

ADMINISTRATIVE PANEL DECISION

DuPont Safety & Construction, Inc. v. Terry Zheng Case No. D2024-4573

1. The Parties

The Complainant is DuPont Safety & Construction, Inc., United States of America (“United States” or “US”), represented by Ballard Spahr, LLP, United States.

The Respondent is Terry Zheng, China.

2. The Domain Name and Registrar

The disputed domain name <kevlarchina.com> (the “Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2024. On November 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name 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 November 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Respondent sent an email to the Center on November 9, 2024. The Complainant filed an amended Complaint on November 11, 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 November 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondent sent an email to the Center on November 15, 2024. However, the Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on December 4, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on December 9, 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

For over fifty years, the Complainant has manufactured and marketed synthetic fibers for textile use for industrial customers worldwide under the KEVLAR mark. The Complainant has registered numerous trademarks, both in the US and abroad, including in China where the Respondent is situated, such as US trademark registration number 1431185 (registered on March 3, 1987) and Chinese trademark registration number 160521, registered on July 30, 1982.

The Domain Name was registered on August 11, 2024. The Complainant has documented that the Domain Name has resolved to a website that purports to be “KEVLARChina”, an aramid fiber manufacturer, but the web page sells in fact other products than those of the Complainant. At the time of drafting the Decision, the Domain Name resolved to the Registrar’s holding webpage.

5. Parties’ Contentions

A. Complainant

The Complainant requests that the language of the proceeding should be English because the Complainant is situated in the United States and speaks English, and the Respondent understands English. The latter is supported by the following facts: the Registration Agreement is in English; the Domain Name is in English and the contents of the webpages under the Domain Name are in English.

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to the Complainant’s trademark as the Domain Name incorporates the entire trademark. The additional term “china” does not prevent confusing similarity between the Domain Name and the trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent is not commonly known by the Domain Name. The Complainant has not authorized the Respondent to use and register its trademark, and the Complainant’s rights in the trademark predate the Respondent’s registration of the Domain Name. The Respondent’s use of the Domain Name is not bona fide. The Respondent’s use does not meet the conditions for bona fide reselling. The Respondent is not authorized and, even if the Respondent is claiming to, the webpage does not offer the Complainant’s products.

The Complainant believes the Respondent registered the Domain Name to prevent the Complainant from registering the Domain Name and to generate financial gain by creating a likelihood of confusion with the Complainant’s trademark. The Respondent is driving Internet traffic to the Domain Name, taking advantage of the goodwill associated with the Complainant.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions but sent a short email on November 9 and November 15, 2024. The Respondent states in English in its former email: “What are you talking about? Is there anything about my website and domain?” The latter was in Chinese with the following text: “看不懂，发中文” (“[I] don't understand, please send in Chinese”).

6. Discussion and Findings

6.1. Procedural Issue: Language of the Proceeding

The Complainant has requested English as the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the Registration Agreement, unless otherwise agreed by the parties. The language of the Registration Agreement is English. The Respondent has not formally requested another language, but did, in its email correspondence of November 15, 2024 request information in Chinese.

As the Center has informed the Respondent, Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement, unless otherwise agreed by the parties. Paragraph 11(a) also states that the determination of the language of the proceeding is “[...] subject to the authority of the Panel [...], having regard to the circumstances of the administrative proceeding”.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1.

The language of the Registration Agreement is English, and the Complainant consequently submitted its Complaint in English. The Panel notes that the Respondent has not argued why a change of language would be appropriate in this case. Moreover, the fact that the Domain Name and the content of the webpage is in English, indicates that the Respondent can understand English. The Respondent’s email dated November 9, 2024 further confirms that he is conversant in English.

Based on the above, the Panel proceeds with English as the language of the proceeding.

6.2 Substantive Issues

A. Identical or Confusingly Similar

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

The Complainant has established that it has rights in the trademark KEVLAR. In this case, the Domain Name incorporates the Complainant’s trademark with the addition of “china”. The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”); see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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.

The Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. On the contrary, the Respondent's use is evidence of bad faith, see below. Moreover, the Panel notes that the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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.

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition and use of the Domain Name, as well as the fame of the Complainant. The documented use of the Domain Name is further evidence of bad faith. The Respondent falsely purports to be "Kevlar China", an aramid fiber manufacturer. The Respondent's webpage markets other products under the brand TAPARAN. The Respondent does not meet the requirements for legitimate reselling. See [WIPO Overview 3.0](#), Section 2.8.1. The Respondent appears to have registered a Domain Name confusingly similar to the Complainant's trademark to drive Internet traffic to the Respondent's webpage and competing products. See paragraph 4(b)(iv) of the Policy.

Based on the available record, 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 the Domain Name <kevlarchina.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: December 16, 2024