

ADMINISTRATIVE PANEL DECISION

Société Cooperative Agricole Limagrain v. MEI WANG and 于青青 (yu qing qing)

Case No. D2024-1794

1. The Parties

Complainant is Société Cooperative Agricole Limagrain, France, represented by Ebrand France, France.

Respondents are MEI WANG and 于青青 (yu qing qing), both located in China.

2. The Domain Names and Registrars

The disputed domain name <limagrain.online> (the “Domain Name 1”) is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), and the disputed domain name <limagrain.shop> (the “Domain Name 2”) is registered with Dynadot Inc. The Domain Name 1 and Domain Name 2 will be collectively referred to as the Domain Names.

Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) and Dynadot Inc. will hereinafter be referred to as the “Registrar”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 29, 2024. On April 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 1 and May 6, 2024, respectively, the Registrar transmitted by email to the Center its verification response confirming that Respondents are listed as the registrants and providing the contact details.

The Center sent an email communication to Complainant on May 6, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainant to either file separate complaint(s) for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all Domain Names are under common control. Complainant filed an amended Complaint in English on May 7, 2024.

On May 6, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the Domain Name <limagrain.online> is Chinese. On May 7, 2024, Complainant requested English to be the language of the proceeding. Respondents did not submit any comment on 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on May 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 3, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on June 4, 2024.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on June 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

Complainant, Société Cooperative Agricole Limagrain, also known as “Limagrain”, is an international agricultural cooperative group headquartered in France. Complainant specializes in field seeds, vegetable seeds, and cereal products.

Complainant owns numerous registered trademarks in various jurisdictions, including:

- French registered trademark number 1345732 for the LIMAGRAIN word mark, registered on March 7, 1986;
- International registered trademark number 808393 for the LIMAGRAIN word mark, registered on April 23, 2003; and
- International registered trademark number 815310 for the LIMAGRAIN FROM EARTH TO LIFE word mark, registered on April 23, 2003, designating China, where Respondents operate and reside.

Complainant also owns several domain names with the LIMAGRAIN trademark, including <limagrain.com>, which was registered on September 1, 1994 and which redirects to its main business website “www.limagrain.com”.

In 2015, Complainant and Gansu Hengji Seed Co. started a joint venture named Hengji Limagrain Seed Co. in Zhangye City, in China's Gansu province. Hengji Limagrain focuses on research and development of new products, production, processing, and sales of corn seeds and sells corn seeds in China under the LG brand. Complainant also has a separate joint venture in China named Shanxi Limagrain Special Grain Research and Development Co.

The Domain Names <limagrain.shop> and <limagrain.online> were registered on December 15, 2023 and November 14, 2023, respectively, and each redirects to a webpage hosted by pace.domains where each Domain Name is offered for sale at USD 1,450.

On March 1, 2024, Complainant sent formal notification to Respondents through Respondents’ email on the webpage “[...]@pacedomains.com”, regarding Respondents’ infringement of Complainant’s rights and requesting that Respondents transfer the Domain Names to Complainant.

In response, after a few email exchanges, Respondents offered to transfer both Domain Names to Complainant for a total of USD 1,500. Complainant then filed the current UDRP proceeding.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of each of the Domain Names.

Complainant asserts that Respondents registered and are using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark registrations for LIMAGRAIN, and that Respondents registered and are using each of the Domain Names with the intention to target Complainant's trademarks with the intention to sell each Domain Name.

Complainant notes that it has no affiliation with Respondents. Complainant further contends that Respondents are using the Domain Names as a tool to exploit Complainant's reputation for their own commercial gain, and that Respondents have no rights or legitimate interests in the registration and use of the Domain Names other than trademark infringement. Further, Complainant contends that Respondents have acted in bad faith in acquiring and setting up the Domain Names, when Respondents clearly knew of Complainant's rights.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the 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.

Complainant submitted its original Complaint in English. In its Complaint, and amended Complaint, Complainant submitted its request that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name <limagrain.online> is Chinese.

