

ADMINISTRATIVE PANEL DECISION

Language Line, LLC v. Yang Zhi Chao (杨智超)
Case No. D2023-4244

1. The Parties

The Complainant is Language Line, LLC, United States of America ("U.S."), represented by Elster & McGrady LLC, U.S.

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

2. The Domain Name and Registrar

The disputed domain name <langugeline.com> is registered with eName Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 11, 2023. On October 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 13, 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 (None listed) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 16, 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 amended Complaint on October 20, 2023.

On October 16, 2023, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. On October 16, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any 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 Chinese and English of the Complaint, and the proceedings commenced on October 31, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was November 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 21, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on December 8, 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 was founded in 1982. It states that it is one of the world's most experienced and trusted language services providers and, for decades, been partnering with nearly every Fortune 100 company in the healthcare, financial services, technology, insurance, telecommunications, aerospace, defense, and food and drug industries.

The Complainant is the owner of various trade mark registrations containing the LANGUAGE LINE / LANGUAGELINE elements (the "LANGUAGE LINE Marks") which it uses for its language translation and localization services around the world. Its trade mark registrations include the following:

- 1) China trade mark registration No. 829979 for LANGUAGE LINE, registered on April 7, 1996;
- 2) U.S. trade mark registration No. 4509021 for LANGUAGELINE SOLUTIONS, registered on April 8, 2014; and
- 3) U.S. trade mark registration No. 4417152 for LANGUAGELINE TRANSLATION SOLUTIONS, registered on October 15, 2013.

The Complainant uses and operates the domain name <language.com> to market its services.

The Respondent registered the disputed domain name on June 17, 2022. The Complainant provided evidence that the disputed domain name resolves to a parking page with links to topics such as "Spanish Interpreter", "Translation Services Near Me" and "Language Translation".

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- i. The disputed domain name is confusingly similar to the Complainant's LANGUAGE LINE Marks in which it has rights. The disputed domain name is a typo-squatted, mis-spelt version of the Complainant's LANGUAGE LINE Marks which (where applicable) omits the "solutions" and "translation" elements. The addition of the generic Top-Level Domain ("gTLD") ".com" does not distinguish the disputed domain name from the Complainant's LANGUAGE LINE Marks.
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not making a *bona fide* offering of goods or services or legitimate noncommercial or fair use of the disputed domain name. The Respondent has never been commonly known by the LANGUAGE LINE Marks. The Complainant has not authorized or licensed the Respondent to use its LANGUAGE LINE Marks in a domain name. Further, the Respondent is not utilizing the disputed domain name for a *bona fide* or legitimate business. The disputed domain name resolves to a website containing Pay Per Click ("PPC") links that purports to offer services that directly compete with the Complainant's services. This use does not constitute a *bona fide* or legitimate business use.

- iii. The Respondent registered and is using the disputed domain name in bad faith. The Respondent had actual or constructive knowledge of the Complainant's LANGUAGE LINE Marks when he registered the disputed domain name. The Complainant's LANGUAGE LINE Marks have been registered in China where the Respondent is located. The Respondent's use of the disputed domain name for the purposes of generating revenue from PPC advertisement links to third-party services that compete with the Complainant's services is explicit evidence of bad faith registration and use. The mis-spelling of the term "language" in the disputed domain name is evidence of bad faith, as is the fact that the Respondent has engaged in a pattern of cybersquatting. The Respondent has been an unsuccessful respondent in at least 51 UDRP domain name dispute cases.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issues

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.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English as it is evident that the Respondent is capable of communicating in English. The Complainant pointed out the following:

- a) The disputed domain name is in English;
- b) The Respondent's ability in English is demonstrated by his capability in fashioning a typosquatted version of the Complainant's trade mark;
- c) The content of the website to which the disputed domain name resolves is in English and targets English speakers looking for the Complainant's services;
- d) The privacy policy posted on the said website is in English; and
- e) The Respondent is a seasoned domainer, having been named as respondent in around 50 past UDRP proceedings, and at least two of them were conducted in English.

The Respondent did not make any submissions with respect to the language of the proceeding.

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).

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. The Panel believes the Respondent would not be prejudiced by this determination.

6.2 Substantive Issues

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Further, it has been held by past panels that domain names consisting of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The omission of the letter "a" in the Complainant's LANGUAGE LINE Mark is an obvious intentional misspelling.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent was not authorized by the Complainant to use the latter's LANGUAGE LINE Marks or to register a domain incorporating a mis-spelt version of the LANGUAGE LINE mark. There is no evidence that the Respondent is commonly known by the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the disputed domain name was registered in 2022. The Complainant's LANGUAGE LINE mark was registered in China from as early as 1996 and appears to have been extensively used for many years before that. The disputed domain name incorporates the entirety of the Complainant's LANGUAGE LINE mark with the omission of the letter "a". The Panel is persuaded that the Respondent was well aware of the Complainant and its LANGUAGE LINE Marks and targeted the Complainant to exploit its well-established LANGUAGE LINE mark for monetary gain. It is also persuaded that the Respondent deliberately sought to rely on the high likelihood of the domain name being mis-typed by Internet users who seek the Complainant's website. UDRP Panels have held that particular circumstances such as the nature of the domain name (e.g., a domain name with typographical error of a well-known mark, the chosen top-level domain, a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name) may be taken into account in assessing whether the respondent's domain name registration was in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also draws an adverse inference from the Respondent's failure to file any response or to rebut the Complainant's assertions, and his pattern of cybersquatting.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <langugeline.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: December 20, 2023