

## ADMINISTRATIVE PANEL DECISION

Omnicom Group Inc. v. 于青青 (yu qing qing)  
Case No. D2024-1334

### 1. The Parties

The Complainant is Omnicom Group Inc., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 于青青 (yu qing qing), China.

### 2. The Domain Name and Registrar

The disputed domain name <annalect.online> 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 28, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 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 Center sent an email communication to the Complainant on April 3, 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 8, 2024.

On April 3, 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 April 8, 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 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 1, 2024.

The Center appointed Karen Fong 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**

The Complainant is an American based global media, marketing, and corporate communications holding company founded in 1986. The Complainant's group of companies was ranked as one of the four largest advertising agencies in the world by The New York Times in 2002. It was considered the second largest advertising holding company by The Wall Street Journal in 2014. One of its brands is Annalect. Created in 2010, Annalect specializes in providing data driven marketing strategy, powered by a connected system of technology, analytics and consultants for clients like Apple, Amazon, and McDonald's.

The Complainant, through its subsidiaries, has rights in the trade mark registrations for ANNALECT in many jurisdictions worldwide including the following:

- United States Trade Mark No. 5073596 for ANNALECT, registered on November 1, 2016;
- European Union Trade Mark No. 012182234 for ANNALECT, registered on February 24, 2014; and
- China Trade Mark No. 8873382 for ANNALECT, registered on December 28, 2011.

(individually and collectively the "Trade Mark").

The Complainant owns a number of domain name comprising the Trade Mark including, <annalect.com>, <annalect.biz>, <annalect.cloud>, and <annalect.blog>. The Complainant's website at "www.annalect.com" has been in operation since 2010.

The Respondent appears to be based in China. The disputed domain name was registered on November 14, 2023. The disputed domain name redirects to a "www.Dan.com" parking page where it is listed for sale for a "Buy Now" price of USD 1,450. The Complainant's representatives sent a cease-and-desist letter to the Respondent via the Registrar's contact form on January 10, 2024 with follow ups on January 22 and February 1, 2024. The Respondent failed to respond.

The Respondent has had previous adverse UDRP decisions against it.

#### **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 identical to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was 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 Preliminary Issue: 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 mainly for the following reasons:

- the disputed domain name is comprised of Latin characters;
- the disputed domain name redirects to a website which hosts content entirely in the English language;
- the word “annalect” does not carry any specific meaning in the Chinese language;
- the Respondent has a portfolio of domain names which are comprised of English dictionary terms such as <1community.net> and <365consulting.net>;
- the Respondent did not respond to the cease-and-desist letters nor did it request for communications to be in the Chinese language;
- the above indicates that the Respondent is proficient in the English language; and
- the Complainant is unable to communicate in Chinese and having to translate the Complaint into Chinese would unfairly disadvantage and burden the Complainant in terms of costs and delay the proceeding and adjudication of this matter.

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.

### 6.2 Substantive Issues

#### 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 involves a reasoned but relatively straightforward comparison between the Complainant’s trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that 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 Respondent knew or should have known of the Trade Mark when it registered the disputed domain name given the Trade Mark was registered prior to registration of the disputed domain name and the reputation of the Trade Mark.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent’s choice of the disputed domain name without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The disputed domain name falls into the category stated above and the Panel finds that registration is in bad faith.

The disputed domain name is also being used in bad faith. The disputed domain name is being offered for sale by the Respondent on a domain name marketplace for a sum which most likely exceeds the costs directly related to the registration of the disputed domain name. This is evidence that the Respondent has registered the disputed domain names primarily for the purpose of selling as set out in paragraph 4(b)(i) of the Policy.

Further, the Panel also notes from the evidence provided by the Complaint that the Respondent has been on the wrong side of other UDRP cases concerning third party brand owners which have resulted in the domain names being ordered to be transferred (for example, *Bonduelle SA v. 于青青 (yu qing qing)*, WIPO Case No.

[D2024-0002](#); and *Laboratoires Expanscience v. 于青青 (Yu Qing Qing)*, WIPO Case No. [D2023-5312](#)). This is an indication that the Respondent is a serial cybersquatter and is engaged in a pattern of bad faith conduct which is an example of bad faith contained in paragraph 4(b)(ii) of the Policy ([WIPO Overview 3.0](#), section 3.1.2).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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 <annalect.online> be transferred to the Complainant.

*/Karen Fong/*

**Karen Fong**

Sole Panelist

Date: May 29, 2024