

## **ADMINISTRATIVE PANEL DECISION**

Moelis & Company v. 申中朝 (Shen Zhong Chao)  
Case No. D2022-2962

### **1. The Parties**

The Complainant is Moelis & Company, United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is 申中朝 (Shen Zhong Chao), China.

### **2. The Disputed Domain Name and Registrar**

The disputed domain name <moelisblockchain.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2022. On August 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 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 12, 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 18, 2022.

On August 12, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 18, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 13, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 22, 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. Factual Background**

##### **A. Complainant**

The Complainant is an investment bank headquartered in New York in the United States, providing its services under the trade mark MOELIS & COMPANY (the "Trade Mark").

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including United States registration No. 4,904,062, registered on February 23, 2016; and Chinese registration No. 7256438, registered on October 7, 2010.

The Complainant promotes its investment banking services under the Trade Mark via its website at "www.moelis.com".

In July 2022, the Complainant made a public announcement that it was commencing investment in the blockchain sector.

##### **B. Respondent**

The Respondent is apparently an individual resident in China.

##### **C. The Disputed Domain Name**

The disputed domain name was registered on July 25, 2022.

##### **D. The Website at the Disputed Domain Name**

The disputed domain name is resolved to a predominantly Chinese language website,<sup>1</sup> offering the disputed domain name for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the Trade Mark, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name was registered and is being used in bad faith.

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<sup>1</sup> The Website also contains the statement in English "the domain is for sale!".

## B. Respondent

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

## 6. Discussion and Findings

### 6.1. Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11, 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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Complainant has requested that the language of the proceeding be English, for the following reasons:

- (i) the Complainant and its representative are headquartered in the United States where English is the commonly spoken language;
- (ii) the Complainant's primary market is the United States;
- (iii) the disputed domain name is comprised of Latin characters and the word "moelis" therein is a non-dictionary word; and
- (iv) the Complainant's representative does not have the capabilities in-house to translate the Complaint into Chinese, therefore the Complainant's representative will have to rely on unreliable online translation method, which may give the Respondent an unfair advantage.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response. The Panel would have accepted a response in Chinese but none was filed.

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.

Although there is insufficient evidence before the Panel to support a conclusion that the Respondent is conversant in English, the Panel notes that the Respondent has taken no part in this proceeding; and that all of the Center's communications with the Parties have been sent in English and Chinese.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

The Panel does not find the fourth reason relied upon by the Complainant in support of its language request compelling. Nonetheless, 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.

## **6.2. Substantive Elements of the Policy**

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name consists of the word “moelis” – a dominant feature of the Trade Mark (see [WIPO Overview 3.0](#), section 1.7) - followed by the word “blockchain”.

Where a relevant trade mark is recognizable within a domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, 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; or
- (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Marks. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services.

To the contrary, the disputed domain name has not been used in respect of an active website, and, instead, it has been offered for sale via the Website.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

Based on the available record, including the offer for sale by the Respondent of the disputed domain name via the Website, the Panel finds that bad faith has been made out.

The Panel finds the timing of the Respondent's registration of the disputed domain name – immediately after the public announcement of the Complainant's plans to invest in the blockchain field – supports a finding of bad faith in this proceeding.

The Panel also finds that, in light of the repute of the Trade Mark, and on the evidence herein, there cannot be any actual or contemplated good faith use of the inherently misleading disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

### **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 <moelisblockchain.com> be transferred to the Complainant.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Dated: October 6, 2022