581342 for PALADIN POWERFUL ATTACHMENT TOOLS and device, registered on August 5, 2014 with a claim of first use in commerce on August 31, 2013, specifying goods in international class 7, and disclaiming exclusive use of the words "powerful attachment tools"; and
- number 4756662 for a figurative mark consisting of the sword and shield device, registered on June 16, 2015 with a claim of first use in commerce on August 31, 2013, specifying goods and services in international classes 7 and 40.

The above trademark registrations are current. The Complainant's parent company has registered the domain name <jrbattachments.com> that redirects to the domain name <paladinattachments.com>, which is used in connection with a website that prominently displays the sword and shield device alongside the name PALADIN. The website offers for sale attachment products of multiple brands, including JRB.

The Respondent is an individual and a Chinese company. The company's name may be translated as "Wuxi Yuchang Chemical Machinery Co., Ltd."

On December 14, 2018, the Complainant sent a cease-and-desist letter to a company named Paladin Industrial Corporation Limited ("Paladin Industrial"), for which the contact address was in Colorado, United States, that operated a website associated with the domain name <paladinindustrial.cc>. The website allegedly displayed the PALADIN mark and offered for sale industrial attachment products. Paladin Industrial entered into correspondence with the Complainant and, soon after, changed its branding to "Wolverine" and began using the domain name <usawolverine.com> in connection with its website.

The disputed domain name was created on March 30, 2019. It resolves to a website for JCT Attachments that prominently displays a logo that resembles the Complainant's sword and shield mark. The website offers for sale various skid steer attachment products. The contact information consists of an email address and "JCT Attachments Sacramento, CA, USA". Evidence provided by the Complainant shows that the source code of the website includes "Wolverine" as alternate text for several product images.

On June 17, 2019, a third party located in the United States contacted the Complainant seeking replacement parts for a brush cutter that it mistakenly believed to be one of the Complainant's products. The brush cutter was branded with a sword and shield logo alongside the letters "JCT". The customer had purchased the

brush cutter at an auction which, according to photographic evidence on the record, offered for sale other attachment products, notably mover attachments, branded with the same logo.

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.

The Complainant submits that the standard to show confusing similarity under the first element in paragraph 4(a) of the Policy is conventionally modest and calls for an objective assessment of whether the trademark is clearly recognizable in the disputed domain name. Although this assessment typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark, it "may also entail a more holistic aural or phonetic comparison of the complainant's trademark and the disputed domain name to ascertain confusing similarity." See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. For affirmation of confusing similarity, the Panel may also look to "the broader case context such as website content trading off the complainant's reputation, or a pattern of multiple respondent domain names targeting the complainant's mark." *Id.* Under the "more holistic aural" approach to the Policy's first element, a domain name that evokes, but does not incorporate, a trademark may nevertheless be confusingly similar. See *Hertz System, Inc. v. Kwan-ming Lee*, WIPO Case No. [D2009-1165](#). Such is the case here. The disputed domain name comprises two main textual components: the letters "jct" and the word "attachments." Although the Complainant's mark is not one of those components, "jct" is phonetically suggestive of "jrb." Pairing those letters with the word "attachments" – a non-source-identifying reference to goods sold by both Parties – gives rise to a confusing similarity between the disputed domain name and the Complainant's registered mark. The Respondent's intent to confuse is readily confirmed by looking to the content of the website associated with the disputed domain name, which advertises competing skid steer attachment products bearing a logo that mimics the Complainant's sword and shield marks.

Further, confusing similarity also exists between the disputed domain name and the domain name <jrbattachments.com> that the Complainant's parent company registered for use with the Complainant's trademarks. In the disputed domain name, the letters "r" and "b" from <jrbattachments.com> have been replaced with the letters "c" and "t". This minimal substitution of proximate keyboard letters is a form of typosquatting and an independent basis for confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The website associated with the disputed domain name markets skid steer attachment tools branded with a logo that mimics the Complainant's JRB and sword and shield marks. The Respondent's website reflects a clear intent to mislead consumers and capitalize on the Complainant's reputation and goodwill. The Complainant is also unaware of any evidence indicating that the Respondent is commonly known by the name "JCT Attachments" outside of its use of the disputed domain name. The Respondent has no business relationship with the Complainant, and the Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's marks or to register the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Respondent is improperly attempting to profit from and exploit the Complainant's JRB and sword and shield marks. The registration of the disputed domain name is just one part of a broader scheme of wilful infringement by which the Respondent seeks to drive sales of competing products by capitalizing on the Complainant's longstanding reputation in the attachment tool market. By mimicking the Complainant's marks on its website, on its competing products, and in the disputed domain name, the Respondent profits by luring customers into the belief that the Respondent's products are sourced from, affiliated with, or endorsed by the Complainant. The Complainant provides evidence of an instance of actual customer confusion. The Respondent was fully aware of the Complainant's trademarks at the time it registered the disputed domain name, either due to an

affiliation with Paladin Industrial or the strength and longstanding use of the Complainant's marks.

