

ADMINISTRATIVE PANEL DECISION

Ally Financial Inc. v. 杨智超 (Zhichao Yang), 杨智强 (yang zhi qiang), 钱梦聃 (qianmengdan), 徐海民 (Xu Hai Min)
Case No. D2022-1907

1. The Parties

The Complainant is Ally Financial Inc., United States of America (“United States”), represented by CSC Digital Brand Services AB, Sweden.

The Respondents are 杨智超 (Zhichao Yang), China; 杨智强 (yang zhi qiang), China; 钱梦聃 (qianmengdan), China; 徐海民 (Xu Hai Min), China.

2. The Domain Names and Registrars

The disputed domain names <allyhimeloans.com>, <allyhoemloans.com>, <allyhomeeloans.com>, <allyhomeioans.com>, <allyhomekoans.com>, <allyhomelloans.com>, <allyhomeloans.com>, <allyhomeloand.com>, <allyhomeloands.com>, <allyhomeloanns.com>, <allyhomeloanss.com>, <allyhomeloasn.com>, <allyhomelones.com>, <allyhomeloans.com>, <allyhomel0ans.com>, <allyhomeolans.com>, <allyhomesloan.com>, <allyhomleoans.com>, <allyhommeloans.com>, <allyhomrloans.com>, <allyhoneloans.com>, and <allyhoomeloans.com> are registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “First Registrar”).

The disputed domain names <allyhomelaons.com>, <allyhomelians.com>, <allyhomeloams.com>, <allyhomelonas.com>, <allyhomeoans.com>, and <allyhomloans.com> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Second Registrar”).

The disputed domain names will collectively be referred to as the “Domain Names”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2022. On May 28, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On May 31, 2022, the Registrars transmitted by email to the Center its verification response disclosing registrants and contact information for the Domain Names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 2022, providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed the first amended Complaint in English on June 6, 2022. The Complainant filed the

second amended Complaint in English on June 10, 2022, as a response to the Center's Consolidation Request email.

On June 2, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 6, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaints 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on June 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 7, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on July 8, 2022.

The Center appointed Karen Fong as the sole panelist in this matter on July 14, 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 was founded by General Motors Corporation to be a provider of financing to automotive customers. In 2009, the Complainant rebranded itself as Ally Financial, Inc. and was listed in the New York Stock Exchange. It is one of the top auto lenders in the United States. It also provides insurance, online banking, investment services, mortgage operations, and commercial finance services. These various services are provided under the trade mark ALLY. The Complainant has trade mark registrations in the United States and China for ALLY, ALLY HOME LOANS, and ALLY HOME. The earliest trade mark registration submitted in evidence is United States Registration No. 4264894 for ALLY, registered on December 25, 2012 (individually and collectively, the "Trade Mark").

The Complainant has a portfolio of domain names. Its two main websites operate through its domain names <ally.com> and for its home loans business, <allyhomeloans.com>.

The Domain Names were registered as follows:

Domain Name No.	Domain Name	Registrant Details	Registration Date
1	<allyhimeloans.com>	杨智强 (yang zhi qiang)	July 11, 2021
2	<allyhoemloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
3	<allyhomeeloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
4	<allyhomeioans.com>	杨智超 (Zhichao Yang)	July 17, 2021
5	<allyhomekoans.com>	杨智超 (Zhichao Yang)	July 17, 2021
6	<allyhomelloans.com>	杨智超 (Zhichao Yang)	October 3, 2020
7	<allyhomeloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
8	<allyhomeloand.com>	杨智超 (Zhichao Yang)	July 17, 2021
9	<allyhomeloands.com>	杨智超 (Zhichao Yang)	October 3, 2020
10	<allyhomeloanns.com>	杨智超 (Zhichao Yang)	July 17, 2021
11	<allyhomeloanss.com>	杨智超 (Zhichao Yang)	July 17, 2021
12	<allyhomeloasn.com>	杨智超 (Zhichao Yang)	July 17, 2021
13	<allyhomelones.com>	杨智超 (Zhichao Yang)	October 3, 2020

14	<allyhomeloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
15	<allyhomel0ans.com>	杨智超 (Zhichao Yang)	July 17, 2021
16	<allyhomeolans.com>	杨智超 (Zhichao Yang)	July 17, 2021
17	<allyhomesloan.com>	杨智超 (Zhichao Yang)	October 3, 2020
18	<allyhomleoans.com>	杨智超 (Zhichao Yang)	July 17, 2021
19	<allyhommeloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
20	<allyhomrloans.com>	杨智强 (yang zhi qiang)	July 11, 2021
21	<allyhonoans.com>	杨智强 (yang zhi qiang)	July 11, 2021
22	<allyhoomeloans.com>	杨智超 (Zhichao Yang)	July 17, 2021
23	<allyhomelaons.com>	钱梦聃 (qianmengdan)	March 10, 2020
24	<allyhomelians.com>	钱梦聃 (qianmengdan)	March 10, 2020
25	<allyhomeloams.com>	钱梦聃 (qianmengdan)	March 10, 2020
26	<allyhomelonas.com>	钱梦聃 (qianmengdan)	February 16, 2021
27	<allyhomeoans.com>	徐海民 (Xu Hai Min)	February 6, 2020
28	<allyhomloans.com>	徐海民 (Xu Hai Min)	February 6, 2020

