

ADMINISTRATIVE PANEL DECISION

Linak A/S v. 姚明凯 (yao ming kai)
Case No. D2024-0987

1. The Parties

The Complainant is Linak A/S, Denmark, represented by Zacco Denmark A/S, Denmark.

The Respondent is 姚明凯 (yao ming kai), China.

2. The Domain Name and Registrar

The disputed domain name <linakuk.ltd> 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 March 6, 2024. 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 March 7, 2024, 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 Respondent sent an email communication to the Center on March 7, 2024, undertaking to cancel the disputed domain name registration. On March 8, 2024, the Center sent an email regarding possible settlement to the Parties. On March 12, 2024, the Complainant requested a suspension of the proceeding to explore a possible settlement. On the same day, the Parties exchanged emails regarding a settlement in which the Respondent apologized to the Complainant and offered not to renew the disputed domain name. On March 12, 2024, the Center issued a Notification of Suspension to the Parties. The proceeding was therefore suspended until April 11, 2024 for the purposes of settlement discussions. On March 13, 2024, the Parties exchanged emails regarding a settlement, in which the Respondent sought EUR 1,000 for absence from work. On March 14, 2024, the Complainant requested that the Center reinstitute the proceeding. On March 15, 2024, the Respondent sent another email to the Center. On the same day, the Center sent an email communication to the Parties and the proceeding was reinstated as of March 15, 2024.

On March 15, 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 17, 2024, the Respondent sent emails to the Center, stating that he was giving up the disputed domain name and asking how to complete the settlement process. On March 22, 2024, the Complainant requested English to be the language of the proceeding.

The Center verified that 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 in Chinese and English, and the proceeding commenced on March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024.

On March 26, 2024, in accordance with the Rules, paragraph 17(a)(iii), the Parties provided to the Center a Standard Settlement Form signed by them both. The Respondent sent several emails to the Center on the same day. On the same day, the Complainant requested that the proceeding be suspended to implement the settlement agreement between the Parties. On the same day, the Center notified the Parties that the proceeding was suspended until April 25, 2024 and, in accordance with the Rules, paragraph 17(a)(iv) confirmed to the Registrar that the Parties had agreed to the transfer of the disputed domain name. On March 27, 2024, the Registrar indicated that the Parties should proceed and complete the transfer of the disputed domain name without its intervention. On April 22, 2024, the Complainant requested an extension of the suspension in order to be able to transfer the disputed domain name as agreed by the Parties. On the same day, the Center notified the Parties that the suspension of the proceeding was extended until May 22, 2024. On May 24, 2024, the Complainant requested an extension of the suspension period. On the same day, the Center notified the Parties that the proceeding was extended until June 27, 2024. On June 26, 2024, the Complainant requested a further extension of the suspension period. On September 3, 2024, the Complainant requested to reinstitute the proceeding as the settlement could not be implemented. On the same day, the Center sent an email communication to the Parties and the proceeding was reinstated as of September 3, 2024. The new Response due date was September 22, 2024. The Center commenced the Panel appointment process on October 2, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on October 7, 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 designs and manufactures actuator systems. It has production facilities in Denmark, Slovakia, China, Thailand, and the United States of America, and subsidiaries in multiple countries, including one named "Linak-UK Limited" in the United Kingdom. The Complainant holds International trademark registration number 1580497 for LINAK, registered on December 17, 2020, designating multiple jurisdictions, including China, and specifying goods and services in multiple classes. The Complainant has also registered multiple domain names, including <linak.com> that it uses in connection with its official website.

The Respondent is an individual based in China.

The disputed domain name was registered on November 6, 2023. It does not resolve to any active 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 disputed domain name. Notably, the Complainant contends that the disputed domain name is confusingly similar to its LINAK trademark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not received any license or consent, express or implied, to use the Complainant's LINAK trademark in any manner from the Complainant. The disputed domain name was registered and is being used in bad faith. The Complainant requests that the disputed domain name be transferred to itself.

In its email communication of September 3, 2024 requesting the reinstatement of the proceeding, the Complainant referred to the prior practice of UDRP panels in cases involving a respondent's informal or unilateral consent for the transfer of a domain name to a complainant outside the standard settlement process.

B. Respondent

Besides the email communications referred to in the procedural history in Section 3 above, the Respondent did not respond to the Complainant's contentions.

6. Discussion and Findings

A. 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 was filed in English and both Parties have communicated throughout this proceeding in that language. The Complainant requested that the language of the proceeding be English on the basis that the Respondent is very familiar with English and able to read and understand the Complaint and file a Response in English if he chooses to do so. The Respondent did not address the language of the proceeding but it has submitted several emails in English.

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.

B. Consent to Transfer

The Parties have signed a Standard Settlement Form in which they agree that the disputed domain name shall be transferred to the Complainant. However, it has not been possible to implement that settlement.

The Panel notes that the Respondent has not denied the Complainant's contentions but has rather apologized to the Complainant. The Complainant has not referred to any circumstances in this case that would render it appropriate to proceed to a substantive decision on the merits and the Panel sees none. Accordingly, on the basis of the Respondent's consent to transfer, the Panel will grant the requested remedy. See [WIPO Overview 3.0](#), section 4.10.

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 <linakuk.ltd> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: October 10, 2024