

ADMINISTRATIVE PANEL DECISION

Hashkey Digital Asset Group Limited v. youchun chen
Case No. DAI2024-0033

1. The Parties

The Complainant is Hashkey Digital Asset Group Limited, Hong Kong, China, internally represented.

The Respondent is youchun chen, Hong Kong, China, self-represented.

2. The Domain Name and Registrar

The disputed domain name <hashkey.ai> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 24, 2024. On April 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent (Domains By Proxy, LLC) is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on April 30, 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 the same date.

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 May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 12, 2024.

On June 18, 2024, the Center received, via email, a communication from the privacy service provider associated with the disputed domain name, disclosing information regarding the underlying registrant (youchun chen) of the disputed domain name, which differed from the named Respondent. Thus, on June 24, 2024, the Center sent an email communication to the Complainant providing the underlying

registrant and contact information disclosed by the privacy service and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 27, 2024.

In light of the underlying registrant information disclosed and in order to fulfill its responsibilities under paragraph 2(a) of the UDRP Rules. on June 27, 2024, the Center formally renotified the Respondent of the Complaint. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2024. The Response was filed with the Center on July 12, 2024.

The Center appointed C. K. Kwong as the sole panelist in this matter on July 19, 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 digital asset management and finance company, with products and services marketed around the world. It has been offering digital asset management and financial technology services in Blockchain and fintech industries for institutions, offices, funds, and professional investors since at least 2018.

The Complainant is the registered owner of trademarks consisting of or embodying the word “Hashkey”. As claimed in the Amended Complaint, these registrations include the following: -

- (a) China trademark registration no. 37613277 registered on December 14, 2019, in respect of services under International Class 42;
- (b) China trademark registration no. 35776628 registered on October 7, 2019, in respect of services in Class 42;
- (c) Hong Kong, China trademark registration no. 304909294 registered on April 30, 2019, in respect of goods and services in Classes 9, 35, 36, and 42; and
- (d) Hong Kong, China trademark registration no. 304909285 registered on April 30, 2019, in respect of goods and services in Classes 9 and 35.

The Complainant is the registrant of the domain name <hashkey.com> created on January 26, 1998 (Annex 2 to the Amended Complaint) which it principally uses to operate a website for promoting itself, its services, and its products. Additionally, it has also registered other domain names embodying the word “Hashkey”, including <hashkeyfin.com>, <hashkeytechnology.com>, <hashkeywallet.com>, <hashkey.io>, <hashkey.ai>, and <hashkey.capital> (Annex 2 to the Amended Complaint).

The disputed domain name was registered on February 18, 2023, and does not resolve to any active 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 name.

The Complainant has rights in the HASHKEY mark. The disputed domain name is identical to the Complainant's registered HASHKEY trademark, incorporating the HASHKEY trademark in its entirety and adding to it only the country code Top-level Domain (“ccTLD”) “.ai”.

The Complainant uses its HASHKEY mark on the Complainant's homepage, business lines, partnerships, and information on the Complainant's exchange platform.

The Complainant's business, which was found in 2018, has become one of the most recognizable names in the cryptocurrency field.

On April 11, 2024, a cease and desist letter was sent by the Complainant to the Respondent informing the Respondent of the Complainant's rights in its HASHKEY marks and its HASHKEY domain names but did not receive any reply. A second cease and desist letter was sent to the Respondent on April 19, 2024, but still did not receive a reply.

The entirety of HASHKEY mark is reproduced within the disputed domain name. The addition of the ccTLD ".ai" does not prevent a finding of confusing similarity with the Complainant's trademark but serves to further confuse consumers into believing that the disputed domain name is associated with the Complainant.

The Respondent is not sponsored or endorsed by the Complainant. The Complainant has never authorized or licensed the Respondent to use the Complainant's HASHKEY mark.

The Respondent is not identified in the Whois record and there is no evidence to suggest that the Respondent is known by the disputed domain name.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered years after the Complainant has acquired rights in its HASHKEY mark through the building of its digital asset management business under its HASHKEY mark which is now recognized internationally.