All the Domain Names resolve to pay-per-click webpages with link headings such as: “Home Loan Mortgages”, “Home Loans”, and “Personal Loans”. Some of these links then redirect to third party companies which provide competing services to those of the Complainant (the “Websites”).

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Names are identical or confusingly similar to the Trade Mark, the Respondents have no rights or legitimate interests with respect to the Domain Names, and that the Domain Names were registered and are being used in bad faith. The Complainant requests transfer of the Domain Names, all of which it believes are related and under management and common control of a single entity or network. The basis of its belief that the registrant details are related and under management and common control of a single network are as follows:

1. all of the Domain Names bear the Trade Mark;
2. all the Websites resolve to similar pay-per-click webpages with identical/similar link headings;
3. all the Domain Names were registered relatively close together by registrants located in China;
4. all the Websites use either ParkingCrew.net or Bodis.com servers;
5. all the registrants have previous UDRP proceedings findings against them individually; and
6. a prior panel has accepted a consolidation of a UDRP case against the registrants “Xu Hai Min” and “Zhang Zhi Qian” (*Lennar Pacific Properties Management, Inc., Lennar Mortgage, LLC v. v. 徐海民 (Xu Hai Min), 权中俊 (Quan Zhong Jun), 殷磊 (Lei Yin), 杨智强 (Zhi Qian Yang)*, WIPO Case No. [D2021-0576](#)).

B. Respondent

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

6.1. Preliminary Procedural Issues – Consolidation of Proceedings

The Complainant has filed a single complaint in relation to 28 domain names against multiple registrants. The preliminary issue to be determined is whether the Complainant is entitled to bring a consolidated complaint against the Respondents, or whether it is necessary for the Complainant to bring individual complaints.

Paragraph 4(f) of the Policy allows a UDRP panel to consolidate multiple disputes between parties at its sole discretion and paragraph 10(e) of the Rules empowers the panel to consolidate multiple domain name disputes in accordance with the Policy and Rules. Neither the Policy nor the Rules expressly provide for the consolidation of multiple respondents in a single administrative proceeding. In fact, paragraph 3(c) of the Rules, provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In relation to the position of a complaint being filed against multiple respondents, section 4.11.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") provides that in such cases, UDRP panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. Previous UDRP panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

The UDRP panel in *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#), after reviewing the relevant UDRP decisions in relation to consolidation of multiple respondents took the view that the administrative provider should act as a preliminary gatekeeper in such cases by determining whether or not such complaints fulfil the requisite criteria. Once a case is admitted on a *prima facie* basis, the respondent has the opportunity to make its submissions on the validity of the consolidation together with its substantive arguments. In the event that the panel makes a finding that the complaint has not satisfied the requisite criteria, the complainant is not precluded from filing the complaint against the individual named respondents.

In the present case, the Complainant submits that the Domain Names are subject to common control for the reasons outlined above.

The evidence submitted points to the fact that the Domain Names are subject of common control by the Respondents. The above pattern evidences common conduct based on the registration and use of the Domain Names and that such conduct interferes with the Trade Mark. Furthermore, the Complainant's claims against the Domain Names involve common questions of law and fact.

The Respondents had the opportunity but did not respond substantively to the Complaint.

Accordingly, applying the principles to the facts in this case, the Panel finds that the Complainant has established more likely than not that the Domain Names are subject to common ownership or control. The

Panel finds such common control to justify consolidation of the Complainant's claims against the registrants of the Domain Names in this proceeding. The Panel further concludes in the circumstances of this case that consolidation would be fair and equitable to all the Parties and procedurally efficient, and therefore will allow the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules.

In light of the above, the Respondents will be referred to collectively as the "Respondent" hereinafter.

6.2 Language of Proceedings

The Rules, paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement, the language of the 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 information received from the Registrars, the language of the Registration Agreement for the Domain Names is Chinese.

The Complainant submits that the language of the proceeding should be English for the following reasons:

- the Complainant, based in the United States, is unable to communicate in Chinese and would be put to great expense and inconvenience to have to translate the Complaint in Chinese, which would cause undue delay;
- the Domain Names all comprise Latin characters;
- the Websites feature phrases in English; and
- the term ALLY HOME LOANS which is the dominant portion of the Domain Names does not have a specific meaning in Chinese.

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.

