

ADMINISTRATIVE PANEL DECISION

Frontline Insurance v. 杨智超 (Zhi Chao Yang)

Case No. D2023-3170

1. The Parties

The Complainant is Frontline Insurance, United States of America ("United States"), represented by ZeroFox, United States.

The Respondent is 杨智超 (Zhi Chao Yang), China.

2. The Domain Name and Registrar

The disputed domain name <frontlieinsurance.com> is registered with Cloud Yuqu LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 21, 2023. On July 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 2023, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 26, 2023 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 amendment to the Complaint in English on August 1, 2023.

On July 26, 2023, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On July 30, 2023, 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 amendment to the 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 Chinese and English of the Complaint, and the proceedings commenced on August 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 18, 2023.

The Center appointed Andrew Sim as the sole panelist in this matter on October 5, 2023. 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 an insurance company founded in the 1990s in the United States. The Complainant mainly serves the Southeast United States.

The Complainant is the owner of trademark registration of the FRONTLINE HOMEOWNERS INSURANCE mark (the "Mark") in the United States (United States trademark registration No. 4127603, registered on April 17, 2012). The Complainant also owns the domain name <frontlineinsurance.com> and uses it to host its official website at "www.frontlineinsurance.com".

The disputed domain name was registered on July 14, 2022. At the time of drafting this Decision, as submitted by the Complainant, the disputed domain name revolves to a parking page displaying sponsored links related to other companies in the Complainant's field of activity.

5. Parties' Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is identical or confusingly similar to the Mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name was registered and are being used in bad faith.

Firstly, the Complainant contends that the disputed domain name is identical or at least confusingly similar to the Mark in which the Complainant has rights. The disputed domain name is confusingly similar in that it wholly incorporates the Mark and only a letter is removed from it. Such changes are not significant enough to create new phrases or meaning, and the disputed domain name is centered around and a typographical variation of "frontline insurance" which is referential to the Complainant. The Complainant further contends that the changes made are designed to divert consumers to the disputed domain name if a typo is made while a consumer is manually inputting the Complainant's domain name.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. Since the disputed domain name revolves to a parking page that offers no content other than sponsored links which direct users to competing services related to the Complainant's field of activity, there is no evidence to suggest that the Respondent is using the disputed domain name in connection with any *bona fide* offering of goods and services or any other legitimate noncommercial or fair use. It also follows that the Respondent is fully aware of the Mark and its associated services. The Complainant also submits that it is unlikely for the Respondent to be commonly known by the disputed domain name. In addition, the disputed domain name implies that there is a connection between the Mark and the sponsored links, and such false connection could damage the Complainant's business. Even such false connection is not found by consumers, the Respondent is advertising the Complainant's competitors and thereby using the Mark to present competing services.

Thirdly, the Complainant contends that, as elaborated in the above, the Respondent is fully aware of the Complainant's services, and such knowledge at the time of registration is enough to establish bad faith.

With respect to the bad faith use, the Complainant contends that the Respondent intends to use the disputed domain name to (1) confuse and misdirect the Complainant's customers to draw traffic to its sites via common user typos; and (2) gain commission from the sponsored links which direct users to third-party websites. Together with the fact that the Respondent has not used the disputed domain name in a capacity that aligns with a legitimate business or noncommercial use and chosen to conceal its contact details with a privacy service, the Complainant contends that the Respondent has acted in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Matter – Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. According to the information received from the Registrar, the language of the Registration Agreement for the disputed domain name is Chinese.

The Complainant submits that the language of the proceeding should be English. The Complainant mainly contends that the disputed domain name is written using Latin characters and a typographical variation of English words "frontline insurance"; it would require a working knowledge of English to become familiar with the Complainant's brand and services, and the Respondent's action of using the disputed domain name to direct users to a parking page displaying advertisements in English leading to searches of similar services to the Complainant demonstrates that the Respondent is sufficiently familiar with English; and that the Complainant is not familiar with Chinese and would be disadvantaged should the proceeding not be in English.

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 accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel further notes that the Center has notified the Respondent in both Chinese and English of the language of the proceeding and the commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding or respond to the Complaint in either English or Chinese. Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter – Three Elements

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which it has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the Mark.

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Mark and the disputed domain name. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of a registered trademark to assess whether the registered trademark is recognizable within the disputed domain name. As indicated in section 1.10 of the WIPO Overview of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), design elements incapable of representation in domain names would be largely disregarded for purposes of assessing identity or confusing similarity. Further, it is long-established that the generic Top-Level Domain ("gTLD") ".com" may be ignored when assessing the confusing similarity between the disputed domain name and the Mark. Only the second-level portion of the disputed domain name is taken into consideration.

The disputed domain name incorporates the dominant feature of the Mark with the mere deletion of "homeowners", and the Mark remains recognizable in the disputed domain name. Where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (section 1.7 of the [WIPO Overview 3.0](#)). Further, as submitted by the Complainant, the disputed domain name is the typographical variation of English words "frontline insurance" by simply removing a single letter ("n"). Such does not prevent a finding of confusing similarity.

Thus, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There is no evidence to suggest that the Complainant has any connection with the Respondent, or that the Complainant has authorized the Respondent to use its trademarks in any manner. Further, the Panel agrees with the Complainant that it is unlikely for the Respondent to be commonly known by the disputed domain name in any manner.

In addition, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. As submitted by the Complainant, the disputed domain name directs users to a webpage displaying sponsored links to third-party websites which would potentially generate revenues via the pay-per-click system to the Respondent. In this regard, section 2.9 of the [WIPO Overview 3.0](#) provides that unless "genuinely related to the dictionary meaning" of the disputed domain name, "a parked page comprising [pay-per-click] links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users". The Panel considers that this principle applies in this case and there is no evidence that the sponsored links in question fall within the exception stated in section 2.9 of the [WIPO Overview 3.0](#). Further, the sponsored links direct users to competing services in the Complainant's field of activity. Such use cannot be inferred that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. See, e.g., *Soluxury HMC v. Abhinav Mardia*, WIPO Case No. [D2022-5028](#).

Thus, the Panel accepts that on a balance of probabilities the Complainant's contentions were soundly based, and the Complainant has established a *prima facie* case. The burden of production on this element shifts to the Respondent, and the Respondent failed to submit a response. The Panel concludes that the Respondent has not rebutted the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the Respondent most likely was aware of the Complainant's business when the Respondent registered the disputed domain name. The disputed domain name was registered after the Complainant registered the Mark. Further, the disputed domain name revolves to a parking page that displays sponsored links which direct users to competing services in the Complainant's field of activity. The Panel therefore finds that the Respondent's likely awareness of the Complainant's trademark rights as well as its scope of business at the time of registration suggests bad faith.

In addition, as indicated in section 6.2B above, the Complainant has satisfied the Panel that it is more likely than not that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services. It is likely that the Respondent chose to register the confusingly similar disputed domain name in order to obtain commercial benefit from using the disputed domain name in connection with a monetized parking page and misleading unsuspecting Internet users into believing such disputed domain name and its associated sponsored links are connected to the Complainant.

The Panel is therefore satisfied that the disputed domain name was registered and is being used in bad faith within the meaning of paragraphs 4(a)(iii) 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 <frontlieinsurance.com> be cancelled.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: October 19, 2023