

ADMINISTRATIVE PANEL DECISION

Snowplow Analytics Limited v. My Name, Lee Jun, ER FOR
Case No. D2024-2607

1. The Parties

Complainant is Snowplow Analytics Limited, United Kingdom, represented by Dentons UK and Middle East LLP, United Kingdom (“UK”).

Respondents are My Name, United States of America (“USA”), Lee Jun, Viet Nam, and ER FOR, Hong Kong, China.

2. The Domain Names and Registrars

The disputed domain names <snowplowone.co> and <snowplow.top> are registered with NameSilo, LLC; and the disputed domain name <the-snowplow.top> is registered with Gname.com Pte. Ltd. (collectively the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 26 and 27, 2024, the Registrar transmitted by email to the Center the verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on June 27, 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 July 10, 2024.

On June 27, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name <the-snowplow.top> is Chinese. On June 30, 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 Chinese and English of the Complaint, and the proceedings commenced on July 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on August 2, 2024.

The Center appointed Yijun Tian as the sole panelist in this matter on August 8, 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, Snowplow Analytics Limited, is an association incorporated in the UK. Founded on November 18, 2011, it is an enterprise-level analytics platform that facilitates advanced data analytics by enabling data collection from multiple platforms.

Complainant has rights in the SNOWPLOW related marks. Complainant is the owner of numerous SNOWPLOW trademarks worldwide, including the UK trademark registration for SNOWPLOW, registered on January 22, 2013 (registration number: 911131729); the European Union trademark registration for SNOWPLOW, registered on January 22, 2013 (registration number: 11131729); and the USA trademark registration for SNOWPLOW, registered on August 26, 2014 (registration number: 85980857) (Annex 4 to the Complaint).

B. Respondents

Respondents are My Name, USA, Lee Jun, Viet Nam, and ER FOR, Hong Kong, China.

The disputed domain names <snowplowone.co>, and <snowplow.top> were registered (with NameSilo, LLC) by Lee Jun, Viet Nam, on May 9, 2024, and by My Name, USA, on June 12, 2024, respectively.

The disputed domain name <the-snowplow.top> was registered (with Gname.com Pte. Ltd) by ER FOR, Hong Kong, China, on June 8, 2024.

The disputed domain names led to websites that mimicked Complainant’s official website, and prompted users to enter sensitive information, including login details.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights. The disputed domain names include Complainant’s registered mark in its entirety. Despite the addition of English terms and characters like “one” or “the” and “-”, the confusing similarity has not been eliminated.

Complainant contends that Respondents have no rights or legitimate interests in respect of the disputed domain names.

Complainant contends that the disputed domain names were registered and are being used 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 the disputed domain names <snowplowone.co>, and <snowplow.top> is English. The language of the Registration Agreement for <the-snowplow.top> 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) In relation to the disputed domain name <the-snowplow.top>, both the English-language and Chinese-language versions of the Registrar's website provide the Registration Agreement in English, with no Chinese version available.
- (b) Both parties are familiar with English and reside in countries/territories where English is an official language. Complainant is an English company, and Respondent ER FOR is in Hong Kong, China, where English is an official language.
- (c) Respondent ER FOR is familiar with English, as the website at the disputed domain name <the-snowplow.top> is in English.
- (d) The Registrar (or those acting on their behalf) has communicated in English with English-speaking individuals who mistakenly accessed the website.
- (e) Complainant (and possibly Respondent ER FOR) is not familiar with Chinese.

Respondent ER FOR did not make any specific 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).

In relation to the disputed domain name <the-snowplow.top>, on the record, Respondent ER FOR, appears to be located in Hong Kong, China, and is thus presumably not a native English speaker; but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain name is registered in Latin characters, particularly containing English terms (e.g.

“snowplow”, and “the”, and “top”, rather than Chinese script; (b) the generic Top-Level Domain (“gTLD”) of the disputed domain name is “.top”, so the disputed domain name seems to be prepared for users worldwide, particularly English speaking countries; (c) the webpage, which the disputed domain name <the-snowplow.top> resolved to, was in the English language; (d) the Center has notified Respondents of the language of the proceeding in both Chinese and English, and Respondent ER FOR has indicated no objection to Complainant’s request that English be the language of the proceeding.

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) All disputed domain names resolved to similar fraudulent login webpages (see Annex 6 and 8 to the Complaint).
- (b) All disputed domain names share a common structure linking the SNOWPLOW trademark with English terms and characters like “the”, “one”, and/or “.top”.
- (c) The registration dates of all disputed domain names were very close, occurring in May and June of 2024.
- (d) Respondent details for each disputed domain name show signs of fabrication, indicating an attempt to conceal the true identity of the controlling entity/entities. For example, for <snowplowone.co>, Respondent lists “USD - US Dollar” as part of the address and states the address is Phnom Penh (the capital of Cambodia), but the country code (VN) is for Viet Nam. For <snowplow.top>, Respondent lists the name as “My Name”, and the listed address “Ave 29, CA, Florida” is nonspecific and incorrect, mixing abbreviations for California and Florida, two different states in the USA. For <the-snowplow.top>, the listed Respondent’s address, “HK Hong Kong Hong Kong 789 Tai Yau Street San Po Kong”, does not seem to exist.
- (e) The disputed domain names led to websites that mimicked Complainant’s official site, using its SNOWPLOW logo or a logo confusingly similar to Complainant’s logo SNOWPLOWONE and purple colour scheme, and prompted users to enter sensitive information, indicating a lack of coincidence.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputed domain names 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 the 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 SNOWPLOW 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 and/or characters, such as “one”, “the”, and “-”, may bear on the assessment of the second and third elements, the Panel finds the addition of such terms and/or characters 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 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 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 “snowplow”, Complainant’s SNOWPLOW trademark, in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the SNOWPLOW or SNOWPLOW marks or to apply for or use any domain name incorporating the SNOWPLOW 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 2024, long after the SNOWPLOW marks (registered as a trademark since 2013) became widely known. The disputed domain names are confusingly similar to Complainant's SNOWPLOW marks; and

(iii) there has been no evidence adduced to show that Respondent was making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain names led to websites that mimicked Complainant's official website, and prompted users to enter sensitive information, including login details. It seems likely that Respondent was making profits through the Internet traffic attracted to the website under these 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](#).)

Furthermore, the Panel considers that the composition of the disputed domain names carries a risk of implied affiliation with 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.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

UDRP panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registrations and use of the disputed domain names constitute bad faith under the Policy.

Based on the information provided by Complainant, the Panel finds that Complainant has a widespread reputation in the SNOWPLOW marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant's trademark in mind at the time of the registration of the disputed domain names (in 2024). This has been reinforced by the fact that each disputed domain name incorporates Complainant's SNOWPLOW trademark.

Respondent has used the impersonating login websites resolved by the disputed domain names displaying Complainant's logo or a logo confusingly similar to Complainant's logo for collecting user's sensitive information including login details. Thus, the Panel concludes that Respondent is currently using 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.

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 <snowplowone.co>, <snowplow.top>, and <the-snowplow.top> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: August 28, 2024