

ADMINISTRATIVE PANEL DECISION

Great Clips, Inc. v. Yang Zhi Chao (杨智超)
Case No. D2023-5415

1. The Parties

The Complainant is Great Clips, Inc., United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

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

2. The Domain Name and Registrar

The disputed domain name <greatclipsonlinecheckin.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 December 30, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2024, 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 (Not Provided) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the 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. The Complainant filed an amended Complaint in English on January 5, 2024, including its request that English be the language of the proceeding. The Respondent did not submit any comment on the 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 the Respondent in Chinese and English of the Complaint, and the proceedings commenced on January 15, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was February 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 8, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on February 20, 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

The Complainant is a company established in 1982 and based in the United States. It operates over 4,400 hair salons in all 50 states of the United States as well as Canada. In addition, the Complainant has around 700 franchisees in more than 190 markets and serves around 2 million customers every week worldwide.

The Complainant is the owner of the GREAT CLIPS trademark in different jurisdictions. For example, United States Registration No. 1341594 for GREAT CLIPS registered on June 11, 1985 in Class 42, United States Registration No. 4048419 for , registered on November 1, 2011 in Class 44, Chinese Registration No. 59776453 for GREAT CLIPS, registered on April 21, 2022 in Class 35, Chinese Registration No. 59752018 for GREAT CLIPS registered on March 28, 2022 in Class 3.

The Complainant is the owner of the domain name <greatclips.com> and has used the domain name as its website and official email address for over 20 years. The Complainant's website allows customers to check in and add their names to a waitlist for services under its GREAT CLIPS mark at the domain <greatclips.com/online-check-in>.

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

The disputed domain name was registered on August 26, 2023. At the date of the Complaint and the Decision, the disputed domain name resolved to an active pay-per-click ("PPC") webpage that contains an ever-changing list of multiple third-party links to different advertisements.

On December 20, 2023, the Complainant sent a cease-and-desist letter to the Registrar. On the same day, the Registrar confirmed that the letter was forwarded to the Respondent. At the time of the Complaint, there was no response from the Respondent to the letter.

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 the disputed domain name fully incorporates the GREAT CLIPS mark in its entirety and is confusingly similar to the Complainant's mark. The additional terms "online" and "checkin" (or a misspelling thereof) are generic terms and cannot distinguish the disputed domain name from the Complainant's mark. On the contrary, the additional terms increase the likelihood of confusion that consumers will believe that the disputed domain name is associated with the Complainant given that the Complainant also provides its online check-in services to its clients under its GREAT CLIPS mark and its website <greatclips.com/online-check-in>.

The Complainant further alleges that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Registrant registered the disputed domain name without the Complainant's authorization, consent or permission. The Respondent is not commonly known by the disputed domain name and there is no evidence to conclude that the Respondent owns any marks that incorporate the

Complainant's GREAT CLIPS mark. The pertinent WHOIS information does not identify the registrant of the disputed domain name which also demonstrates that the Respondent is not commonly known by the disputed domain name. Further, the Respondent has used the disputed domain name to divert Internet traffic to various websites to generate revenue known as PPC advertising. The Respondent has not operated any bona fide or legitimate business under the disputed domain name and is not making a protected noncommercial or fair use of the same.

The Complainant finally asserts that the disputed domain name was registered and is being used in bad faith. At the time of registration of the disputed domain name, it is apparent that the Respondent must have actual and constructive knowledge of the Complainant's GREAT CLIPS mark and its business as the disputed domain name incorporated the GREAT CLIPS mark in entirety. The Respondent's redirection of the disputed domain name to a PPC advertising website which generates revenue for himself is evidence of bad faith. The Complainant noted that the Respondent used a privacy or proxy registration service to register the disputed domain name in order to hide his identity. Moreover, the Respondent's failure to articulate any justification for the disputed domain name's inclusion of the GREAT CLIPS marks in response to the December 20, 2023 cease-and-desist letter further supports a finding bad faith. Finally, the Complainant alleges that the Respondent is a repeat cybersquatter who has lost numerous previous decisions under the Policy.

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(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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (i) the disputed domain name contains English words in Latin script, rather than Chinese script; (ii) the disputed domain name wholly contain the term "great clips", which is identical to the Complainant's GREAT CLIPS mark in Latin script; (iii) the disputed domain name resolves to a web page containing PPC links in English; (iv) the Complainant's counsel has no familiarity with reading and writing in the Chinese language, and therefore, conducting proceedings in Chinese would add unnecessary cost to the Complainant and cause delay in commencement of proceedings; (v) the Respondent is presumed to have knowledge of English since the disputed domain name and the website content are in English; and (vi) previous WIPO UDRP panel decisions involving the same Respondent and similar facts, found that the Respondent understood and concluded that proceedings be conducted in English.

The Respondent did not make any specific 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.

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

Based on the available records, the 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 entirety of the GREAT CLIPS mark is reproduced 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.

Although the addition of other terms "online" and "checkin" (or a misspelling thereof) may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Lastly, it is permissible for the Panel to ignore the generic Top Level Domain (gTLD), in this case ".com", under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 has not provided evidence of a legitimate or noncommercial use of the disputed domain names or reasons to justify the choice of the disputed domain name that is confusingly similar to the Complainant's GREAT CLIPS mark. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's marks or register the disputed domain name.

Moreover, at the time of filing the Complaint and, at the date of this Decision, the disputed domain name resolves to an active PPC webpage that lists out multiple third-party links. Prior UDRP panels have found

that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

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.

The Complainant's GREAT CLIPS mark has been widely registered around the world, including in the United States and China. The disputed domain name was registered long after the registration of the Complainant's GREAT CLIPS mark. Through extensive use and advertising, the Complainant's GREAT CLIPS mark is known throughout the world including China where the Respondent is apparently located in. Search results using the key word "great clips" on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the GREAT CLIPS mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's GREAT CLIPS mark when registering the disputed domain name, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that the "mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain name fully incorporates the Complainant's widely known GREAT CLIPS mark in its entirety with generic terms "online" and "checkin" (or misspelling thereof). Given that the Respondent has no relationship with the Complainant, a presumption of bad faith has been created.

The disputed domain name currently directs Internet users to a parking website where Internet users are presented with different third-party links of a commercial nature. The adoption by the Respondent of the PPC business model using the Complainant's trademark without authorization for the purpose of attracting Internet users for commercial gain, is an example of bad faith under the Policy, which in conjunction with the composition of the disputed domain name may lead Internet users to be confused into thinking, even if only initially, that these third-party links on the website at the disputed domain name are in some way endorsed by the Complainant. Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the Complainant's trademark in its entirety (and is confusingly similar to the domain name used by the Complainant for its online check-in website, namely <greatclips.com/online-check-in>), further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising of other third parties' trademarks. The Panel finds this case is a continuation of that bad faith pattern. See *Skyscanner Ltd. v. (杨智超) Yang Zhi Chao*, WIPO Case No. [D2023-3983](#) and *Lego Juris A/S v. Yang Zhi Chao (杨智超)*, WIPO Case No. [D2023-0056](#). Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant's allegations of bad faith either in response to the cease-and-desist letter or in the response to the Complaint in this proceeding. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

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 <greatclipsonlinecheckin.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: March 5, 2024