Complainant submits that the English language should be the language for the current proceedings because: both Domain Names direct to webpages with content in English; Respondents had chosen to use the generic Top-Level Domains ("gTLDs") ".shop" and ".online", indicating that it was targeting international customers; Complainant is based in France and Respondents are based in China. So that English would appear to be the fairest neutral language for this proceeding; and if the proceedings were conducted in Chinese, Complainant would incur substantial translation costs, cause undue burden on Complainant and result in delay to the proceedings.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name <limagrain.online>, 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.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel also notes that the Domain Name <limagrain.online> does not have any specific meaning in the Chinese language, and that the Domain Name <limagrain.online> contains Complainant's LIMAGRAIN trademark in its entirety, the Domain Names each redirects to an English language webpage for sale; all of which indicate that Respondents understand English. The Panel further notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondents in Chinese and English of the Complaint. Respondents chose not to comment on the language of the proceeding, nor did Respondents choose to file a Response in Chinese or English.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Preliminary Issue - Consolidation

Complainant requests that the Domain Names be consolidated under a single UDRP complaint.

The key considerations in determining whether cases should be consolidated where they involve multiple respondents are identified in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), as being whether: (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency is also noted as being a relevant consideration.

In this case, there are numerous similarities between the Domain Names themselves and the websites to which they resolved. To begin with, the Domain Names are identical (other than the gTLD) as each of them consists of Complainant's LIMAGRAIN mark. In addition, both Domain Names resolve to Dan.com offering for sale at the same price USD 1,450, and Respondents indicated in the pre-communication to Complainant that both Domain Names were registered by the same domain-name holder.

Overall, the Panel finds that it is most likely that the Domain Names are under common control. Neither of Respondents have challenged Complainant's request for consolidation, and it is clearly most procedurally efficient, and, in all the circumstances, fair and equitable for the Domain Names to be included together in this one case. Accordingly, the Panel grants Complainant's request for consolidation. Respondents are hereinafter referred to as "Respondent".

6.3. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the [WIPO Overview 3.0](#) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the LIMAGRAIN trademarks, as noted above under section 4. Complainant has also submitted evidence which supports that the LIMAGRAIN trademarks are widely known and a distinctive identifier of Complainant's products and services.

Complainant has therefore proven that it has the requisite rights in the LIMAGRAIN trademarks.

With Complainant's rights in the LIMAGRAIN trademarks established, the remaining question under the first element of the Policy is whether each of the Domain Names, typically disregarding the TLD in which it is registered (in this case are, ".shop" and ".online"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, each of the Domain Names is identical to Complainant's LIMAGRAIN trademarks.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its LIMAGRAIN trademarks, and does not have any rights or legitimate interests in the Domain Names. In addition, Complainant asserts that Respondent is not an authorized reseller and is not related to Complainant. Respondent is also not known to be associated with the LIMAGRAIN trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Names.

In addition, Respondent has not used the Domain Names in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, each of the Domain Names redirects to a webpage that offers the Domain Name for sale at USD 1,450. Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names, reinforcing the notion that Respondent was not using the Domain Names in connection with a bona fide offering.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the LIMAGRAIN trademarks long predate the registration of the Domain Names. Complainant is also well established and known. Indeed, the record shows that Complainant's LIMAGRAIN trademarks and related products and services are widely known and recognized. In addition, Complainant has joint venture companies in China where Respondent is located. Therefore, Respondent was aware of the LIMAGRAIN trademarks when it registered the Domain Names, knew, or should have known that the Domain Name was confusingly similar to Complainant's trademarks.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's LIMAGRAIN trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the LIMAGRAIN trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Names.

Moreover, Respondent offered each of the Domain Names for sale at USD 1,450. The Panel considers that the price indicated for the Domain Names, likely in excess of out-of-pocket costs, derives from its significance in connection with the LIMAGRAIN trademark. Such use is evidence of bad faith, paragraph 4(b)(i) of the Policy.

Further, the Panel also notes the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good-faith use.

Accordingly, the Panel finds that Respondent registered and is using each of the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Names <limagrain.online> and <limagrain.shop> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: June 19, 2024