

ADMINISTRATIVE PANEL DECISION

Synopsys, Inc. v. 宋红波 (Song Hong Bo)
Case No. D2024-1094

1. The Parties

The Complainant is Synopsys, Inc., United States of America, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is 宋红波 (Song Hong Bo), China.

2. The Domain Name and Registrar

The disputed domain name <新思科技.com> (<xn--m8t06c51d7s4a.com>) is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 12, 2024. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 19, 2024.

On March 14, 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 18, 2024, 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 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 Chinese and English of the Complaint, and the proceedings commenced on March 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 12, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 16, 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 April 23, 2024, the Panel issued Administrative Panel Procedural Order No. 1 (the "Order"). In the Order, the Panel noted that the Complainant had provided evidence that it holds Chinese trademark registration number 40152132 for 新思, but further noted that this trademark was subject to a cancellation/invalidation proceeding and its status was unclear on the website of the China National Intellectual Property Administration ("CNIPA"). Accordingly, the Panel invited (i) the Complainant to comment on the above trademark including its current status and any anticipated future procedural steps relevant to it; (ii) the Complainant to provide evidence showing whether or not 新思 or 新思科技 has become a distinctive identifier that consumers associate with the Complainant's goods and/or services; and (iii) the Respondent to comment on the Complainant's submission in response to the Order. After the Complainant requested an extension, on April 25, 2024 the Panel extended the dates for the Complainant's submission in response to the Order to May 1, 2024, and for the Respondent's comments on it to May 6, 2024. The due date for Decision was extended accordingly to May 13, 2024. The Complainant filed its submission in response to the Order on April 30, 2024. The Respondent did not comment on the Complainant's submission.

4. Factual Background

The Complainant, founded in 1986, is engaged in electronic design automation. It provides solutions for designing and verifying advance silicon chips and for designing chip-manufacturing processes and models. The Complainant opened an office in China in 1995 and now has eight offices throughout that country. The Complainant holds numerous trademark registrations in multiple jurisdictions, including the following Chinese trademark registrations:

- No. 902457 for SYNOPSIS, registered on November 21, 1996, specifying goods in class 9;
- No. 10115526 for SYNOPSIS, registered on March 7, 2013, specifying services in class 42; and
- No. 40152132 for 新思, registered on January 28, 2021, specifying goods in class 9.

All the above trademark registrations are current. Although an invalidation proceeding was initiated by a third party against registration number 40152132 for 新思, the CNIPA issued a decision dated September 28, 2021, dismissing the invalidation application.¹ The CNIPA granted a 30-day period to appeal its decision to the Beijing Intellectual Property Court but, as far as the Panel is aware, no appeal was filed. The Complainant has also registered multiple domain names, including <synopsys.com> and <synopsys.cn> that it uses in connection with its main consumer-facing website and its Chinese website, respectively.

The Respondent is an individual resident in China. According to evidence presented by the Complainant, the Respondent is, or has been, associated with other domain names that contain third party trademarks in Chinese, or phonetic transcriptions or translations into Chinese of third party trademarks, including the following (with relevant third party trademarks shown in brackets): <百度区块链.中国> (BAIDU), <華為區塊鏈.中国> (HUAWEI), <微信公众平台.中国> (WECHAT/WEIXIN), <樂事.中国> (LAYS), <凯迪拉克.中国> (CADILLAC), <漢堡王.中国> (BURGER KING), <尼康.中国> (NIKON), <娇兰.中国> (GUERLAIN), <領英.中国> (LINKEDIN), <菲拉格慕.中国> (FERRAGAMO), <天梭.中国> (TISSOT), <麥肯錫.中国> (MCKINSEY), and <新秀丽.中国> (SAMSONITE).

¹Decision 商评字 [2021] 第 0000268798 号

The disputed domain name was registered on June 27, 2023. 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 its SYNOPSIS mark. The disputed domain name incorporates a Chinese translation of that mark. The Complainant also submits that the signs “新思” and “新思科技” have become distinctive identifiers which consumers associate with the Complainant's goods and/or services. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not a licensee of the Complainant or affiliated with the Complainant in any way. The Complainant has not authorized the Respondent to use its marks in a domain name or any other way. The disputed domain name was registered and is being used in bad faith. The disputed domain name contains the official translation of the Complainant's mark and trade name. The Respondent is associated with several other abusive domain names.

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 was 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 is registered in the “.com” generic Top-Level Domain (“gTLD”) extension, and translation of the Complainant would create substantial additional costs for the Complainant and unwarranted delay.

The Respondent did not make any submissions with respect to the language of the proceeding or indicate any interest in otherwise participating in this dispute, despite the Center having sent an email regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and 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 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. The Panel would have accepted a Response in Chinese, but none was filed.

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

The Complainant has shown registered rights in respect of the 新思 and SYNOPSIS trademarks for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name wholly incorporates the 新思 mark as its initial element. Although it adds the characters “科技” (meaning “technology”), the mark remains clearly recognizable within the disputed domain name. The only other element is a gTLD extension (“.com”) which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity. Accordingly, the Panel finds the disputed domain name is confusingly similar to the Complainant’s 新思 mark. See [WIPO Overview 3.0](#), sections 1.8 and 1.11.1.

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 does not resolve to any active website. This does not constitute a use of the disputed domain name in connection with a bona fide offering of goods or services. Nor is it a legitimate noncommercial or fair use for the purposes of the Policy. Further, the Registrar has verified that the Respondent’s name is “宋红波” (Song Hong Bo), not the disputed domain name. Nothing indicates that the Respondent 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 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 that 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.

In the present case, the disputed domain name was registered in 2023, two years after the registration of the Complainant's 新思 mark. The disputed domain name wholly incorporates this mark, with no other element besides “科技” (“technology” in English) and a gTLD extension. The evidence provided by the Complainant includes press articles as well as screenshots of the Complainant's own website, showing that the Complainant is widely referred to in Chinese as both “新思” and “新思科技”, and that it has been using “新思科技” since at least 2021. The evidence also shows that the top results of a search for “新思科技” in the Baidu search engine refer to the Complainant. The Complainant also provides evidence that the Respondent is, or has been, associated with multiple other domain names that contain third party trademarks in Chinese, or phonetic transcriptions or translations into Chinese of third party trademarks (as set out in section 4 above). The disputed domain name forms part of this pattern of registrations. In these circumstances, the Panel is persuaded that it is more likely than not that the Respondent had the Complainant's marks in mind when he registered the disputed domain name.

As regards use, prior UDRP panels 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. In the present case, the Complainant's marks have a strong reputation in the electronic design sector in China due to widespread use; the disputed domain name forms part of a pattern of bad faith registrations of domain names in Chinese characters by the Respondent; and the Respondent has failed to provide an explanation of any actual or contemplated good-faith use. See [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent 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 <新思科技.com> (<xn--m8t06c51d7s4a.com>) be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: May 13, 2024