

ADMINISTRATIVE PANEL DECISION

Loop BV v. 丁超 (Chao Ding)
Case No. D2024-1288

1. The Parties

The Complainant is Loop BV, Belgium, represented by IP Hills NV, Belgium.

The Respondent is 丁超 (Chao Ding), China.

2. The Domain Name and Registrar

The disputed domain name <loopearplugsus.com> (the “Disputed Domain Name”) is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 26, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 27, 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. The Center sent an email communication to the Complainant on March 28, 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 amended Complaint in English on April 2, 2024.

On March 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 28, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 26, 2024.

The Center appointed Peter J. Dernbach as the sole panelist in this matter on May 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

Founded in 2016, the Complainant is a Belgian company specialized in the development and manufacturing of hearing protection devices, in particular earplugs and earbuds. The Complainant has its headquarters in Antwerp, Belgium, and has offices in New York, Amsterdam, and Shanghai.

The Complainant owns the following trademarks (each a "LOOP Trademark" and collectively the "LOOP Trademarks"):

- European Union Trademark Registration No. 015088693, dated May 24, 2016, for the word mark LOOP, covering goods in classes 9 and 10;
- United Kingdom Trademark Registration No. UK00915088693, dated May 24, 2016, for the word mark LOOP, covering goods in classes 9 and 10;
- International Registration No. 1626467, dated October 4, 2021, for the word mark LOOP, designating Canada, Switzerland, Türkiye, New Zealand, Japan, Malaysia, the United States of America, Norway, Mexico, Singapore, Philippines, Russian Federation, Serbia, Ukraine, United Arab Emirates, Viet Nam, Australia, Brazil, Colombia, India, Thailand, Indonesia, Republic of Korea, and China, and covering goods in classes 9 and 10; and
- Chinese Trademark Registration No. 35196532, dated August 7, 2019, for the word mark LOOPEARPLUGS, covering goods in class 10 (also referred to as the "LOOPEARPLUGS Mark" hereinafter).

The Complainant has been operating a website at the domain name <loopearplugs.com>, which was registered on September 9, 2015.

The Disputed Domain Name was registered on November 21, 2023, and previously resolved to a website displaying the Complainant's LOOP Trademarks and various earplugs products. The website to which the Disputed Domain resolved has been taken down on March 5, 2024.

The Respondent, according to the information provided by the Registrar, appears to be an individual with an address located in China.

5. Parties' Contentions

A. Complainant

The Complainant requests the Panel that the Disputed Domain Name be transferred to the Complainant. The Complainant contends that it has satisfied each of the elements required under paragraph 4(a) of the Policy, summarized as follows:

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that it is the owner of the LOOP Trademarks and has been operating a website at the domain name <loopearplugs.com> registered on September 9, 2015. The Complainant argues that the Disputed Domain Name is confusingly similar to the Complainant's LOOP Trademarks, because the Disputed Domain Name incorporates the LOOP Trademarks in entirety and is nearly identical to the LOOPEARPLUGS Mark. The Complainant's use of the domain name <loopearplugs.com> for its corporate website, according to the Complainant, strengthens the confusing similarity between the Disputed Domain Name and the Complainant's LOOP Trademarks. The Complainant contends that the addition of the descriptive term "earplugs" and the country code "US" does not change the overall impression or reduce the Disputed Domain Name's confusing similarity with the Complainant's LOOP Trademarks.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Complainant asserts that the Respondent does not own any valid trademark rights over the word "loopearplugs(us)," nor is the Respondent commonly known by the Disputed Domain Name. The Complainant also asserts that it did not in any way consent to the registration or use of the Disputed Domain Name, nor has the Respondent received any license or consent to use the Complainant's LOOP Trademarks in a domain name or in any other manner. Moreover, the Complainant contends that the Respondent does not have any intention to use the domain name in connection with a bona fide offering of goods or services or to make a legitimate noncommercial or fair use of the Disputed Domain Name. Notably, the Complainant points out that the layout of and the content of the website to which the Disputed Domain Name resolved copied the layout and content of the Complainant's website.

