

## **ADMINISTRATIVE PANEL DECISION**

Bubble Beauty, Inc. DBA Bubble Skincare v. 林剑贤 (jianxianlin)

Case No. D2023-4943

### **1. The Parties**

Complainant is Bubble Beauty, Inc. DBA Bubble Skincare, United States of America (“USA”), represented by VLP Law Group LLP, USA.

Respondent is 林剑贤 (jianxianlin), China.

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

The disputed domain name <hellobubbleus.net> 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 November 28, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 29, 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) and contact information in the Complaint. The Center sent an email communication to Complainant on November 29, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. On the same day, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. Complainant filed an amended Complaint on December 1, 2023 including its request for English to be the language of the proceeding. Respondent did not submit any comment on Complainant’s submission.

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 Respondent in Chinese and English of the Complaint, and the proceedings commenced on December 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 3, 2024.

The Center appointed Yijun Tian as the sole panelist in this matter on January 19, 2024. 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**

Complainant, Bubble Beauty, Inc. DBA Bubble Skincare, is a company incorporated in the USA. It is a global skincare retailer operating an online shop via its official domain name <hellobubble.com>. Founded in 2018 by its CEO Shai Eisenman, Complainant offers a pioneering skincare line for young skin, available in over 12,000 retail stores nationwide and online platforms such as Amazon, Beauty Bay, and its official Bubble Website (Annex 5 to the Complaint).

Complainant has rights in the BUBBLE SKINCARE marks. Complainant is the owner of the BUBBLE SKINCARE trademarks, including the USA trademark registration for BUBBLE SKINCARE, registered on May 2, 2023 (registration number: 7043262), and claiming a first use date of April 30, 2022 (Annex 6 to the Complaint).

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

Respondent is 林剑贤 (jianxianlin), China.

The disputed domain name <hellobubbleus.net> was registered (with Alibaba Cloud Computing Ltd., d/b/a HiChina (www.net.cn) by Respondent on September 26, 2023.

According to the Complaint and relevant evidence provided by Complainant, the disputed domain name was resolved to a deceptive website purporting to be an authorised online store for Complainant's products, and the website was in English languages and contained the contents copied from the original website of Complainant including Complainant's BUBBLE SKINCARE mark entirely (Annex 9 to the Complaint).

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

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

Complainant contends that the disputed domain name is confusingly similar to Complainant's BUBBLE SKINCARE trademark. The disputed domain name incorporates the leading dominant and distinctive feature of the BUBBLE SKINCARE mark. The mere addition of terms such as "hello" and the abbreviation for USA "us" does not provide adequate distinction to negate the conclusion that the disputed domain name is confusingly similar to the trademark BUBBLE SKINCARE.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

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

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

### 6.1. Language of the Proceeding

The language of the Registration Agreements for the disputed domain name <hellobubbleus.net> 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.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint and amended Complaints in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) Complainant, based in the USA, primarily operates in English and sells products in USD on its website.
- (b) The registration data for the disputed domain shows the Registrar as Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), with an abuse email address in English.
- (c) The ICANN lookup page and related agreements accessed through the Registrar's website are in English.
- (d) Using Chinese in the administrative proceeding would impose high translation costs and cause delays for Complainant.
- (e) Previous UDRP panels have inferred from the fact that the disputed domain name and the content of the website thereunder are in English that Respondent is able to communicate in English.
- (f) Respondent's use of English in the disputed domain name and the copycat website suggests proficiency in the language.
- (g) The disputed domain name incorporates English terms like "hello", "bubble", and "us", with "bubble" being a significant identifier of Complainant's brand. Respondent's copycat website extensively uses English text and USD for pricing, indicating a strong understanding of English to effectively impersonate Complainant.
- (h) The presence of English-only "contact us" pages on Respondent's website suggests an expectation of English communication from consumers, further demonstrating proficiency in the language.

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).

On the record, Respondent appears to be located in China and thus presumably not a native English speaker, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain name is registered in Latin characters, particularly in English (e.g., English words "hello", and "us", rather than Chinese script; (b) the generic Top-Level Domain ("gTLD") of the disputed domain name is ".net", so the disputed domains name seems to be prepared for users worldwide, particularly English speaking countries; (c) the webpages to which the disputed domain name resolves are in English (Annex 9 to the Complaint); (d) the Center has notified Respondent of the language of the

proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant's request that English be the language of the proceeding; (e) the Center also notified Respondent in both Chinese and English of the Complaint, and informed Respondent that it would accept a response in either English or Chinese, but Respondent chose not to file any response.

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 Issues: Three Elements**

### **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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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

The Panel finds Complainant's BUBBLE SKINCARE 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.

While the addition of other characters, "hello" and "us", may bear on the assessment of the second and third elements, the Panel finds the addition of such characters does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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 record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

More specifically:

(i) there has been no evidence adduced to show that Respondent used the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons to justify the choice of the term "bubble", the distinctive part of Complainant's BUBBLE SKINCARE

trademark, in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the BUBBLE SKINCARE trademark or to apply for or use any domain name incorporating the BUBBLE SKINCARE marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in September 2023, after the BUBBLE SKINCARE mark was registered (May 2023) and had been in use (April 2022). The disputed domain name is confusingly similar to Complainant's BUBBLE SKINCARE marks; and

(iii) there has been no evidence adduced to show that Respondent was making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name resolved to a website purporting to be an authorised online store for Complainant's products, contained content copied from the original website of Complainant, and purport to offer Complainant's goods for sale. It seems likely that Respondent was making profits through the Internet traffic attracted to the website under the disputed domain name. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); and *Pet Plan Ltd. v. 叔中俊 and 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3358](#).)

Panels have held that the use of a domain name for illegal activity (i.e., impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that Respondent has registered and used the disputed 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.

Based on the information provided by Complainant, the Panel finds that Complainant has a reputation in the BUBBLE SKINCARE marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant's trademark in mind at the time of the registration of the disputed domain name (in September 2023). This has been reinforced by the fact that the disputed domain name incorporates the distinctive part of Complainant's BUBBLE SKINCARE trademark, "bubble", entirely, and that the use of the Complainant's trademark on the website of the disputed domain name.

Respondent has used the website resolved by the disputed domain name for displaying the contents copied from the original website of Complainant, purports to offer Complainant's goods for sale, and prominently displays Complainant's BUBBLE SKINCARE mark (Annex 9 to the Complaint).

Thus, the Panel concludes that Respondent is using a confusingly similar disputed domain name with the intention to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

UDRP panels have held that the use of a domain name for illegal activity (i.e., impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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

## **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 <hellobubbleus.net> be transferred to Complainant.

*/Yijun Tian/*

**Yijun Tian**

Sole Panelist

Date: February 15, 2024