

ADMINISTRATIVE PANEL DECISION

Crouzet Automatismes v. 黄训太 (huangxuntai)
Case No. D2022-2368

1. The Parties

The Complainant is Crouzet Automatismes, France, represented by Bird & Bird AARPI, France.

The Respondent is 黄训太 (huangxuntai), China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 29, 2022. On June 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 30, 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 June 30, 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 in English on July 5, 2022.

On June 30, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on July 4, 2022. The Respondent did not comment on the language of the proceeding.

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 English and Chinese of the Complaint, and the proceeding commenced on July 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 28, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on August 2, 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

A. Complainant

The Complainant is a company established in France in 1921 and a manufacturer of electromechanical and electronic components for customers in the aerospace and transportation, energy, building, and machinery industries, marketed and sold by the Complainant and its network of distributors worldwide under the trade mark CROUZET (the "Trade Mark").

The Complainant markets and sells its products under the Trade Mark in China via its sole authorised distributor.

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including several word and device mark registrations in China, for example, Chinese registration No. 3295604, with a registration date of October 21, 2003; and Chinese registration No. 3334796, with a registration date of May 28, 2004.

The Complainant is also the registrant of several domain names comprising the Trade Mark, such as <crouzet.fr> and <crouzet.com>. An entity related to the Complainant is the registrant of the domain name <crouzet.cn>.

B. Respondent

The Respondent is an individual with an address in China.

C. The Disputed Domain Name

The disputed domain name was registered on October 27, 2017.

D. The Website at the Disputed Domain Name

The disputed domain name was previously resolved to a Chinese language website promoting the business of a company apparently incorporated in Shanghai, China - 上海佳武自动化科技有限公司 (Shanghai Jiawu Automation Technology Co., Ltd) (the "Company") - reproducing prominently the word and logo versions of the Trade Mark, claiming to be a distributor of the Complainant's products, and offering for sale a wide range of the Complainant's products (the "Website"). At the bottom of the Website, there was a disclaimer stating that the brand logo, product pictures, and related text expressions on the Website belong to the brand CROUZET company.

As at the date of this Decision, the disputed domain name is no longer being used.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Marks, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not respond 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.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the Parties and undue delay to the proceeding.

The Complainant has requested that the language of the proceeding be English for several reasons, including the following:

- (i) the disputed domain name consists of the Trade Mark and the English word "China", which demonstrates that the Respondent understands English;
- (ii) as the Complainant is based in France, it would be fair for the proceeding to be conducted in English, which is an international language; and
- (iii) translating the Complaint into English would entail significant additional cost and delay.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response. The Panel would have accepted a response 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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Although there is insufficient evidence before the Panel to support a conclusion that the Respondent is conversant in English, the Panel also notes that the Respondent has taken no part in this proceeding; and that all of the Center's communications with the Parties have been sent in English and Chinese.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

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 Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark (see [WIPO Overview 3.0](#), section 1.7) followed by the word “China”.

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) Before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain names or names corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) The respondent (as an individual, business, or other organization) has been commonly known by the disputed domain names even if the respondent has acquired no trade mark or service mark rights; or
- (iii) The respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent has used the disputed domain name in order to falsely represent the Company as an authorised distributor of the Complainant and of its products under the Trade Mark in China, contrary to the fact.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In light of the manner of use of the Website set out in sections 4.D. and 6.2.B. above, the Panel finds that bad faith has been established under paragraph 4(b)(iv) of the Policy.

The Panel also considers the Respondent's act of taking down the Website after the commencement of this proceeding amounts to further evidence in support of a finding of bad faith.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

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 <crouzet-china.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Date: August 16, 2022