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Respondent has not challenged the Complainant's language request and in fact has failed to file a response. The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner. In this case, the Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel notes that all of the communications from the Center to the Parties were transmitted in both Chinese and English. In all the circumstances, the Panel determines that English be the language of the proceeding.

6.3 General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Names, the Complainant must prove each of the following, namely that:

- (i) the Domain Names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names were registered and are being used in bad faith.

6.4 Substantive Analysis

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established that it has registered rights to the Trade Mark.

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the trade mark and the domain name to determine whether the domain name is confusingly similar to the trade mark. The test involves a side-by-side comparison of the domain name and the textual components of the relevant trade mark to assess whether the mark is recognizable within the domain name.

In this case, the Domain Names all comprise the entirety of the ALLY trade mark and misspellings of the ALLY HOME LOANS trade mark. It is well established that where the relevant trade mark is recognizable within the 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, and that the domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered to be confusingly similar to the relevant mark for the purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark (see sections 1.8 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the purposes of assessing identity and confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD"), which in this case is ".com".

For the reasons above, the Panel finds that the Domain Names are confusingly similar to trade marks in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in the domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of the [WIPO Overview 3.0](#), a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with some evidence of relevant rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent does not own any trade marks or trade names that correspond to the Domain Names. The Respondent is also not making any legitimate noncommercial or fair use of the Domain Names. The Complainant has never licensed or otherwise permitted the Respondent to use the Trade Mark or apply or use any domain names that incorporate the Trade Mark or trade marks which

are confusingly similar. The Respondent is not commonly known by the Domain Names. Further, the display of pay-per-click links on the Websites do not constitute a *bona fide* offering of goods or services or legitimate noncommercial or fair use of the Domain Names in these circumstances.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. Further, it would appear that the Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the Domain Names.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names.

C. Registered and Used in Bad Faith

To succeed under the Policy, the Complainant must show that the Domain Names have been both registered and used in bad faith. It is a double requirement.

The Panel is satisfied that the Respondent must have been aware of the Trade Mark when it registered the Domain Names. The Trade Mark is well known and significantly predates the registration of the Domain Names. The link headings on the Websites are all related to the services offered by the Complainant making it clear that the Respondent was aware of the Trade Mark when it registered the Domain Names. The Panel finds that the registration is in bad faith.

The Panel also finds that the actual use of the Domain Names is also in bad faith. The Websites are all pay-per-click sites which have been set up for the commercial benefit of the Respondent. It is highly likely that Internet users when typing the Domain Names into their browser, or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The Domain Names are likely to confuse Internet users trying to find the Complainant's website.

The Respondent employs the reputation of the Trade Mark to mislead Internet users into visiting the Websites instead of the Complainant's. From the above, the Panel concludes that the Respondent intentionally attempted to attract, for commercial gain, by misleading Internet users into believing that the Respondents' Websites are that of or authorised or endorsed by the Complainant. The Panel therefore concludes that the Domain Names were registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

The Panel also notes that a number of UDRP cases concerning other third party brand owners where each of the Respondents has been the named respondent and those domain names have been ordered to be transferred. These include *Syneos Health, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-2731](#); *Lennar Pacific Properties Management, Inc., Lennar Mortgage, LLC v. 杨智强 (Yang Zhi qiang)*, WIPO Case No. [D2021-2761](#); *Klarna Bank AB v. 钱梦聘 (qianmengdan)*, WIPO Case No. [D2020-2514](#); *KIN, Inc. v. Xu Hai Min*, WIPO Case No. [D2022-0975](#). This is an indication that the Respondents are serial cybersquatters and are engaged in a pattern of bad faith conduct (section 3.1.2 of the [WIPO Overview 3.0](#)).

From the above, the Panel concludes that the Respondent intentionally attempted to attract for commercial gain, by misleading Internet users into believing that the Respondent's websites are authorised or somehow connected to the Complainant. The Panel therefore also concludes that the Domain Names were registered and are being used in bad faith under paragraph 4(b)(iv) 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 Domain Names, <allyhimeloans.com>, <allyhoemloans.com>, <allyhomeeloans.com>, <allyhomeioans.com>, <allyhomekoans.com>, <allyhomelaons.com>, <allyhomelians.com>, <allyhomelloans.com>, <allyhomeloans.com>, <allyhomeloand.com>, <allyhomeloands.com>, <allyhomeloanns.com>, <allyhomeloanss.com>, <allyhomeloasn.com>, <allyhomelonas.com>, <allyhomelones.com>, <allyhomeloans.com>, <allyhomel0ans.com>, <allyhomeoans.com>, <allyhomeolans.com>, <allyhomesloan.com>, <allyhomleoans.com>, <allyhomloans.com>, <allyhommeloans.com>, <allyhomrloans.com>, <allyhoneloans.com>, and <allyhoomeloans.com>, be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: July 20, 2022