

ADMINISTRATIVE PANEL DECISION

Olaplex, Inc. v. 丁超 (Chao Ding)

Case No. D2024-1486

1. The Parties

The Complainant is Olaplex, Inc., United States of America (“United States”), represented by 101domain.com, United States.

The Respondent is 丁超 (Chao Ding), China.

2. The Domain Name and Registrar

The disputed domain name <oolaplex.com> 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 April 8, 2024. On April 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 10, 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 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 12, 2024.

On April 11, 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 12, 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 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 10, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on May 13, 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 a global hair care brand. Operating in the hair care industry since 2014, it has built an entire brand around their OLAPLEX trade mark, with nearly all of its products labelled with the OLAPLEX trade mark.

The Complainant states that it is one of the largest independent hair care brands in the world, with customers in over a dozen global regions through a distribution network of certified, professional stylists carrying OLAPLEX-branded products in over 25,000 locations.

The Complainant owns various trade mark registrations for OLAPLEX, including:

- United States trade mark registration No. 4553436 registered on June 17, 2014; and
- International trade mark registration No. 1187399 registered on November 27, 2013.

The Complainant has numerous domain name registrations containing the trade mark OLAPLEX. Its primary domain name <olaplex.com> was registered on February 11, 2013.

The disputed domain name was registered on October 13, 2023. At the time of filing the Complaint, the disputed domain name resolved to an inactive website. The Complainant states that the disputed domain name previously resolved to a website displaying copyright-infringing images, purportedly to sell counterfeit OLAPLEX products and impersonate the Complainant's business. In this regard, in the absence of evidence on record, the Panel will not consider this point in relation to the substantive aspects of the decision herein.

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 contends that:

- The disputed domain name is identical or confusingly similar to the Complainant's OLAPLEX trade mark in which it has rights. The disputed domain name is a typosquatted version of the Complainant's trade mark consisting of the OLAPLEX trade mark in its entirety with the addition of the letter "o".
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or allowed the Respondent to use its OLAPLEX trade mark for any purpose. The Respondent is not commonly known by the disputed domain name, nor does he have trade mark rights in OLAPLEX. The Respondent is using the disputed domain name for the sole purpose of confusing potential customers and garner Internet traffic based on the Complainant's trade mark and reputation, which has been built up with the Complainant's significant investments of time and money.

- The disputed domain name was registered and is being used in bad faith. The disputed domain name is misused by the Respondent to confuse customers. Since the disputed domain name was registered, the Respondent has not utilized it for any legitimate purpose and is using it primarily to disrupt the Complainant's business. This is evident from the Respondent having displayed the Complainant's products for sale on the Respondent's website. The trade mark infringement committed by the Respondent resulted in the disputed domain name's suspension and removal of the infringing content. The typosquatting nature of the disputed domain name is also evidence of the Respondent's clear intention to redirect the Complainant's customers to the Respondent's infringing and unaffiliated webpage.

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 for several reasons:

- The Complainant is a company based in the United States. It does not speak or understand the Chinese language.
- Requiring the Complaint to be translated into Chinese would result in the Complainant incurring additional translation costs and would be an undue burden to the Complainant.
- The generic Top-Level Domain in this case is ".com" which is in English.

The Respondent did not make any submissions with respect to the language of the proceeding.

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 evidence showing that the respondent can understand the language of the complaint, the language/script of the dispute domain name, any content on the webpage under the disputed domain name, and potential unfairness or unwarranted delay in ordering the translation of the complaint (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 disputed domain name comprises Latin characters and essentially the Complainant's OLAPLEX trade mark in its entirety. There appears at one point in time to have been an impersonation of the Complainant's website by the Respondent, which was entirely in English. Accordingly, the Panel is persuaded that the Respondent is familiar with the English language. The Respondent could have opted to respond in the Chinese language in this proceeding but did not. The Panel does not find any merit for delaying the proceeding or burdening the Complainant with an order for the Complaint to be translated into Chinese.

6.2. Substantive Issues

A. Identical or Confusingly Similar

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.

The Complainant has shown it has rights in respect of the trade mark OLAPLEX. The entirety of the mark is reproduced within the disputed domain name and recognizable therein despite the misspelling of the trade mark OLAPLEX. The disputed domain name is an obvious or intentional misspelling of the OLAPLEX trade mark. Therefore, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's OLAPLEX trade mark. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

The Panel therefore finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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 of rights or legitimate interests shifts to the respondent to proffer relevant evidence. 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 established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name and that he was licensed or authorized by the Complainant to use the OLAPLEX trade mark or to register the disputed domain name. The Complainant's use and registration of the OLAPLEX trade mark long predates the registration date of the disputed domain name.

The Respondent failed to rebut the prima facie case established by the Complainant.

The Panel therefore finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The disputed domain name incorporates the entirety of the Complainant's distinctive and well-established trade mark with the addition of the letter "o". The OLAPLEX trade mark has been registered for many years and extensively used by the Complainant, The Panel is persuaded that the Respondent knew of and targeted the Complainant and its OLAPLEX trade mark at the time he registered the disputed domain name.

The fact that the disputed domain name resolves to an inactive page does not preclude a finding of bad faith use. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Taking into account the distinctiveness and reputation of the Complainant's trade mark, the typosquatted nature of the disputed domain name, the Respondent's silence in this proceeding and the prior use of the disputed domain name for an infringing website (which has not been disputed by the Respondent), the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore 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 <oolaplex.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: May 16, 2024