

ADMINISTRATIVE PANEL DECISION

Wolfspeed, Inc. v. YangZhiChao

Case No. D2022-3989

1. The Parties

The Complainant is Wolfspeed, Inc., United States of America ("United States"), represented by SafeNames Ltd., United Kingdom.

The Respondent is YangZhiChao, China.

2. The Domain Name and Registrar

The disputed domain name <wolfspee.com> is registered with 22net, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 25, 2022. On October 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 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 October 26, 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 October 27, 2022.

On October 26, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On October 27, 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 of the Complaint, and the proceeding commenced on November 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 24, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on December 2, 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 a company founded in 1987, headquartered in the State of North Carolina in the United States, and listed on the New York Stock Exchange. The Complainant is a leading manufacturer and supplier of lighting products, power products and silicon carbide semiconductors for in particular the automotive and energy sectors, marketed and sold since 2015 under the trade mark WOLFSPPEED (the "Trade Mark").

The Complainant is the owner of several registrations for the Trade Mark in jurisdictions worldwide, including United States registration No. 5530599, with a registration date of July 31, 2018; and European Union registration No. 014730683, with a registration date of April 15, 2016.

The Complainant is also the owner of numerous domain names comprising the Trade Mark, including <wolfspeed.co>, <wolfspeed.cn> and <wolfspeed.com>.

B. Respondent

The Respondent is an individual resident in China.

C. The Disputed Domain Name

The disputed domain name was registered on March 11, 2022.

D. Use of the Disputed Domain Name

The disputed domain name is resolved to an English language parking page with sponsored links relating to silicon carbide and power products, including links to websites of the Complainant's competitors (the "Website"). It has also been offered for sale for a minimum price of USD 3,999 via the Afternic platform.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or 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 has been registered and is being used in bad faith.

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 several reasons, including the fact the Website is an English language website, and the Respondent has been the named respondent in multiple previous domain name proceedings in which the language of the proceeding was English, both of which factors support the conclusion that the Respondent is conversant in English.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response.

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.

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

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 a common, obvious, or intentional misspelling of the Trade Mark – namely, the Trade Mark, with the final letter “d” missing (see [WIPO Overview 3.0](#), section 1.9).

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 disputed domain name:

- (i) before any notice to the respondent 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; or
- (ii) 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 trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed 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 Mark. 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 consists of a typo of the Complainant's Trade Mark and domain name, and has been resolved to a parking page with sponsored links relating to silicon carbide and power products, some of which are in direct competition to the products manufactured, marketed and sold by the Complainant since 2015 under the Trade Mark. The disputed domain name has also been offered for sale for a minimum price of USD 3,999 via the Afternic platform.

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

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In light of the manner of use and the offer for sale of the disputed domain name set out in Section B above, the Panel finds that the requisite element of bad faith has been made out pursuant to paragraphs 4(b)(iv) and 4(b)(i) of the Policy.

The Panel therefore finds 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 <wolfspee.com> be transferred to the Complainant.

Sebastian M.W. Hughes

Sebastian M.W. Hughes

Sole Panelist

Dated: December 16, 2022