

## **ADMINISTRATIVE PANEL DECISION**

Purolite LLC v. 高琴 (gao qin), 深圳蓝膜水处理技术有限公司 (shen zhen lan mo shui chu li ji shu you xian gong si)

Case No. D2022-1435

### **1. The Parties**

The Complainant is Purolite LLC, United States of America (“USA”), represented by Fish & Richardson P.C., USA.

The Respondent is 高琴 (gao qin), 深圳蓝膜水处理技术有限公司 (shen zhen lan mo shui chu li ji shu you xian gong si), China.

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

The disputed domain name <purolite-ch.com> is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On April 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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 April 25, 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 amendment to the Complaint in English on April 26, 2022.

On April 25, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 26, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center received the Respondent’s email communications on April 26, 2022 and April 27, 2022, in which the Respondent indicated that the website at the disputed domain name had been shut down, and it could cancel the disputed domain name or transfer the disputed domain name to the Complainant. On April 27, 2022, the Center informed the Parties that if the Parties wished to explore settlement options, the Complainant had to submit a request for suspension by May 3, 2022. The Center also informed the Parties

that such request would lead to a suspension of this proceeding for 30 days and that if the Center did not receive such request for suspension, the proceeding would continue. The Center did not receive a request for suspension from the Complainant by May 3, 2022.

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 English and Chinese of the Complaint, and the proceedings commenced on May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not send any further email communication nor did it submit any response on the merits. Accordingly, on May 31, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on June 21, 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 company headquartered in the USA, active in the chemical industry. The Complainant claims to be a global leader in resin-based separation, purification and extraction technology and particularly develops and manufactures resin beads used to separate, remove or recover very specific elements and compounds. The Complainant has manufacturing facilities in the USA, China, and Romania and operates five research and development centers across the Americas, Europe and Asia. The Complainant has been active in the Respondent's jurisdiction, China, since at least as early as 1995 with local sales offices in *inter alia* Beijing, Chengdu, Guangzhou, Jinan, Shanghai Shenyang, and Xi'an.

The Complainant provides evidence that it owns a trademark portfolio protecting the mark PUROLITE, including, but not limited to, the International trademark registration number 1137346, for the word mark PUROLITE, with the registration date of October 1, 2012, designating China, and United Kingdom trademark registration number UK00003211198 for the word mark PUROLITE, with registration date of April 28, 2017 (and filing date of February 7, 2017). The Complainant also owns a portfolio of domain name registrations, including <purolite.com>, registered on November 20, 1996, which it uses to host its official website, which promotes, offers for sale and disseminates information about its products and services.

The disputed domain name was registered on June 17, 2019, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directed to a website designed to look like one of the Complainant's legitimate websites, prominently using the Complainant's PUROLITE trademarks and logo and offering to sell resin bead products branded with the PUROLITE trademarks. However, the Panel notes that on the date of this Decision, the disputed domain name resolves to an inactive website.

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

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

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for PUROLITE, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are distinctive and used intensively, and submits company and trademark registration information as well as evidence regarding its official company website. The Complainant particularly contends that the component “-ch” in the disputed domain name constitutes a geographical term, and that the disputed domain name remains confusingly similar to the Complainant’s trademarks. The Complainant also argues that the disputed domain name directs to an imposter website designed to look like it is a legitimate website or website affiliated with or sponsored by the Complainant and that it therefore does not constitute a *bona fide* offering of goods or services, nor does it constitute a legitimate noncommercial or fair use of the disputed domain name. The Complainant adds that the Respondent is in no way connected to or licensed by the Complainant, and that the Respondent’s use of the PUROLITE trademarks in the disputed domain name does not confer any rights or legitimate interests on it. As to bad faith, the Complainant essentially argues that the Respondent was on notice of the Complainant’s rights in the PUROLITE trademarks when it registered the disputed domain name and that the Respondent is passing itself off as the Complainant in an attempt to deceive unsuspecting Internet users into believing that the disputed domain name is the Complainant’s legitimate website and thereby hijack business from the Complainant.

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

## **B. Respondent**

The Respondent’s communications in this proceeding are limited to its emails of April 26, 2022 and April 27, 2022, by which it essentially stated that it had already deactivated its website hosted at the disputed domain name and was willing to cancel or transfer the disputed domain name. The Respondent did not provide any comments or arguments on the language or on the merits of this proceeding.

