

ADMINISTRATIVE PANEL DECISION

Ceres Intellectual Property Company Ltd v. 乐卫平 (Philip Le), 乐卫平
(yueweiping)

Case No. D2022-3253

1. The Parties

The Complainant is Ceres Intellectual Property Company Ltd, United Kingdom, represented by Maucher Jenkins, United Kingdom.

The Respondent is 乐卫平 (Philip Le), 乐卫平 (yueweiping), China, represented by 广东三环汇华(深圳)律师事务所 (Scihead (Shenzhen) Law Firm), China.

2. The Domain Name and Registrar

The disputed domain name <ceres-power.com> is registered with Xin Net Technology Corp. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on September 1, 2022. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 6, 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 in English and Chinese to the Complainant on September 7, 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 September 9, 2022.

On September 7, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On September 9, 2022, the Complainant requested that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding by the due date but subsequently requested in the Response that Chinese be 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 proceedings commenced on September 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2022. The Response was filed in Chinese with the Center on September 30, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on October 20, 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.

On October 21, 2022, the Center received an email communication from the Complainant regarding the Response. On November 2, 2022, the Center received an unsolicited supplemental filing from the Complainant. On November 4, 2022, the Center received an email communication from the Respondent requesting an opportunity to respond to the Complainant’s unsolicited supplemental filing. On the same day, the Complainant objected to the Respondent’s request.

4. Factual Background

The Complainant administers the intellectual property portfolio of the Ceres Power Holdings Plc (“CPH”) group, which is a provider of clean energy technology, including fuel cells for power generation and electrolyzers for green hydrogen. The Complainant’s group initially offered its products under the brand name CERES POWER but in or around 2019 began to use the mark CERES. The Complainant holds multiple trademarks in multiple jurisdictions, including the following:

- United Kingdom trademark registration number 2341904 for CERES POWER, registered on May 26, 2006, specifying goods and services in classes 1, 7, 9, 11, 12, 37, 39, 40, and 42; and
- United Kingdom trademark registration number UK00909286428 for a CERESPOWER logo, registered on January 14, 2011, specifying goods and services in classes 7, 9, and 11.

The above trademark registrations remain current. The Complainant operates a website associated with the domain name <ceres.tech> where it provides information about itself and its goods and services.

The Respondent is an individual resident in China. His email address is in the domain <csl-vacuum.com>, which is associated with a website in English for Shenzhen Hengyunchang Vacuum Technology Co., Ltd. It is presented on its website as an agent for several brands of equipment, each identified by its respective logo, one of which features “Ceres” (referred to below as “the Chinese Ceres logo”).

The disputed domain name was registered on July 2, 2013. At the time of the Complaint, the disputed domain name resolved to a website in English that displayed the Chinese Ceres logo. The “About Us” section presented a United States of America (“United States”) company named “Ceres Renewable Energy Technology Inc”, which it described as “a diversified hi-tech enterprises located in California, designs power supplies for vacuum system” accompanied by the claim that “We built up the power supplier R&D center at California since 2003” and a photograph of the Complainant group’s building showing the Complainant’s CERESPOWER logo. The photograph was copied from a 2018 article in “eeNews” about the Complainant group’s business in China. The “Products” section of the website provided specifications for various electronic products, including a RF (radio frequency) power generator designed to send and receive radio frequency energy and a DC (direct current) power supplier. The “News” section displayed a number of press articles about technology, several of which were copied from “Semiconductor Today”. The “Contact Us”

section displayed two email addresses that used the disputed domain name, together with a QR code. The header of various screen captures from this website showed the name “Ceres Renewable Energy Technology Inc” or “Ceres Renewable Energy Technology (HK) Limited”. A notice on the website claimed copyright from 2003-2018 in the name of “Ceres Renewable Energy Technology Inc.”. At the time of this Decision, the disputed domain name resolves to an “access denied” message.

Both Parties present evidence showing that the Chinese Ceres logo was registered by a third party named 珠海钜兴盛进出口有限公司 (Zhuhai Juxing Sheng Import and Export Co., Ltd) under Chinese trademark registration number 12990337, registered on March 28, 2015, specifying goods in class 9. That registration was cancelled at the request of the Complainant due to three years’ non-use from June 11, 2017, in accordance with a decision of the China National Intellectual Property Administration dated December 14, 2020 (商标撤三字 [2020] 第 W058140 号).

The Respondent provides other evidence showing use of the Chinese Ceres logo for plasma RF power generators and DC power supplies, including a 2008 price list that shows the disputed domain name, two 2010 user manuals that do not show any company or domain name, two undated product specifications, one of which shows the disputed domain name and the other of which shows the domain name <csll-vacuum.com>, and product certifications issued in 2015, 2016, and 2022 to a Hong Kong company named Ceres Renewable Energy Technology (HK) Limited for RF signal generators and an RF matching box manufactured by Shenzhen CSL Vacuum Science and Technology Co. Ltd. The record also includes an undated purchase agreement for an RF tuner and a 2021 contract of sale for an RF match, both entered into by Ceres Renewable Energy Technology (HK) Limited.

5. Parties’ Contentions

A. Complainant

The disputed domain name is identical to the Complainant’s CERES POWER word mark and to the textual element in the Complainant’s CERESPOWER logo mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized or permitted the Respondent to use the Complainant’s CERES POWER trademarks and the Respondent is not sponsored by, or associated with, the Complainant or the Complainant’s group in any way. The Respondent’s purported commercial activities under the disputed domain name are not real, legitimate, or in good faith. The disputed domain name is being used in connection with a fraud or phishing activity. Further or alternatively, the disputed domain name has been used to make false and misleading representations that the Respondent is carrying on a business, when in fact that business does not exist.