Based on the above, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

(iii) The Disputed Domain Name has been registered and is being used in bad faith.

The Complainant contends that, as all of the Complainant's LOOP Trademarks' registrations predate the Disputed Domain Name and as the Complainant has extensively used its LOOP Trademarks worldwide, the Respondent should have been aware of the existence of the Complainant, the LOOP Trademarks, and the Complainant's products at/before the time of registering the Disputed Domain Name. The Complainant adds that the LOOP Trademarks are so distinctive in relation to the Complainant's activities (i.e., producing and selling earplugs) that it is impossible for the Respondent to have come up with a domain name fully comprised of the words "loop," "earplugs," and the country code "US" purely by coincidence. Moreover, the Complainant argues that the Respondent's fraudulent use of the Disputed Domain Name (i.e., establishing the website to which the Disputed Domain Name resolved that copied the content on the Complainant's website) also makes it obvious that the Disputed Domain Name was registered with the LOOP Trademarks in mind for the purpose of disrupting the Complainant's business.

The Complainant further contends that long after the Complainant established its rights in its well known LOOP Trademarks, the Respondent acquired the Disputed Domain Name and then engaged in reproducing the Complainant's trademarks and the content on the Complainant's website in order to impersonate the Complainant. Such behavior, according to the Complainant, was primarily for the purpose of disrupting the Complainant's business, and was an attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's LOOP 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.

The Complainant also found that the Respondent was already involved in another domain name dispute (i.e., *Olaplex, Inc. v. 丁超 (Ding Chao)*, WIPO Case No. [D2023-4059](#)) that was highly similar to this Case. Such involvement, according to the Complainant, is also an indication of the Respondent's bad faith.

For the reasons above, the Complainant contends that the Disputed Domain Name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

The Panel determines under paragraph 11(a) of the Rules that the language of the proceeding should be English, for the reasons described below.

Paragraph 11(a) of the Rules provides that, “[u]nless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.” Paragraphs 10(b) and 10(c) of the Rules also require the Panel to “ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case,” and to “ensure that the administrative proceeding takes place with due expedition.”

The language of the Registration Agreement for the Disputed Domain Name is Chinese. However, the Complaint was filed in English, and the Complainant has requested that the language of the proceeding be English for several reasons, including the facts: (i) the relevant pre-complaint correspondence between the Parties was in English; (ii) the Disputed Domain Name resolved to an English language website; and (iii) the Respondent was involved in another UDRP case, *Olaplex, Inc. v. 丁超 (Ding Chao)*, supra, in which the Respondent did not comment on the language of the proceeding whereafter the Panel determined that it would be appropriate for English to be the language of the proceeding.

The Panel also finds that, while the Respondent has been provided with the opportunity to make submissions with respect to the language of the proceeding, the Respondent eventually failed to do so.

Having considered all the matters above, the Panel is of the view that the Complainant has successfully demonstrated the circumstances where using English as the language of the proceeding is appropriate. Therefore, in exercising its discretion under paragraph 11(a) of the Rules to use a language other than that of the Registration Agreement, the Panel determines that the language of the proceeding should be English.

6.2. Analysis of Substantive Issues

In accordance with paragraph 4(a) of the Policy, in order to succeed in this administrative proceeding and obtain the requested remedy (in this case, transfer of the Disputed Domain Name), the Complainant must prove that each of the three following elements are present:

- (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 Panel finds that the Complainant has established that it has been and is currently the owner of the LOOP Trademarks for the purposes of the Policy.

The Panel further finds that the LOOP Trademarks are reproduced in their entirety within the Disputed Domain Name. Accordingly, the Panel is of the view that the Disputed Domain Name is confusingly similar to the Complainant's trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is worth stressing that the addition of the words "earplugs" and "us" to the Disputed Domain Name does not prevent the finding of confusing similarity. The Top-Level Domain ".com" is a standard registration requirement and does not impact the assessment of confusing similarity.

