

ADMINISTRATIVE PANEL DECISION

GitHub, Inc. v. 张高元 (Zhang Gaoyuan)
Case No. D2022-2681

1. The Parties

The Complainant is GitHub, Inc., United States of America (“United States”), represented by Chestek Legal, United States.

The Respondent is 张高元 (Zhang Gaoyuan), China.

2. The Domain Name and Registrar

The disputed domain name <githubhot.com> is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2022. On July 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 2022, 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 English on August 12, 2022.

On August 5, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 8, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not explicitly comment on the language of the proceeding but requested that email communications to be sent in Chinese, and indicated that English is not convenient.

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 English and Chinese of the Complaint, and the proceeding commenced on August 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2022. The Respondent's informal communications were received by the Center on August 13, 15, 16, and 17, 2022 respectively. The Center notified the Commencement of Panel Appointment Process to the Parties on September 5, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 15, 2022. 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. 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.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burden being placed on the parties and undue delay to the proceeding.

The Complainant requested that the language of the proceeding be English for several reasons, including the fact the disputed domain name was, at the time of filing of the Complaint, resolved to an English language website.

The Respondent did not make any specific submissions with respect to the language of the proceeding but requested that email communications to be sent in Chinese and indicated that English is not convenient, and subsequently offered to transfer the disputed domain name to the Complainant.

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).

In light of the content of the website, and the Respondent's consent to transfer of the disputed domain name, the Panel finds there is sufficient evidence to suggest the likely possibility that the Respondent is conversant in the English language.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner. In this regard, the Panel has also taken into account the fact the Respondent has agreed to the unconditional transfer of the disputed domain name to the Complainant.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

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.

5. Consent to Transfer

In his email communication dated August 15, 2022, the Respondent stated that he was no longer making any use of the disputed domain name, and that he would not renew his registration of the disputed domain name, and questioned whether this would be an acceptable settlement.

In its email to the Parties dated August 15, 2022, the Center asked the Complainant to submit a request for suspension if it wished to explore settlement options.

In his further email communication dated August 16, 2022, the Respondent offered to transfer the ownership of the disputed domain name, confirmed that he did not want to participate in the proceeding, and asked how the matter could be resolved quickly.

The Complainant's representatives subsequently sent an email communication to the Center, in response to the Respondent's email communication dated August 15, 2022, indicating that the Complainant did not wish to engage in settlement discussions with the Respondent, and requesting the Center to proceed with the proceeding.

In his further email communication dated August 17, 2022, the Respondent confirmed that he was willing to transfer the disputed domain name to the Complainant as soon as possible.

The Panel considers, in all the circumstances, it is appropriate to order transfer of the disputed domain name solely on the basis of such unilateral consent (see [WIPO Overview 3.0](#), section 4.10).

6. 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 <githubhot.com> be transferred to the Complainant.

/Sebastian M. W. Hughes/

Sebastian M. W. Hughes

Sole Panelist

Date: September 26, 2022