The Respondent had actual knowledge of the HASHKEY mark when it registered the disputed domain name.

Although the Respondent has not actually used this disputed domain name to build a website or redirect to another link, it does not mean the Respondent lacks malicious intent. There is a risk that the Respondent may be using the disputed domain name for phishing by leading Internet users to believe they are dealing with the Complainant.

The Respondent has redacted registered date and registrant information of the disputed domain name.

Based on the information the Complainant have received from the Registrar, the Respondent is an individual residing in Hong Kong, China where the Complainant has a significant present and reputation and should be aware of the Complainant and the Complainant's mark at the time of the registration of the disputed domain name. There is also no reasonable commercial purpose for the Respondent to register the domain name.

The Respondent has failed to reply to the Complainant's two cease and desist letters but continue to keep the disputed domain name, further demonstrates bad faith registration and use.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name for the reasons set out below.

"Hash Key" is a common English dictionary term, which means the name of "#" in computer keyboard or telephone. A common term is not allowed to be registered as a trademark.

The trademark HASHKEY is registered in Classes 9, 35, 36, and 42 in China, which are not related to artificial intelligence, a business in relation to which the Respondent intends to use the disputed domain name.

The disputed domain name comprises the common dictionary terms of "hash+key+artificial intelligence" which is originally created by the Respondent, and it is not identical or confusingly similar to the Complainant's trademarks registered under Classes 9, 35, 36, and 42.

The 12 trademark applications of HASHKEY by the Complainant in China have been rejected, revoked, and invalidated by the Trademark Office of China National Intellectual Property Administration.

The Complainant's business and trademark have nothing related to "ai" or artificial intelligence and the Internet users have no reason to associate the disputed domain name with the Complainant.

The Respondent has no intention to sell, rent or transfer the disputed domain name registration to the Complainant.

The Respondent intends to promote the artificial intelligence industry in China (meaning the mainland of China as opposed to the Hong Kong Special Administration Region of the People's Republic of China) via the disputed domain name in the future.

Since the asset management and financial services are regulated businesses, the Complainant's business is restricted to Hong Kong, China (meaning the Hong Kong Special Administration Region of the People's Republic of China) by the local law and regulations.

The digital asset management is legally forbidden in China where the Respondent is located. The Respondent's purpose of using the disputed domain name does not constitute any competition or potential disrupt with the Complainant's business.

The Complainant's business has no substantial reputation in China, where the Respondent is located and there is little information about the Complainant's business and trademark when Internet users search "Hashkey" with the search engines of "www.baidu.com" and "www.so.com".

The Complainant's business and alleged trademark have nothing related to "ai" or "artificial intelligence". Even though the Complainant has registered a domain name <hash-key.ai>, that website is empty. There is no reason for Internet users to associate the disputed domain name which is registered with the term "ai" which denotes artificial intelligence, with the Complainant.

6. Discussion and Findings

In rendering its decision, the Panel must adjudicate the dispute in accordance with paragraph 15(a) of the Rules which provides that, "[t]he Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

The said three elements are considered below.

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.

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

Although the Respondent has alleged that there are 12 applications for the HASHKEY trademark by the Complainant in China which have been rejected, revoked and invalidated by the Trademark Office of China National Intellectual Property Administration those included in Annex 1 to the Response, a search by the Tribunal confirms that at least China Trademark Registration No. 37613277 for the mark HASHKEY in Class 42 and No. 35776628 for the mark HASHKEY in Class 42 are both "live/ registration/ issued and active" as of August 2, 2024. Similarly, Hong Kong, China Trademark Registration No. 304909294 for the mark "HASHKEY" (stylized) in Classes 9, 35, 36 and 42 and No. 304909285 for the word mark HASHKEY in Classes 9 and 35 are also valid and subsisting.

