

ADMINISTRATIVE PANEL DECISION

Newsmax Media Inc. v. 张存硕 (Cun Shuo Zhang); 石磊 (Lei Shi); and 钱梦聃 (Meng Dan Qian)

Case No. D2024-2482

1. The Parties

Complainant is Newsmax Media Inc., United States of America (“USA”), represented by SafeNames Ltd., United Kingdom.

Respondents are 张存硕 (Cun Shuo Zhang), China; 石磊 (Lei Shi), China; and 钱梦聃 (Meng Dan Qian), China.

2. The Domain Names and Registrars

The disputed domain names <mynewsmaxplus.com>, <newsmaxapp.com>, <newsmaxlplus.com>, <newsmaxlus.com>, <newsmaxpkus.com>, <newsmaxplis.com>, <newsmaxpllus.com>, <newsmaxpls.com>, <newsmaxplsu.com>, <newsmaxplua.com>, <newsmaxplud.com>, <newsmaxplug.com>, <newsmaxplusapp.com>, <newsmaxpluse.com>, <newsmaxpluss.com>, <newsmaxplusplus.com>, <newsmaxplys.com>, <newsmaxplusplus.com>, <newsmaxpuls.com>, <newsmaxtb.com>, <newsmaxtc.com>, <newsmaxv.com>, <newsmaxxplus.com>, <nnewsmaxplus.com>, <plusnewsmax.com>, <wwnewsmaxplus.com>, <wwwnewsmaxplus.com>, and <wwwnewsmaxtv.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd.

The disputed domain names <newsmaxolus.com>, <newsmaxpus.com>, and <newsmaxsplus.com> are registered with Cloud Yuqu LLC.

(Chengdu West Dimension Digital Technology Co., Ltd. and Cloud Yuqu LLC are hereinafter referred to as the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 18, 2024. On June 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to Complainant on June 25, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting Complainant to either file separate complaint(s) for the disputed 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 June 28, 2024.

On June 25, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain names is Chinese. On June 28, 2024, Complainant confirmed its request that English to be the language of the proceeding. Respondent 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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on July 22, 2024.

The Center appointed Yijun Tian as the sole panelist in this matter on July 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

Complainant, Newsmax Media Inc., is a company incorporated in Florida, USA. It is a multimedia company operating the conservative online newspaper Newsmax. Founded by Christopher Ruddy in September 1998, Complainant has become a significant news source for conservative Americans. Comscore data from January 2021 showed over 12 million unique visitors to Newsmax's website, a 286% year-over-year increase, marking the fourth consecutive month of triple-digit traffic growth (Annex 6 to the Complaint).

Complainant is the owner of numerous NEWSMAX trademarks in various jurisdictions, including the USA trademark registration for NEWSMAX, registered on November 28, 2006 (registration number: 3177090); and the European Union trademark registration for NEWSMAX, registered on October 24, 2012 (registration number: 010951192) (Annex 12 to the Complaint).

Complainant uses websites "www.newsmaxtv.com" and "www.newsmaxplus.com" to provide its Newsmax+ paid subscription service.

B. Respondents

Respondents are 张存硕 (Cun Shuo Zhang), China; 石磊 (Lei Shi), China; and 钱梦聃 (Meng Dan Qian), China.

The disputed domain names <newsmaxplus.com>, <newsmaxapp.com>, and <newsmaxplug.com> are registered by 张存硕 (Cun Shuo Zhang), on November 2 and November 3, 2023.

The disputed domain names <newsmaxpluse.com>, <newsmaxtb.com>, <newsmaxtc.com>, <newsmaxv.com>, <wwwnewsmaxtv.com>, and <mynewsmaxplus.com> are all registered by 钱梦琳 (Meng Dan Qian) on the same day November 2, 2023.

The disputed domain names <newsmaxpus.com>, <newsmaxolus.com>, <newsmaxplua.com>, <newsmaxplusplus.com>, <newsmaxpluss.com>, <wwwnewsmaxplus.com>, <newsmaxpuls.com>, <plusnewsmax.com>, <newsmaxplud.com>, <newsmaxpls.com>, <newsmaxpluus.com>, <newsmaxplis.com>, <newsmaxplusapp.com>, <newsmaxlus.com>, <newsmaxplys.com>, <newsmaxpllus.com>, <newsmaxxplus.com>, <newsmaxpkus.com>, <nnewsmaxplus.com>, <newsmaxlplus.com>, <newsmaxplsu.com>, and <wwnewsmaxplus.com> are all registered by 石磊 (Lei Shi) on November 1, 2023.

According to the Complaint and relevant evidence provided by Complainant, the disputed domain names currently resolve to webpages which display Pay-Per-Click (PPC) advertisement links that redirect users to both unrelated third-party websites and websites that offer services competitive to Complainant (Annex 14 to the Complaint).

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain names are confusingly similar to its NEWSMAX trademark, as 17 of the disputed domain names incorporate the NEWSMAX mark entirely with minor typos like "newsmaxplus" or "newsmaxtv". Additionally, 13 of the disputed domain names include terms such as "app", "plus", or "tv", which are directly related to Complainant's services. These additions do not negate the confusing similarity but rather suggest an association with Complainant's offerings.

Complainant contends that Respondent lacks a right or a legitimate interest in the disputed domain names.

Complainant contends that Respondents both registered and are using the disputed domain names in bad faith.

Complainant requests that the disputed domain names be transferred to it.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreements for all disputed domain names 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.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondents to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following reasons:

- (a) neither Complainant nor its representatives are familiar with Chinese;
- (b) evidence suggests that Respondent can understand English, as the contents of the websites associated with the disputed domain names are entirely in English (Annex 14 to the Complaint);
- (c) the disputed domain names are composed of Latin characters and include variations of Complainant's NEWSMAX trademark with additional terms in English; and
- (d) translating the proceedings would add significant costs and delay to Complainant, who already bears the filing costs.

