

## ADMINISTRATIVE PANEL DECISION

Dunoon Ceramics Holdings Limited v. Chang qi  
Case No. D2024-2332

### 1. The Parties

The Complainant is Dunoon Ceramics Holdings Limited, United Kingdom, represented by Swindell & Pearson, United Kingdom.

The Respondent is Chang qi, China.

### 2. The Domain Name and Registrar

The disputed domain name <dunoonhome.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 June 7, 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 disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown, Redacted for privacy) and contact information in the Complaint. 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 13, 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 13, 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 Deanna Wong Wai Man as the sole panelist in this matter on July 10, 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 the successor in title to Dunoon Ceramics Limited which was incorporated on January 15, 1974, and has traded since the 1970s. The Complainant deals in the manufacture, retail, and wholesale of ceramic household and ornamental articles including in particular goods for the home such as mugs, teapots and cups, and saucers.

The Complainant owns an international portfolio of registered trademarks for DUNOON, including but not limited to United Kingdom Trademark Registration No. UK00002195595 for the mark DUNOON, registered on December 10, 1999, and International Trademark Registration No. 727756 for the mark DUNOON, registered on February 9, 2000, and designating jurisdictions including China, the European Union, Norway, the Republic of Korea, and Ukraine. The Complainant also has a strong online presence, including through social media platforms, and owns and uses a portfolio of domain names incorporating the DUNOON marks, including <dunoonmugs.co.uk>.

The disputed domain name was registered by the Respondent on January 11, 2024, and points to a website in English, prominently featuring the Complainant's trademarks (including in the website banner) as well as images taken from the Complainant's website and offering for sale what are purported to be the Complainant's products.

#### **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 it is the owner of a number of registered trademarks consisting of DUNOON and that it has a strong reputation for the products under this trademark. The Complainant asserts that the disputed domain name is confusingly similar to the abovementioned trademarks since it incorporates such marks in their entirety, adding only the descriptive term "home". The Complainant essentially contends that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods and that it is instead using the disputed domain name with the intention for commercial gain, offering for sale counterfeit goods and/or to misleadingly divert consumers to a "phishing website". The Complainant adds that the only possible use and registration of the disputed domain name is to misleadingly attract customers to a website offering counterfeit goods and/or a phishing website that does not sell legitimate products, which is for the Respondent's own commercial gain by redirection, or, to unfairly disrupt the business of the Complainant. The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name, and that the abovementioned use made of the disputed domain name does not confer any rights or legitimate interests and that it proves that the Respondent registered and is using it in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 language/script of the disputed domain name is English (and is the same as that of the Complainant's mark), the content on the webpage under the disputed domain name is in English, and the currency accepted on the webpage under the disputed domain name is USD. Furthermore, the Complainant adds that the webpage of the disputed domain name is entirely in English, and is also only available in English and that the address present on the webpage of the disputed domain name is in the United States of America, where American English is spoken. The Complainant argues that the Respondent is therefore familiar with the English language.

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 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.

### **2. Findings on the merits**

#### **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.

Based on the available record, 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here "home", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 domain names 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.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant’s website for commercial gain. In fact, said website prominently displays the Complainant’s trademarks and even uses some of the Complainant’s own product images likely protected by copyright, thereby misleading consumers into believing that the Respondent is at least licensed by, or affiliated with the Complainant and/or its trademarks. Moreover, the Panel also accepts that, given the unclear origin of the products sold on the website, the lack of any accurate and prominent disclaimer and false suggestions of affiliation on the Respondent’s website, it is likely that the products offered by the Respondent on such website are counterfeit products. Moreover, even if the products were legitimate products, it is clear to the Panel from the foregoing elements that the Respondent is not a good faith provider of goods or services under the disputed domain name, see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), and that there are no other circumstances conferring any rights or legitimate interests on the Respondent. Given the abovementioned elements, the Panel concludes that the Respondent’s use does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Panel finds that the nature of the disputed domain name, being confusingly similar to the Complainant’s trademarks and combined with the descriptive word “home”, which is indicative of the main type of the Complainant’s products, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its services or suggests sponsorship or endorsement by the Complainant (see [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.

## **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.

Given the intensive and longstanding use of the Complainant’s prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name, which is confusingly similar to such marks,

clearly and consciously targeted the Complainant's prior registered trademarks. The Panel therefore deducts from the Respondent's efforts to consciously target the Complainant's reputable prior trademarks that the Respondent knew of the existence of the Complainant's trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name is used to offer for sale what are purported to be the Complainant's products but that are likely counterfeit, since this proves that the Respondent was fully aware of the Complainant's business and its prior trademarks. In the Panel's view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website, displaying the Complainant's trademarks, some of its official product images (thereby likely violating the Complainant's copyrights), and offering products for sale that are likely counterfeit products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

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 <dunoonhome.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: July 15, 2024