

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v.
Mengxiangwu, Mengxiangwu
Case No. D2022-0668

1. The Parties

The Complainant is Compagnie Générale des Etablissements Michelin, France, represented by Dreyfus & Associés, France.

The Respondent is Mengxiangwu, Mengxiangwu, China.

2. The Domain Name and Registrar

The disputed domain name <myriken.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 25, 2022. On February 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 28, 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 March 1, 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 on March 3, 2022.

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 proceedings commenced on March 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 4, 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

The Complainant is a leading tire company headquartered in France. It has commercial presence in 170 countries and has 124,000 employees worldwide, with around 5,644 employees in China where the Respondent appears to be located. Riken, a tire brand originally of the Japanese company Riken Gomu Industry, became a subsidiary of the Complainant in 1992. Since then, Riken branded tires have been widely distributed in the United States of America and Europe.

The Complainant owns numerous RIKEN trademark registrations around the world, including International Trademark RIKEN No. 622981 registered on July 11, 1994 in Class 12 designating Australia, China, Denmark, France, Italy, Lithuania, and Russian Federation.

Further, the Complainant has owned and used the domain name <riken.com> since June 8, 1996.

The Respondent appears to be an individual with an address in China.

The disputed domain name was registered on October 29, 2021 and resolves at times to a website showing pornographic content and other times seems not to resolve.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the RIKEN trademark in which the Complainant has rights. Namely, the disputed domain name incorporates the RIKEN trademark in its entirety, and the other term "my" is a generic term which is insufficient to avoid a likelihood of confusion. Therefore, the disputed domain name is likely to confuse or mislead consumers to believe that the disputed domain name is owned by the Complainant or at the very least related to the Complainant in some way.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect.

Further, the Complainant explains that the website at the disputed domain name displays pornographic content and such use cannot be considered use in connection with a *bona fide* offering of goods and services.

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

The Complainant explains that it is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name since the Complainant and its mark are well-known through the world, including in China. This is supported by the fact that the disputed domain name entirely reproduces the Complainant's trademark RIKEN with the generic term "my" and the fact that the Complainant's RIKEN trademark significantly predates the registration date of the disputed domain name. Even if the Respondent was not aware of the Complainant or the RIKEN mark, a simple search online would have shown references to the Complainant and its products.

The Complainant also explains that the disputed domain name is directed to a website which displays adult content and it is more likely than not that the Respondent's primary motivation for registering the disputed domain name was to freeride on the goodwill of the trademark RIKEN for commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark RIKEN.

As for the disputed domain name, it contains the RIKEN mark in its entirety along with the term "my" which can be disregarded from consideration (moreover as it is a common term lacking distinctiveness).

Accordingly, the dominant element of the disputed domain name is "riken" which corresponds exactly to the Complainant's trademark; thus, the disputed domain name is confusingly similar to the Complainant's trademark.

According to the consensus view expressed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, a domain name is considered confusingly similar to a trademark where it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name".

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record as set out above, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

In addition, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant's mark which especially with the addition of the possessive "my" carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The disputed domain name is linked to a website showing sexually explicit content, not related to the Complainant in any way, and UDRP panels have consistently held that use of a confusingly similar domain name for a website with adult content is evidence of bad faith registration and use. See *Vivendi v. Guseva Svetlana*, WIPO Case No. [D2018-2631](#) and *Christian Dior Couture v. Paul Farley*, WIPO Case No. D2008-0008.

Further, the panel can think of no reason for the Respondent to have registered the disputed domain name other than create a likelihood of confusion with the Complainant's trademark for commercial gain.

For the reasons given above, the Panel finds that the third element 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, <myriken.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: April 21, 2022