In view of the above, the Panel finds the Disputed Domain Name is confusingly similar to the LOOP Trademarks in which the Complainant has rights. The first element of the Policy thus 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has made a prima facie case in regard to the second element by:

(i) conducting a search, which resulted in no records of the Respondent being the holder of any valid trademark rights over "loopearplugs(us)";

(ii) asserting that the Respondent is not commonly known by the Disputed Domain Name;

(iii) asserting that the Complainant did not in any way consent to the registration or use of the Disputed Domain Name, nor has the Respondent received any license or consent to use the Complainant's LOOP Trademarks in a domain name or in any other manner; and

(iv) showing by extensive evidence that the website to which the Disputed Domain Name resolved contained a layout nearly identical to the Complainant's home page, and copied text, product images, product names, a picture of the Complainant's founders, and even the Complainant's privacy policy and terms of use from the Complainant's website. Such use cannot confer rights or legitimate interests on the Respondent.

The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating (i) the Respondent's use (or plans for such use) of the Disputed Domain Name with a bona fide offering, (ii) that the Respondent is commonly known by the Disputed Domain Name, or (iii) the Respondent's legitimate noncommercial or fair use rights or legitimate interests in the Disputed Domain Name. Nor has the Respondent otherwise provided any proof of its rights to or legitimate interests in the Disputed Domain Name.

Therefore, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

In the present case, the Panel notes that the registrations of the Complainant's LOOP Trademarks and the registration of the domain name <loopearplugs.com>, where the Complainant operates its official website, predate the registration of the Disputed Domain Name. It is unfathomable to the Panel that the Respondent would be unaware of such existence at the time of registration of the Disputed Domain Name. Also, the arbitrary nature of the word mark LOOP in relation to earplugs products gives it such high distinctiveness that the Panel opines that the chances are remote, if not impossible, for the Respondent to, purely by coincidence, have come up with the Disputed Domain Name that reproduces the word "loopearplugs." Therefore, the Panel finds that, at the time of the registration of the Disputed Domain Name, the Respondent must have had knowledge of the Complainant, its business activities, LOOP Trademarks, and/or the domain name <loopearplugs.com>, and that the Respondent registered the Disputed Domain Name in bad faith.

The Panel further finds that the Disputed Domain Name resolved to a website that extensively copied the layout and content of the Complainant's website including texts, product images, and product names. The website to which the Disputed Domain Name resolved appeared to be selling earplugs that were similar to the Complainant's products, however at considerable discounts. Such facts confirm that the Respondent was aware of the Complainant's existence, the LOOP Trademarks and the Complainant's goods at the time of registration of the Disputed Domain Name. Such facts also clearly illustrate that the registration and use of the Disputed Domain Name was primarily for the purpose of disrupting the business of a competitor, namely the Complainant, and was an attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's LOOP 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. The Panel therefore finds that the Disputed Domain Name was used in bad faith.

The Panel further notes that the Respondent was involved in a prior UDRP case, *Olaplex, Inc. V. 丁超 (Ding Chao)*, supra, where the panel decided that, as the Respondent registered the disputed domain name long after the complainant registered its trademark and given the distinctiveness of the complainant's mark and its good will, it is highly unlikely the Respondent did not know of the complainant and its mark. Furthermore, the panel held that, as the disputed domain name previously resolved to a webpage which offered for sale what appeared to be various counterfeit versions of the complainant's products, such behavior is manifestly considered evidence of bad faith. The Panel finds that the Respondent's involvement in a prior domain name dispute is further evidence of the Respondent's pattern of behavior in registering and using domain names in bad faith.

In consideration of the above, 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 <loopearplugsus.com> be transferred to the Complainant.

/Peter J. Dernbach/

Peter J. Dernbach

Sole Panelist

Date: May 21, 2024