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

Pursuant to paragraph 11(a) of the Rules, the language of the administrative 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 Registrar’s verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint in English, and requests that English be the language of the proceeding. The Panel notes that although the Respondent sent email communications in Chinese, it did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant’s request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in a timely manner in Chinese and English to present its comments on the language of the proceeding and its response on the merits in either Chinese or English, but chose not to do so); the fact that the disputed domain name contains the Complainant’s trademark in its entirety; the fact that the disputed domain name is written in Latin letters and not in Chinese characters and that the Respondent’s website hosted at the disputed domain name had a tab for choosing the English language, from which the Panel deduces that the Respondent is able to understand and communicate in English; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant’s request, and has decided that the language of this administrative proceeding shall be English.

## 6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service 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 has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

### A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the marks PUROLITE based on its intensive use and registration of the same as trademarks in various jurisdictions.

As to confusing similarity of the disputed domain name with the Complainant's marks, the Panel considers that the disputed domain name consists of the combination of two elements, being the Complainant's PUROLITE trademark followed by the term "ch", connected by a hyphen. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." The Panel concludes that the disputed domain name contains the entirety of the Complainant's PUROLITE trademark, which remains easily recognizable in the disputed domain name as its only distinctive feature. The Panel considers that the addition of the term "ch" therefore does not prevent a finding of confusing similarity. The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard [WIPO Overview 3.0](#), section 1.11.1. Finally, the Panel finds that the hyphen may be disregarded as it is considered merely as a punctuation mark (see also *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark, and that the Complainant has satisfied the requirements of the first element under the Policy.

### B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, the Respondent is not a *bona fide* provider of goods or services under the disputed domain name, and is not making a legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply to the Complainant's contentions.

Moreover, upon review of the facts, the Complainant provides evidence that the disputed domain name directed to a website designed to look like one of the Complainant's legitimate websites, prominently using the Complainant's PUROLITE trademarks and logo and offering to sell resin bead products branded with the PUROLITE trademarks. Further, the website did not prominently and accurately disclose the relationship between the Respondent and the Complainant. The Panel finds that this shows a clear intent on the part of the Respondent to obtain commercial gain from misleading Internet users into believing that it is somehow

related to the Complainant, and to offer them unauthorized PUROLITE products. The Panel finds that such use does not confer any rights or legitimate interests in the disputed domain name on the Respondent. However, the Panel notes that on the date of this Decision, the disputed domain name resolves to an inactive website. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, *supra*).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that the registration of the disputed domain name was clearly intended to take unfair advantage of the Complainant's distinctive and fanciful trademarks for PUROLITE, by using such mark in its entirety in the disputed domain name to mislead and divert Internet users to the website hosted at the disputed domain name. The Panel considers the disputed domain name to be so closely linked and so obviously connected to the Complainant and its trademark that the Respondent's registration of the disputed domain name persuasively points toward the Respondent's bad faith. Moreover, given the distinctiveness, reputation and intensive use of the Complainant's trademark, including in the Respondent's jurisdiction China where the Complainant has extensive operations, the Panel finds that the registration of the disputed domain name clearly targeted such trademark, and that the Respondent therefore knew, or at least should have known, of the existence of the Complainant's trademark. In the Panel's view, the preceding elements establish the bad faith of the Respondent in registering the disputed domain name.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directed to a website designed to look like one of the Complainant's legitimate websites, prominently using the Complainant's PUROLITE trademarks and logo and offering to sell resin bead products branded with the PUROLITE trademarks. The Panel concludes from these facts that the Respondent intentionally attracted Internet users for commercial gain to the disputed domain name, by creating consumer confusion between the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of bad faith under paragraph 4(b)(iv) of the Policy.

However, on the date of this Decision, the disputed domain name resolves to an inactive website. In this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "[f]rom the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding." The Panel has reviewed all elements of this case, and attributes particular relevance to the fact that the disputed domain name contains the entirety of the Complainant's trademark, to the high degree of distinctiveness and the intensive use of the Complainant's trademark (including in the Respondent's jurisdiction China), and to the unlikelihood of any good faith use to which the disputed domain name may be put by the Respondent. In these circumstances, the Panel considers that such passive holding of the disputed domain name by the Respondent does not prevent a finding of bad faith.

On the basis of the foregoing elements, the Panel finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 <purolite-ch.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: July 5, 2022