B. Respondent

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

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 amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including that English is the language of the disputed domain name; all visible website content on the website associated with the disputed domain name is in English, providing further evidence of the Respondent's English comprehension; and requiring the Complainant to translate the Complaint into Chinese will pose an undue burden on the Complainant and delay the proceeding.

Despite the Center having sent an email regarding the language of the proceeding and the notification of Complaint in both Chinese and English, the Respondent did not make any submission with respect to the language of the proceeding nor did the Respondent choose to file a Response in Chinese or English.

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 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:

- (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 typically 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 several trademarks for the purposes of the Policy, as set out in section 4 above. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name does not contain any of the trademarks in respect of which the Complainant has shown rights.

As regards the Complainant's JRB mark, the disputed domain name does not contain sufficient recognizable aspects of it to ground a finding of confusing similarity. The disputed domain name and this mark both contain or consist of a three-letter combination but the similarity between them is limited to the single letter "j", which is not recognizable as an abbreviation of the mark. The other letters in the three-letter combinations are different, i.e., they are "ct" in the disputed domain name and "rb" in the mark. The letters "c", "t", "r", and "b" are all different phonemes, hence, the disputed domain name is not similar to the JRB mark aurally or visually. The disputed domain name does not contain a recognizable two-letter contraction of a three-letter mark, unlike the circumstances in *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#).

As regards the Complainant's JRB BY PALADIN mark, the same considerations apply and, besides, the mark contains additional elements (i.e., "BY PALADIN") absent from the disputed domain name.

As regards the Complainant's PALADIN POWERFUL ATTACHMENT TOOLS and device mark, the disputed domain name does not contain sufficient recognizable aspects of it to ground a finding of confusing similarity. The only similarity with this mark is the disclaimed word "attachment", which appears in the disputed domain name with a plural "s". However, the other element in the disputed domain name (i.e., "jct") does not resemble any of the other elements of this mark, notably, its distinctive textual element (i.e., "PALADIN").

As regards the Complainant's figurative sword and shield mark, the disputed domain name does not reflect any element of this mark.

The Complainant argues that under a more holistic aural approach, a domain name that evokes, but does not incorporate, a trademark may nevertheless be confusingly similar, citing *Hertz System, Inc. v. Kwan-ming Lee, supra*. In that prior UDRP case, the panel hesitated to find similarity between "hz" and the famous HERTZ mark but went on to find that, by adding the word "car" to the letters "hz", the respondent had created similarity with that mark because the complainant was known around the world for automobile rentals, as a result of which that panel considered "hzcar" similar to "Hertz Car" visually and aurally. However, that prior case must be distinguished from the circumstances in the present case, where the Panel finds that there is insufficient similarity between "jct" and the JRB mark.

The Panel takes note that a logo similar to the Complainant's figurative sword and shield mark is displayed on the Respondent's website and there is evidence of actual confusion regarding use of that logo on a product. However, while website content trading off a complainant's reputation may provide additional support for a finding of confusing similarity, it is insufficient by itself to show confusing similarity.

The Complainant claims separately that it has demonstrated confusing similarity on the basis that the disputed domain name is an obvious misspelling of its parent company's domain name <jrbattachments.com>. However, the first element of paragraph 4(a) of the Policy requires identity or confusing similarity between the disputed domain name and a mark, not another domain name, unless that other domain name is a trademark, which is not the case here.

However, it is unnecessary for the Panel to reach a conclusion regarding the first element of paragraph 4(a) of the Policy given the findings below.

B. Suitability of the Policy for this Dispute

The evidence presented by the Complainant shows that the Respondent supplies skid steer attachment products, including brush cutters, sweepers, and augers, which are of the same type as the Complainant's products and compete directly with them. The Respondent does business online, at the website associated with the disputed domain name, and photographic evidence shows that its attachment products have also been offered for sale offline at an auction house in the United States. The Respondent uses a sword and

shield logo that is very similar to the Complainant's sword and shield mark, depicted in a gray, white and red color scheme almost identical to that in which the Complainant's mark is displayed on the Complainant's group website. The evidence shows that the Respondent prominently displays the logo on its website alongside "JCT Attachments" and on at least some of its attachment products alongside the letters "JCT".

The Complainant provides evidence of an instance of actual confusion where a consumer contacted the Complainant seeking replacement parts for the Respondent's brush cutter, branded with the sword and shield logo alongside the letters "JCT", in the mistaken belief that it was one of the Complainant's products.

Given the degree of similarity between the Respondent's logo and the Complainant's mark, and the identity of the Parties' respective products, it is implausible that these circumstances are coincidental. The Panel notes that the Respondent set up its website no earlier than 2019, years after the Complainant's trademark registrations, including for the sword and shield mark.

In view of the above circumstances, the Panel considers that the dispute between the Parties is a trademark infringement dispute that exceeds the relatively limited scope of the Policy. The Policy establishes a streamlined, inexpensive administrative procedure intended only for the relatively narrow class of cases of "cybersquatting".

Therefore, the Panel will not consider the merits of the Complaint further. This dispute would be more appropriately addressed by a court of competent jurisdiction. See [WIPO Overview 3.0](#), section 4.14.6.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: April 17, 2024