The entirety of the mark HASHKEY is reproduced within the disputed domain name. It is well established practice to disregard the ccTLD parts of a domain name, when assessing whether a domain name is identical or confusingly similar to the mark at issue, as such are viewed as standard registration requirement. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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. The Panel considers that the Complainant has made out a prima facie case that the Respondent does not have any rights or legitimate interests in the disputed domain name, and the burden of production of evidence shifts to the Respondent. [WIPO Overview 3.0](#), section 2.1.

The main thrust of the Respondent's argument is that "Hash key" is a common English dictionary term, which means the name of the button "#" on a computer keyboard or telephone so that the use of it can be bona fide and is not per se illegitimate. The Respondent further emphasized that the disputed domain name is intended to be used in relation to promoting artificial intelligence in the future.

Panels have recognized that merely registering a domain name comprised of a dictionary word does not by itself automatically confer rights or legitimate interests on a respondent. The mere argument that a domain name corresponds to a dictionary term/phase will not necessarily suffice. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrated to be intended for such use, in connection with the relied upon dictionary meaning and not to trade off third-party trademark rights. [WIPO Overview 3.0](#), section 2.10.1.

There is no evidence produced by the Respondent to demonstrate rights or legitimate interests in the disputed domain name, by the non-exclusive defences under UDRP Paragraph 4(c), namely:

1. Before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services;
2. The Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights. It is noted that, the Registrant name of the disputed domain name was originally redacted for privacy, and, later, disclosed by the privacy service as "youchun chen"; or
3. The Respondent is making a legitimate noncommercial or fair use of the domain name.

At the most, the Respondent has only alleged that the disputed domain name is intended to be used, but not actually used or demonstrated any preparations to use, for promoting artificial intelligence. The Respondent may try to argue that by choosing to use the ccTLD for Anguilla, a British overseas territory in the Caribbean, which is ".ai" which can mean artificial intelligence, as a preparatory step. However, the Panel considers that such argument is untenable as the expression is equivocal for reasons given above, the adoption of such "ai" ccTLD is in any case insufficient as evidence of preparatory step. [WIPO Overview 3.0](#), section 2.2 lists non-exhaustive examples of prior use, or demonstrable preparations to use the domain name, in connection with a bona fide offering of goods or services: "(i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (i.e., not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) bona fide registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent." However, the Respondent has failed to provide such evidence demonstrating any prior use, or demonstrable preparations to use.

The Panel further notes that the Respondent has not offered any reason for incorporating the term “ hash key” in the disputed domain name other than saying that it’s a dictionary term, which by itself is inadequate as discussed above.

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.

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.

The Respondent has not disputed that the Complainant has substantial reputation in Hong Kong, China as supported by the materials exhibited in Annexes 3, 4, 5, 7, and 8 to the Amended Complaint.

The thrust of the Respondent’s argument is that, the Complainant has little reputation in China, where the Respondent resides. By implication, the Respondent denies that it resides in Hong Kong, China.

Upon reviewing the materials in the case file and the information provided by the privacy service in this case, the registration details of the disputed domain name include, inter alia: -

- (i) Creation date: 2023-02-18
- (ii) Registrant’s name: youchun chen
- (iii) Registrant’s detail address in Hong Kong, China

Furthermore, the Written Notice in these proceedings were successfully delivered to the Respondent’s address in Hong Kong, China.

These are contrary to the Respondent’s suggestion that its residence is in China and has no knowledge of the Complainant’s existence and its business in Hong Kong, China. The Respondent has chosen not to disclose to the Panel its above registration address in Hong Kong and explained the successful delivery of the aforesaid written notice.

Furthermore, according to the information provided by the privacy service, the disputed domain name was registered on February 18, 2023, which was well after the Complainant’s registration of its trademark HASHKEY in 2019 as referred to in Section 4 above and its various domain names <hashkey.com> in 1998, <hashkeyfin.com> in 2021, <hash-key.com> in 2018, <hashkey.io> in 2018, and <hashkey.capital> in 2018.

