

ADMINISTRATIVE PANEL DECISION

Antonio Lupi Design S.p.A. v. 于青青 (yu qing qing)

Case No. D2024-2243

1. The Parties

The Complainant is Antonio Lupi Design S.p.A., Italy, represented by Società Italiana Brevetti S.p.A., Italy.

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

2. The Domain Name and Registrar

The disputed domain name <antoniolupi.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 31, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 11, 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 June 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 June 11, 2024.

On June 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 June 11, 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 June 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 8, 2024.

The Center appointed Hong Yang as the sole panelist in this matter on July 12, 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 company founded in Italy, which has business and affiliates in various countries across main continents. It has gained international reputation under the trademark ANTONIO LUPI in the field of bathroom furniture through its operation globally.

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the word or figurative mark clearly incorporating the word, ANTONIO LUPI, including: European Union Trademark Registration No. 001632264, registered on May 28, 2001; International Trademark Registration No. 745251, registered on September 19, 2000; and Chinese Trademark Registration No. 15569043, registered on March 14, 2016.

The Complainant also owns a few domain names incorporating the ANTONIO LUPI mark, including: <antoniolupi.it>, <antoniolupi.com> (which redirects to the previous one), where the Complainant operates its official website on which there is global resellers information for various countries.

The disputed domain name was registered on March 8, 2024. The disputed domain name resolves to a marketplace website for domain names, where the Respondent offered the disputed domain name for sale at USD 1,450 or for lease at USD 100 per month.

Furthermore, the Panel notes that the Respondent registered in the past one year three other domain names identical to well-known trademarks held by independent third parties, for which the Respondent was found with registration and use in bad faith by the three relevant UDRP proceedings. See *Petit Bateau v. 于青青 (yu qing qing)*, WIPO Case No. [D2024-0458](#); *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](#).

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.

B. Respondent

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

6. Discussion and Findings

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: (1) English is a language most widely used in

international relations and one of the working languages of the Center; (2) the script of the disputed domain name is Roman characters rather than Chinese; and (3) the Complainant will be burdened with a great deal of additional expense and delay if it needs to translate the Complaint into Chinese.

The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent did not make any submissions with respect to the language of the proceeding and did not comment on the Complainant's request for the language of the proceeding be English.

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 and in the absence of any rebuttal argument or justification therefore by the Respondent, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 applicable generic Top-level Domain ("gTLD"), ".xyz" in the disputed domain name does not change this finding, since the gTLD as a standard registration requirement, is generally disregarded under the first element test. [WIPO Overview 3.0](#), section 1.11.1.

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.

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.

The Panel notes that the composition of the disputed domain name itself carries a high risk of implied affiliation, especially given that it is identical to the Complainant's trademark. [WIPO Overview 3.0](#), section 2.5.1. The risk of misrepresentation has led panels to find that a respondent lacks rights or legitimate interests in cases involving a domain name identical to the complainant's trademark. [WIPO Overview 3.0](#), section 2.8.2.

The un rebutted evidence provided by the Complainant shows that the Respondent was not affiliated, licensed, or otherwise authorized by the Complainant, or held any registration of the ANTONIO LUPI mark anywhere. There is no evidence indicating that the Respondent has rights or legitimate interests in or might be commonly known by the disputed domain name. Moreover, the disputed domain name resolves to a website professional in domain name trading, offering it for sale at USD 1,450 or to lease at USD 100 per month. Without a rebuttal, such use does not amount to any use of the disputed domain name for a bona fide offering of goods or services, or for a legitimate noncommercial or fair use.

In addition to the disputed domain name, the evidence provided by the Complainant also shows that the Respondent has engaged in a pattern of registering domain names corresponding to marks held by third parties, targeting at least three independent and distinctive brands, where the Respondent was found not having any rights or legitimate interests in relevant domain names in all the three corresponding UDRP proceedings. Panels have found the following factors illustrative for assessing fair use, including among others: whether the respondent has refrained from engaging in a pattern of registering domain names corresponding to marks held by the complainant or third parties. [WIPO Overview 3.0](#), section 2.5.2.

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 used without any license or authorization the Complainant's trademark alone and in its entirety in the disputed domain name. The Complainant's trademark ANTONIO LUPI is widely-known at least in the bathroom furniture industry, and it runs business in main areas globally through its official website incorporating its mark. The Complainant's registration and use of its mark predates the Respondent's registration of the disputed domain name, so it may reasonably be inferred that the Respondent knew or should have known the Complainant's mark at the time of registering the disputed domain name. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

According to the evidence provided by the Complainant, the disputed domain name has never been used for a bona fide offering of goods or services, or for any legitimate noncommercial or fair use. Instead, it resolves to a professional domain name trading website, where the Respondent offered the disputed domain name for sale at USD 1,450 or for lease at USD 100 per month, which is seemingly in excess of the documented out-of-pocket costs directly related to the disputed domain name. The Panel thus infers that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting or otherwise transferring it to the Complainant or one of its competitors for valuable consideration in excess of normal costs, thus in an attempt to profit from or exploit the Complainant's mark. This constitutes registration and use in bad faith under paragraph 4(b)(i) of the Policy.

Furthermore, the available record also indicates that the Respondent has registered at least three domain names that respectively correspond to well-known marks held by three independent third parties, for which the Respondent was found with registration and use in bad faith in all the three relevant UDRP proceedings. Panels have found a pattern of abuse where the respondent registers, simultaneously, or otherwise, multiple trademark-abusive domain names corresponding to distinct marks of individual brand owners. Meanwhile, Panels have also held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. [WIPO Overview 3.0](#), section 3.1.2.

The Panel is thus convinced that the Respondent has engaged in a pattern of trademark-abusive domain name registrations, and through registration and above-mentioned use of the disputed domain name, the Respondent is preventing the Complainant from reflecting its mark in the corresponding domain name. This is sufficient to constitute registration and use in bad faith under paragraph 4(b)(ii) of the Policy.

Based on the available record, 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 <antoniolupi.xyz> be transferred to the Complainant.

/Hong Yang/

Hong Yang

Sole Panelist

Date: July 26, 2024