

ADMINISTRATIVE PANEL DECISION

Cargill, Incorporated v. Hao Meng
Case No. D2024-3976

1. The Parties

The Complainant is Cargill, Incorporated, United States of America (“United States”), represented internally.

The Respondent is Hao Meng, Cambodia.

2. The Domain Names and Registrar

The disputed domain names <cargillhk.co> and <cargillhk.live> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 30, 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 the Complainant on October 1, 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 on October 1, 2024.

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 of the Complaint, and the proceedings commenced on October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 24, 2024.


The Center appointed Linda Chang as the sole panelist in this matter on October 30, 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 owns numerous trademark registrations for CARGILL in various jurisdictions around the world. The Complainant claims that the CARGILL trademark has become a highly valuable asset of the Complainant through its continuous and exclusive use in commerce for over 150 years in connection with a wide variety of goods and services in food, agricultural, and financial sectors and related industries.

The Complainant's trademark registrations for CARGILL include:

- The United States trademark CARGILL Registration No. 880991, registered on November 18, 1969, in Class 29, 30, 31;

- The United States trademark  Registration No. 3093514, registered on May 16, 2006, in Class 44;

- The United Kingdom trademark  Registration No. UK00002293766, registered on January 24, 2003, in Class 1, 2, 4, 17, 29, 30, 31, 39, 40;

- The Hong Kong, China trademark CARGILL Registration No. 305250564, registered on April 17, 2020, in Class 1, 5, 31.

The Complainant owns domain name <cargill.com>, registered on February 28, 1994, and domain name <cargill.com.cn>, registered on November 16, 2000. Both domain names resolve to the Complainant's official websites.

The disputed domain name <cargillhk.co> was registered on July 19, 2024, and <cargillhk.live> was registered on August 10, 2024. Presently, the disputed domain names resolve to inactive websites. According to the Complainant's evidence, the disputed domain names previously resolved to websites displaying the Complainant's CARGILL trademark and simulating the Complainant's official Chinese website.

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 names.

Notably, the Complainant contends that:

i) the Complainant's CARGILL trademark was registered long before the disputed domain names were registered;

ii) the Respondent has no relationship with the Complainant;

iii) the Respondent is aware of the Complainant and its CARGILL trademark when registering the disputed domain names;

iv) the disputed domain names resolve to websites that mirror the Complainant's official Chinese website, which is a clear act of bad faith use of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available records, the Complainant has shown rights in respect of the CARGILL trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain names comprise "cargillhk" and ".co" and ".live". The country code Top-Level Domain ("ccTLD") suffix ".co" and the New generic Top-Level Domain ("New gTLD") suffix ".live" function as a standard registration requirement and should be disregarded in the assessment of confusing similarity under the Policy.

The dominant part of the disputed domain names is "cargillhk", entirely incorporating the Complainant's CARGILL trademark. While the term "hk" is included, the CARGILL trademark remains clearly recognizable in the disputed domain names. The Panel finds that the extra term does not prevent the disputed domain names from being confusingly similar to the CARGILL trademark. Accordingly, the disputed domain names are confusingly similar to the CARGILL trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7, 1.8.

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 with the second element. [WIPO Overview 3.0](#), section 2.1.

The information in the case files show that:

- the disputed domain names resolved to websites displaying the Complainant's CARGILL trademark and simulating the Complainant's official Chinese website. Such use of the disputed domain names indicates the Respondent's intention to impersonate the Complainant and divert Internet traffic to its own websites, which

cannot be deemed as using the disputed domain names in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use;

- there is no evidence proving that the Respondent has been commonly known by the disputed domain names; and

- the nature of the disputed domain names, incorporating the Complainant's CARGILL trademark in their entirety with an additional term "hk" (abbreviation of "Hong Kong", China, where the Complainant operates), carries a risk of implied affiliation with the Complainant; and

- no other factors demonstrate the rights or legitimate interests of the Respondent in the disputed domain names.

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 names. 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 names such as those enumerated in the Policy or otherwise.

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 Complainant has been using the CARGILL trademark and obtained trademark registrations in the United States as early as in 1969, which significantly predates the registration date of the disputed domain names (July 19, 2024, and August 10, 2024 respectively). The CARGILL trademark is a coined word and has gained a certain degree of reputation. The Respondent registered disputed domain names that fully incorporate the Complainant's CARGILL trademark and used them for websites displaying the Complainant's CARGILL trademark and simulating the Complainant's official Chinese website. The Panel determines that the Respondent had actual knowledge of the Complainant and the CARGILL trademark at the time of registering the disputed domain names, and bad faith is found.

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, while 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.

The disputed domain names are inactive at the time of the Decision, but were once used to host websites displaying the Complainant's CARGILL trademark and simulating the Complainant's official Chinese website. The Panel holds that by selecting domain names confusingly similar to the Complainant's CARGILL trademark, and using them in the manner as described, the Respondent obviously intended to attract, for commercial gain, Internet users to the disputed domain names and the associated websites by creating a likelihood of confusion with the Complainant's CARGILL trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites. The current non-use of the disputed domain names does not change the Panel's finding of the Respondent's 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 names <cargillhk.co> and <cargillhk.live> be transferred to the Complainant.

/Linda Chang/

Linda Chang

Sole Panelist

Date: November 13, 2024