

ADMINISTRATIVE PANEL DECISION

James Haskell c/o YMU Management Limited v. wan hui
Case No. D2024-1735

1. The Parties

The Complainant is James Haskell c/o YMU Management Limited, United Kingdom, internally represented.

The Respondent is wan hui, China.

2. The Domain Name and Registrar

The disputed domain name <jameshaskell.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 25, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 29, 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 (Gname.com Pte. Ltd) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 29, 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 30, 2024.

On April 29, 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 30, 2024, the Complainant requested that English be the language of the proceeding and also submitted a courtesy copy of the amended Complaint translated into Chinese. 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 Chinese and English of the Complaint, and the proceeding commenced on May 6, 2024. In accordance with the

Rules, paragraph 5, the due date for Response was May 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 28, 2024.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on May 31, 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

A. Complainant

The Complainant, James Haskell, is a former England rugby player and media figure, providing services in his own name through his professional services company, James Haskell Elite Management Limited, comprising his name. The Complainant has promoted his activities and services since 2002 via the websites "www.jameshaskell.co.uk" and "www.jameshaskell.com". The Complainant was the owner of the disputed domain name from 2002 until 2023 until its registration was inadvertently allowed to lapse. The Panel notes from wayback machine records that the disputed domain name was used from at least March 2004 until June 2023 for promoting the Complainant including his books, podcasts, and YouTube channel.¹

B. Respondent

The Respondent is located in China.

C. The Disputed Domain Name

The disputed domain name was registered on November 1, 2023.

D. Use of the Disputed Domain Name

The disputed domain name has not been used in respect of any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that he has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that there is the potential for the Respondent to use the disputed domain name to impersonate the Complainant and wrongfully exploit his name and image.

B. Respondent

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

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

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, including the fact that the disputed domain name is an English language name, which indicates that the Respondent is likely to be proficient in English. The Complainant has also sent a Chinese translation of the Complaint to the Respondent.

The Respondent did not file any response in this proceeding and did not make any specific 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 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 Issue

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.

The Panel finds the Complainant has established unregistered trade mark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Panel finds that the Complainant has used his name, James Haskell, as a trade mark-like identifier in trade or commerce. Accordingly, the Panel finds that the Complainant has established unregistered or common law rights in his name for purposes of standing to file a UDRP complaint, in light of the use of his name in commerce as a distinctive identifier of the Complainant's media related services. [WIPO Overview 3.0](#), section 1.5.2.

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

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. [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. 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. To the contrary, the disputed domain name has not been used.

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 has opportunistically registered the disputed domain name upon the expiry of its previous registration by the Complainant.

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. [WIPO Overview 3.0](#), section 3.2.1.

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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, 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 respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's mark, the fact the disputed domain name is identical to the Complainant's mark, and the Respondent's opportunistic registration of the disputed domain name after it had been registered and used by the Complainant for 21 years, and 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.

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 <jameshaskell.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Date: June 14, 2024