It is noted that the Respondent has chosen not to disclose the later registration date of its disputed domain name to the Panel and deal with the issue in the Response. On the other hand, it suggested that the Complainant’s <hash-key.ai> domain name registration appearing on page 13 of Annex 2 to the Amended Complaint “shows no registration date of this domain name, but all others show registration date. This domain name can be thought to be registered recently”, impliedly inviting the Panel to draw an adverse inference against the Complainant.

The Complainant pleaded in the Amended Complaint that the Respondent resides in Hong Kong, China. On the other hand, the Respondent stated in the Response that it resides in Shenzhen City, China. In any case, the Panel finds that the Complainant has registered and used the mark HASHKEY in both China and Hong Kong, China, covering the place of residence of the Respondent irrespective of whether it is China or Hong Kong, China. The Panel further takes note that the Respondent claims that he is in Shenzhen City, China, which is adjacent to Hong Kong, China, and there is frequent mobility of the people and close economic exchanges between the two places.

The Internet searches conducted by the Respondent using the search engines “www.baidu.com” and “www.so.com” (see Annex 2 to the Response), show numerous references to the Complainant.

Those references tally with the websites or links referred to in Annex 3 of the Amended Complaint, namely, Hash Key Exchange, Hash Key Capital, Hash Key NFT. These Internet references show the transborder extension of the Complainant’s business reputation, to covering both Hong Kong, China and China. As mentioned before, it seems that the Respondent may have a connection to both Shenzhen City, China, and Hong Kong, China. More likely than not, the Respondent had the Complainant’s and its HASHKEY trademarks in mind and targeted the Complainant when registering the disputed domain name.

The Respondent has repeatedly emphasized in the Response that all the Complainant’s trademarks and its businesses are not related to artificial intelligence, a business in relation to which the Respondent intends to use the disputed domain name <hashkey.ai>. The Panel does not accept such argument. The Panel is of the view that “AI”, meaning artificial intelligence can plainly be used by the Complainant in provide its services of capital asset management, financial technologies services involving blockchain or digital technologies.

In the trademark registration context, the Complainant has registered trademarks in respect of goods and services under International Classes 9, 35, 36, and 42 of the Nice classification. “Artificial Intelligence consultancy, research in the field of artificial intelligence technology” are specific items expressly included under Class 42 of the Nice classification. Business consulting services in the field of artificial intelligence is acceptable for registration under International Class 35. Smart banking (banking services using artificial intelligence technology) is acceptable for registration under International Class 36. From the information disclosed in Annexes 4, 5, 7, and 8 to the Amended Complaint, the business activities of the Complainant would conceivably involve AI or AI as a tool in operating a virtue asset exchange, brokerage platform, institutional grade digital asset custody services, digital asset management, financial technology services as well as development of investment strategies and technologies solution for institutions, hedge funds, and other professional investment entities.

While the term “Hashkey” is a dictionary word which according to the Respondent means the name of the key “#” on a computer keyboard or telephone, there is no evidence of the Respondent’s claimed use. The deliberate choice of the ccTLD “.ai” which can be used as an abbreviation of the term “artificial intelligence” which is part of or conceivably employed in the Complainant’s main business activities or a tool for operating the same, is seen as a direct attempt to unfairly target the Complainant and its business. The use of the disputed domain name would attract, for commercial gain, Internet users to the disputed domain name, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. Such finding is reinforced by the facts that the Complainant has registered and used the domain name <hashkey.com> as its primary online location, and that Complainant has registered the domain name <hash-key.ai>.

Although the disputed domain name resolves to an inactive website, as discussed in [WIPO Overview 3.0](#), section 3.3, it does not prevent a finding of bad faith in the circumstances of this case.

The Panel finds that the circumstances under paragraph 4(b)(vi) of the Policy have been established and additionally for the other reasons as detailed above, 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 <hashkey.ai> be transferred to the Complainant

/C. K. Kwong/

C. K. Kwong

Sole Panelist

Date: August 26, 2024