

## **ADMINISTRATIVE PANEL DECISION**

Mediacom Communications Corporation v. 路志军  
Case No. D2024-3571

### **1. The Parties**

The Complainant is Mediacom Communications Corporation, United States of America (“United States”), represented by Dentons US LLP, United States.

The Respondent is 路志军, China.

### **2. The Domain Name and Registrar**

The disputed domain name <mediacomtel.com> is registered with Longming Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in both Chinese and English with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 10, 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 (Unavailable/不详) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 both Chinese and English on September 18, 2024.

On September 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. The Complainant requested that the language of the proceeding be both English and Chinese in its amended Complaint. The Respondent did not submit any comment on the language of the proceedings.

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 Chinese and English of the Complaint, and the proceedings commenced on September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 10, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on October 16, 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 cable television company. It provides telecommunications services through its interactive broadband network to more than 1,500 communities across the United States. It owns multiple trademark registrations, including the following United States trademark registrations:

- number 2,544,829 for MEDIACOM, registered on March 5, 2002 (with a claim of first use in commerce on July 17, 1995), specifying services in class 38; and
- number 2,853,190 for MEDIACOM and device, registered on June 15, 2004 (with a claim of first use in commerce on October 1, 1999), specifying services in class 38.

The above trademark registrations remain current. The Complainant has also registered the domain names <mediacomcable.com> (registered on April 28, 1999) and <mediacomcc.com> (registered on November 9, 1999) that it has used continuously since 2000 in connection with websites to promote its cable, Internet, and telephone services, and to provide information about its telecommunications services, respectively.

The Respondent is an individual based in China.

The disputed domain name was registered on September 20, 2023. It does not resolve to any active website; rather, it is passively held.

#### **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 confusingly similar to its well-known MEDIACOM mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the MEDIACOM mark. The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name in an attempt to capitalize unfairly on the goodwill of Complainant's well-known MEDIACOM mark.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 6.1 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 and Chinese. The Complainant requested that the language of the proceeding be English and Chinese.

Despite the Center having sent the notification of complaint in both Chinese and English, the Respondent did not make any submissions with respect to the language of the proceeding or express any interest in participating otherwise in this 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.

### 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

#### 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. See [WIPO Overview 3.0](#), section 1.7.

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

The entirety of the MEDIACOM mark is reproduced within the disputed domain name. Despite the addition of the element "tel", the mark is recognizable within the disputed domain name. The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

Therefore, 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.

In the present case, the disputed domain name does not resolve to any active website; rather, it is passively held. This does not constitute a use of the disputed domain name in connection with a bona fide offering of goods or services, and there is no evidence of any demonstrable preparations to do so. Nor does this use constitute a legitimate noncommercial or fair use for the purposes of the Policy. Further, the Registrar has verified that the Respondent’s name is “路志军”, which may be transliterated as “Lu Zhijun”. Nothing in the record indicates that the Respondent has ever been commonly known by the disputed domain name.

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.

Based on the record, the Panel finds the second element of the Policy has been established.

## **C. Registered and Used 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. See [WIPO Overview 3.0](#), section 3.2.1.

As regards registration, the disputed domain name was registered in 2023, many years after the registration of the Complainant’s MEDIACOM mark. The disputed domain name wholly incorporates that mark, which is a coined term, and combines it with “tel”, an abbreviation of “telecommunications”, which indicates an awareness of the nature of the Complainant’s services. The Respondent provides no alternative explanation for the composition of the disputed domain name. In view of these circumstances, the Panel finds that the Respondent registered the disputed domain name with the Complainant and its MEDIACOM mark in mind.

As regards use, the disputed domain name does not resolve to any active website. Previous UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant’s trademark in the telecommunications sector due to its longstanding use, the composition of the disputed domain name, which suggests an affiliation with the Complainant, and the lack of any explanation of an intended good faith use of the disputed domain name and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, 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 <mediacomtel.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: October 29, 2024