

ADMINISTRATIVE PANEL DECISION

Pret A Manger (Europe) Limited v. 叶丽
Case No. DCN2024-0018

1. The Parties

The Complainant is Pret A Manger (Europe) Limited, United Kingdom (“UK”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 叶丽, China.

2. The Domain Names and Registrars

The disputed domain names <pret-a-manger.cn> and <pretamanger.cn> are respectively registered with 浙江贰贰网络科技有限公司 and 杭州云集通信科技有限公司. 浙江贰贰网络科技有限公司 and 杭州云集通信科技有限公司 are collectively referred to as the “Registrars”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 10, 2024. On May 10, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On May 11 and 14, 2024, the Registrars respectively transmitted by email to the Center their verification responses confirming that the Respondent is listed as the registrant of both disputed domain names and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the China ccTLD Dispute Resolution Policy (the “Policy”), the China ccTLD Dispute Resolution Policy Rules (the “Rules”), and the WIPO Supplemental Rules for China ccTLD Dispute Resolution Policy and China ccTLD Dispute Resolution Policy Rules (the “WIPO Supplemental Rules”).

In accordance with the Rules, Articles 5, 6, 14, 15 and 16, and the WIPO Supplemental Rules, Paragraph 4(d), the Center formally notified the Respondent in Chinese and English of the Complaint, and the proceedings commenced on May 21, 2024. In accordance with the Rules, Articles 17 and 49, the due date for response by the Respondent was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified of the Respondent’s default on June 12, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on June 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, Article 29.

4. Factual Background

The Complainant is a corporation organized under the laws of the UK, and forms part of the Pret A Manger group which was founded in 1986. The Complainant operates chain stores which provide food and beverages typically found in a café, including around 485 company-owned shops through support centers in London, Paris, Hong Kong, China and New York, and additional shops through franchise partners in other international markets.

The Complainant holds registered trademarks for PRET A MANGER in various jurisdictions, as listed below.

Jurisdiction	Registration Number	Registration Date	Class(es) Covered
China	3030679	February 7, 2003	42
United States of America ("US")	2071984	June 17, 1997	42
European Union	000127803	March 3, 2000	29, 30 and 42
International (designating China)	696217	May 11, 1998	30 and 42

The Complainant operates many domain names associated with the Pret A Manger and (its shortened form) Pret brands. For example, the Complainant owns and maintains these primary domain names: <pret.com>, <pretamanger.com> and <pret-a-manger.com>. Such domain names redirect to the US home page of the Complainant, which displays information about the Complainant's stores, offerings, and promotional and other corporate material in the US, and has the option to switch to the Complainant's website in other countries. The Complainant also operates other domain names containing the characters "pret", "pretamanger", or "pret-a-manger", followed by a generic or a country code Top-Level Domain ("TLD").

The Complainant further utilizes the PRET A MANGER trademark in its products and services, its past materials displaying company information, and the names of its mobile applications.

The disputed domain names <pret-a-manger.cn> and <pretamanger.cn> were registered on May 17, 2023 and November 26, 2022, respectively. Based on the Complainant's evidence, the disputed domain names once featured pay-per-click links to third party websites and wording stating that the disputed domain names were listed for sale. Later and at the time of the Decision, the disputed domain names redirect to sale listings for USD 9,500 each under the name of the service provider "sedo.com".

Little personal information is known about the Respondent. Available information from the Whois database as provided by the Registrars covers only the registrant's name, postal address, telephone number, fax number, and email address, all of which are identical between the two disputed domain names.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under Article 8 of the Policy.

First, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's name and trademark in which the Complainant should have valid rights and interests. The addition of the country code TLD ".cn" does not prevent a finding of confusing similarity, and the omission of the space characters (and addition of hyphens) in between the words "pret a manger" do nothing to distinguish the disputed domain names from the Complainant's PRET A MANGER trademark.

Second, the Complainant contends that that the Respondent lacks the rights or legitimate interests in the disputed domain names. The Respondent is not commonly known by the disputed domain names based on the available information, and is not otherwise a permitted user of them. Further, the Respondent deliberately used the disputed domain names for their own monetary gain (including pay-per-click fees and sale listings in amounts far exceeding the Respondent's out-of-pocket expenses in registering the disputed domain names, through third party websites), instead of for a bona fide offering of goods or services. This was additionally supported by the fact that the disputed domain names were registered after a significant number of years has passed since the Complainant's registration of its trademarks and primary domain names.

Third, the Complainant contends that the disputed domain names were registered and are being used in bad faith. The famous and long-lasting nature of the Complainant's brand and registered trademarks, coupled with the high level of similarity in the disputed domain names, makes it illogical to believe the Respondent did not specifically target the Complainant. Also, such similarity would confuse and mislead Internet users as to the connection between the disputed domain names and the Complainant, and the increased traffic to or potential sale/renting out of the websites would lead to the Respondent's own pecuniary gain. There was further evidence based on WhoIs search that the Respondent has engaged in a scheme of targeting trademarks of many other famous brands through cybersquatting and typosquatting, and the Respondent has already been involved in many domain name proceedings, which have all been decided against the Respondent. Finally, the Respondent did not attempt to resolve this dispute outside of this proceeding.

The Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

Pursuant to Article 6 of the Policy, Article 8 of the Rules, and Paragraph 18(a) of the WIPO Supplemental Rules, unless otherwise agreed by the parties or determined by the Panel under exceptional circumstances, the language of the administrative proceeding shall be Chinese.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including but not limited to the fact that the Complainant is unable to communicate in Chinese, that the website content hosted on the disputed domain names is entirely in English, that the disputed domain names are each composed of Latin characters without any meaning in the Chinese language, and that requiring a translation would result in the incurrence of additional delay and unnecessary expense. It is observed that the website content hosted on the disputed domain names has since changed, but remains to be in English upon launch, with the option to manually switch to other languages.

As noted above, the Respondent did not comment on the Complainant's request for the language of the proceeding be English. This is despite the fact that the Center had sent the notification of the Complaint which includes instructions on the language of the proceeding to the Respondent in both Chinese and English.

Having considered all the matters above, the Panel determines that English be the language of the proceeding, and this decision is accordingly rendered in English.

6.2 Substantive Issues

Article 8 of the Policy states that support for the Complaint is subject to the following conditions being satisfied for each of the disputed domain names: (a) the disputed domain name is identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests; (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name or major part of the disputed domain name; and (c) the Respondent has registered or has been using the disputed domain name in bad faith.

For the below reasons, support for the Complaint can be found due to the satisfaction of the three conditions for each of the disputed domain names.

A. Identical or Confusingly Similar to the Complainant's Name or Mark in which the Complainant has Civil Rights or Interests

The Complainant has shown valid civil rights in respect of its trademark for the purposes of the Policy, including the valid registration of its PRET A MANGER trademark in various classes in jurisdictions including China, and the long-term and intensive use of its name and trademark globally.

The entirety of the mark is reproduced within each of the disputed domain names. Accordingly, the disputed domain names are each identical to the mark for the purposes of the Policy. For the disputed domain name <pret-a-manger.cn>, the addition of hyphens in this case does not prevent a finding of confusing similarity between this disputed domain name and the Complainant's trademark.

The country code TLD ".cn" is viewed as a standard registration requirement and as such is to be disregarded for the purpose of determining identity or confusing similarity.

The Panel finds that the first condition under Article 8 of the Policy has been established based on the Complainant's submissions.

B. Rights or Legitimate Interests

The Panel notes that Article 10 of the Policy provides a list of non-exhaustive circumstances which may be evidence of the Respondent's rights to or legitimate interests in the disputed domain names in support of Article 8(b) of the Policy.

Based on the website content viewed from accessing the disputed domain names (previously pay-per-click websites and now redirected to third party websites offering them for sale), as well as the lack of any permission from the Complainant to use the same, the Panel does not find that the Respondent has used the disputed domain names in connection with any bona fide offering of goods or services under Article 10(a) of the Policy, and does not find that the Respondent has made any legitimate noncommercial or fair use of the disputed domain names without intent of or commercial gain to misleadingly divert consumers under Article 10(c) of the Policy.

Based on the name of the individual Respondent, the Panel does not find that the Respondent has been commonly known by the disputed domain names under Article 10(b) of the Policy.

For the reasons above and otherwise stated in the Complainant's submissions, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights to or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie case showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel finds that the second condition under Article 8 of the Policy has been established.

C. Registered or Used in Bad Faith

The Panel notes that, for the purpose of Article 8(c) of the Policy, Article 9 of the Policy provides a list of circumstances that, if found by the Panel to be present, may be evidence of the registration and use of a domain name in bad faith.

The Complainant's PRET A MANGER trademarks were registered many years before the Respondent's registration of the disputed domain names which are not only confusingly similar to the Complainant's trademarks and but also to its domain names <pretamanger.com> and <pret-a-manger.com>. Therefore, the Panel finds that the Respondent knew or should have known of the Complainant at the time of registering the disputed domain names.

The previously seen pay-per-click links featured on the websites at the disputed domain names, including but not limited to links with the following displayed text: "Restaurant Tables", "Pret a Manger", and "Cheapest Food Delivery", are evidence that the Respondent has registered or acquired the disputed domain names for the purpose of damaging the Complainant's reputation, disrupting the Complainant's normal business, or creating confusion with the Complainant's name or mark so as to mislead the public, under Article 9 (c) of the Policy.

The current sale listings of the disputed domain names at a high price of USD 9,500 show that the Respondent's purpose for registering or acquiring the disputed domain names is to sell, rent or otherwise transfer the domain name registration to the Complainant who is the owner of the name or mark or to a competitor of that the Complainant, and to obtain unjustified benefits, under Article 9(a) of the Policy.

Later changes in the website content of the disputed domain names do not negate the Respondent's bad faith.

The Respondent's well-documented history, provided by the Complainant, of many incidences of cybersquatting and typosquatting, and involvement in many domain name proceedings under which bad faith was also found against the Respondent, demonstrate that the Respondent has a habit of registering domain names in order to prevent owners of the names or marks from reflecting the names or marks in corresponding domain names under Article 9(b) of the Policy.

Based on the above evidence, the Panel finds that the third condition under Article 8 of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with Article 14 of the Policy and Article 40 of the Rules, the Panel orders that the disputed domain names <pret-a-manger.cn> and <pretamanger.cn> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: July 8, 2024