

## ADMINISTRATIVE PANEL DECISION

Compagnie d'exploitation des Services Auxiliaires Aeriens - Servair v. 吴清儒  
(wu qing ru)

Case No. D2024-1883

### 1. The Parties

The Complainant is Compagnie d'exploitation des Services Auxiliaires Aeriens - Servair, France, represented by MEYER & Partenaires, France.

The Respondent is 吴清儒 (wu qing ru), China.

### 2. The Domain Name and Registrar

The disputed domain name <servair.xyz> 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 May 3, 2024. On May 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 7, 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 May 7, 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 May 7, 2024.

On May 7, 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 May 7, 2024, the Complainant submitted its request that English 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 May 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 11, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on June 17, 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, a French company founded in 1971, specialises in airline in-flight catering, on board retail solutions, logistics management, crew catering, and other related services under its business name and brand name, SERVAIR. The Complainant is a subsidiary of Air France and provides its services to many international airlines.

The Complainant has a portfolio of trade mark registrations for SERVAIR, include the following:

- European Union Trade Mark Registration No. 002280733 for SERVAIR, registered on April 21, 2008;
- China Trade Mark Registration No. 777322 for SERVAIR, registered on February 7, 1995; and
- International Trade Mark Registration No. 972651 for SERVAIR, registered on November 9, 2007.

(individually and collectively, the "Trade Mark").

The Complainant owns a number of domain names which comprise the Trade Mark including <servair.fr>, which is connected to its official website.

The Respondent who appears to be based in China registered the disputed domain name on March 6, 2024. The disputed domain name redirects to "www.Dan.com" parking page where it is offered for sale for a "Buy Now" price of USD 1,450. Efforts were made by the lawyers of the Complainant to contact the seller listed on Dan.com through the contact form on the seller's website prior to the filing of the Complaint where an offer to purchase for a reasonable price was rejected by the seller but no evidence was submitted to substantiate this.

#### **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 or confusingly similar 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

### A. 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 the following main reasons:

- the Complainant is based in France and has no knowledge of the Chinese language. For it 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;
- the disputed domain name and the large number of other domain names registered by the Respondent are all in Latin characters which suggests that the Respondent has knowledge of other languages other than Chinese;
- English is the primary language for international relations;
- the disputed domain name resolves to “www.dan.com” which is an American provider of Internet services and the webpage in question is in the English language; and
- the Respondent was previously involved in other UDRP decisions where English was the language of the proceeding (for example, *Groupe Lactalis v. 吴清儒 (wu qing ru)*, WIPO Case No. [D2023-4835](#); *Hochtief Aktiengesellschaft v. 吴清儒 (wu qing ru)*, WIPO Case No. [D2023-5094](#); and *Wusthof Dreizackwerk KG v. 吴清儒 (wu qing ru)*, WIPO Case No. [D2023-4759](#)).

The Respondent has not challenged the Complainant’s language request and despite being notified of the case in both Chinese and English in fact has failed to file a response in either English or Chinese.

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.

### B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for identity or 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 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 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.

### **C. 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, which is not only identical to the Trade Mark but also identical to the second level of the Complainant’s own domain name <servair.fr>, 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.

### **D. 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 he registered the disputed domain name given the reputation of the Trade Mark, which was registered and used for more than 30 years prior to registration of the disputed domain name. It is therefore more likely than not that the Respondent was unaware of the Complainant when he registered the disputed domain name.

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 well exceeds the costs directly related to the registration of the disputed domain name. This is evidence that the Respondent has registered the disputed domain name primarily for the purpose of selling as set out in paragraph 4(b)(i) of the Policy.

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

Further, the Panel also notes 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, *Groupe Lactalis v. 吳清儒 (wu qing ru)*, *supra*; *Hochtief Aktiengesellschaft v. 吳清儒 (wu qing ru)*, *supra*; and *Wusthof Dreizackwerk KG v. 吳清儒 (wu qing ru)*, *supra*). 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).

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 <servair.xyz> be transferred to the Complainant.

/Karen Fong/

**Karen Fong**

Sole Panelist

Date: June 29, 2024