Respondents 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).

On the record, Respondents, 张存硕 (Cun Shuo Zhang), 石磊 (Lei Shi), and 钱梦聃 (Meng Dan Qian), appear to be located in China and are thus presumably not native English speakers, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain names are registered in Latin characters, particularly containing English words (e.g., English words "news", "max", "tv", "plus", and misspelling of "plus"), rather than Chinese script; (b) the generic Top-Level Domain ("gTLD") of the disputed domain names is ".com", so the disputed domain names seem to be prepared for users worldwide, particularly in English speaking countries; (c) The contents of the websites associated with the disputed domain names are entirely in English; (d) the Center has notified Respondents of the language of the proceeding in both Chinese and English, and Respondents have indicated no objection to Complainant's request that English be the language of the proceeding; and (e) the Center also notified Respondents in both Chinese and English of the Complaint, and informed Respondents that it would accept a response in either English or Chinese, but Respondents chose not to file any response.

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. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel finds that Complainant has provided sufficient evidence to establish that the disputed domain names or corresponding websites are subject to common control, for the following reasons:

- (a) Registrar Consistency: 28 of the disputed domain names are registered with Chengdu West Dimension Digital Technology Co., LTD, while 3 are registered with Cloud Yuqu LLC. Respondents 石磊 (Lei Shi) and 张存硕 (Cun Shuo Zhang) have registered disputed domain names across both Registrars, suggesting common control despite the registrar differences.
- (b) Registration Timeframe: All disputed domain names were registered within three days, November 1 to 3, 2023, respectively.
- (c) Lexical Similarity: The disputed domain names share a similar lexical pattern, involving the NEWSMAX mark with variations like “plus” or “tv”, and typo variations such as “pplus”, “plis”, or “tb”, alluding to Complainant’s offerings.
- (d) Resolution to PPC Sites: all disputed domain names resolve to PPC sites with advertising links to competing or unrelated services to those of Complainant.
- (e) Cybersquatting History: All registrants are well-known cybersquatters involved in numerous UDRP decisions, sometimes consolidated together. These disputes involved the registrants infringing on renowned brands by registering typo variants of company marks, similar to the current case.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “Respondent”) in a single proceeding.

6.3. Substantive Issues: Three Elements

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

Based on the available record, the Panel finds 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 Panel finds the entirety of the NEWSMAX mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms like “plus” or “tv”, and typo variations such as “pplus”, “plis”, or “tb”, may bear on the assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

More specifically:

(i) there has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons to justify the choice of the terms "news max", Complainant's NEWSMAX trademark, in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the NEWSMAX marks or to apply for or use any domain name incorporating the NEWSMAX marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2023, long after the NEWSMAX marks (registered as a trademark since 2006) became widely known. The disputed domain names are confusingly similar to Complainant's NEWSMAX marks; and

(iii) there has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. By contrast, the disputed domain names currently resolve to webpages that display PPC advertisement links that redirect users to unrelated third-party websites and websites that offer services competitive to Complainant. It seems that Respondent is making profits through the Internet traffic attracted to the websites under the disputed domain names. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); and *Pet Plan Ltd. v. 权中俊 and 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3358](#).)

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 Respondent has registered and used the disputed domain names in bad faith.

The Panel finds that Complainant has a widespread reputation in the NEWSMAX marks with regard to its products. As mentioned above, Complainant started its business in 1998, and it has registered its NEWSMAX marks worldwide. The Panel takes note that Complainant uses websites "www.newsmaxtv.com" and "www.newsmaxplus.com" to provide its paid subscription service. It is more likely than not that Respondent knew of Complainant's trademark and websites at the time of the registration of the disputed domain names in 2023. Thus, the Panel concludes that the disputed domain names were registered in bad faith.

Respondent has used the websites resolved by the disputed domain names for displaying PPC links to third-party commercial websites. Thus, the Panel concludes that Respondent is currently using the confusingly similar disputed domain names with the intention to attract, for commercial gain, Internet users to Respondent's websites by creating a likelihood of confusion with Complainant. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

In summary, Respondent, by choosing to register and use the disputed domain names, which are confusingly similar to the NEWSMAX mark and Complainant's domain names, intended to ride on the goodwill of Complainant's trademark in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain names and the conduct of Respondent as far as the websites to which the disputed domain names resolve are indicative of registrations and uses of the disputed domain names in bad faith.

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 names <mynewsmaxplus.com>, <newsmaxapp.com>, <newsmaxlplus.com>, <newsmaxlus.com>, <newsmaxpkus.com>, <newsmaxplis.com>, <newsmaxpllus.com>, <newsmaxpls.com>, <newsmaxplsu.com>, <newsmaxplua.com>, <newsmaxplud.com>, <newsmaxplug.com>, <newsmaxplusapp.com>, <newsmaxpluse.com>, <newsmaxpluss.com>, <newsmaxpluus.com>, <newsmaxplys.com>, <newsmaxpplus.com>, <newsmaxpuls.com>, <newsmaxtb.com>, <newsmaxtc.com>, <newsmaxv.com>, <newsmaxxplus.com>, <nnewsmaxplus.com>, <plusnewsmax.com>, <wwnewsmaxplus.com>, <wwwnewsmaxplus.com>, <wwwnewsmaxtv.com>, <newsmaxolus.com>, <newsmaxpus.com>, and <newsmaxsplus.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: August 27, 2024