The disputed domain name was registered and is being used in bad faith. The Complainant was incorporated eight years before the disputed domain name was registered. The Respondent has deliberately and falsely held itself out as being the Complainant and/or CPH and thus was aware of the Complainant and/or CPH and the CERES POWER marks. By registering and using the disputed domain name, the Respondent intended in some way to profit fraudulently from a false association with the Complainant and/or CPH.

B. Respondent

The disputed domain name is not confusingly similar to the Complainant’s marks. The products displayed on the website associated with the disputed domain name are different from the products with which the Complainant uses its trademarks. Customers for the Complainant’s trademarked products pay careful attention. The Complainant’s products are expensive durable goods. Although the disputed domain name has a certain degree of similarity to the Complainant’s trademarks, this will not cause consumer confusion.

The disputed domain name is used by Ceres Renewable Energy Technology (HK) Limited but its distributor registered the disputed domain name in the Respondent's name and established the associated website. The commercial activities displayed on the website are genuine. As business registrations in Hong Kong are renewed annually, the earliest certificate that the Respondent can provide shows that Ceres Renewable Energy Technology (HK) Limited was registered as a business on January 22, 2020. However, the company was established and conducted business prior to that. It appointed its distributor and OEM supplier in mainland China in 2013. Its distributor obtained multiple product certifications of compliance as early as 2015 and 2016 and certifications of compliance for multiple models of its RF generators from 2015 to 2022. Ceres Renewable Energy Technology (HK) Limited uses the disputed website to promote its major products and hopes to use this website to increase its reputation and sales volume.

Before receiving notice of the complaint, Ceres Renewable Energy Technology (HK) Limited had already used the name "Ceres" in its business name and supplied products under that name using the Chinese Ceres logo. This trademark comes from its former business partner Zhuhai Juxing Sheng Import and Export Co., Ltd. Although the cooperation between the two companies has changed, Ceres Renewable Energy Technology (HK) Limited was allowed to continue to use the trademark. When it received notice of cancellation for non-use, Ceres Renewable Energy Technology (HK) Limited was using the trademark in good faith to promote its products, including in its product brochures, publicity materials, price lists, and other documents. According to Chinese law, Ceres Renewable Energy Technology (HK) Limited is entitled to continue to use the trademark after its cancellation, even if the same or a similar trademark is registered by other parties. As soon as the Complainant claimed that the website associated with the disputed domain name displayed a photograph of the Complainant's own building with the CERES POWER logo, the photograph was immediately removed to avoid any misunderstanding and the website was quickly revised. The photograph came from the Internet image database. Due to the lack of notoriety of the building, it is difficult to associate it with the Complainant just by looking at the photograph. There are many companies using "Ceres" in their company names and trade names and it is not certain that consumers would make the connection between the photograph and the Complainant. No other content on the disputed website had anything to do with the Complainant. No products directly related to the Complainant appeared on the disputed website. Consumers could quickly realize that the disputed website did not belong to the Complainant, even if they did associate the photograph with the Complainant. The disputed website has never been used for fraud, phishing, or bait-and-switch selling. The products offered on the website are not the same as, or similar to, those of the Complainant. Although the disputed website displayed products related to energy, they had no relationship to power generation or the products supplied by the Complainant.

The Respondent has not acted in bad faith. The photograph on the disputed website was used to introduce and promote the image of a related United States company that is still in the process of formation. Once the United States company has been registered, the disputed domain name will be transferred to it. Although the company has some management problems, including poor legal awareness, there was never any intention to pretend to be the Complainant. Prior to this dispute, neither Ceres Renewable Energy Technology (HK) Limited nor the Respondent was aware of the existence of the Complainant. The Respondent registered the disputed domain name because Ceres Renewable Energy Technology (HK) Limited's name includes "Ceres" and it uses a Chinese Ceres logo. The disputed domain name added "-power" to identify the company's main product type because plasma generators and video generators are often referred to as "plasma power supply" and "video power supply" in the Chinese market and both are energy products in a broad sense. Given the major differences between their respective products and customers, Ceres Renewable Energy Technology (HK) Limited could hardly pretend to be the Complainant to gain benefits. There are no misleading statements on the disputed website. Apart from the disputed domain name and the inappropriate photograph, there is no indication on the website that the Respondent is affiliated with the Complainant. The Respondent has not intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant.

6. Discussion and Findings

6.1. Procedural Issues

A. Unsolicited Supplemental Filing

The Complainant requests that the Panel accept its unsolicited supplemental filing. It submits that the supplemental filing contains information that was unavailable at the time when it filed the Complaint and that the Response contains arguments that it could not have reasonably anticipated.

Paragraph 10(c) of the Rules requires the Panel to ensure that the administrative proceeding takes place with due expedition. Paragraph 10(d) of the Rules also provides that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”. Although paragraph 12 of the Rules empowers the Panel, in its sole discretion, to request further statements or documents from either of the Parties, this does not preclude the Panel from accepting unsolicited filings. See *Delikomat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner*, WIPO Case No. [D2001-1447](#).

The Panel observes that the Complainant’s supplemental filing was received 13 days after the appointment of the panel and over one month after the filing of the Response. In view of the findings below, the Panel sees nothing in the supplemental filing that needs to be taken into account as the Respondent’s assertions can be assessed on their face. Therefore, in the interests of ensuring that this administrative proceeding takes place with due expedition, the Panel declines to accept the Complainant’s supplemental filing as part of the record of this proceeding. Accordingly, it is unnecessary to consider the Respondent’s request to reply to that supplemental filing.

B. Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, 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”. The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the English be the language of the proceeding. Its main arguments are that the website associated with the disputed domain name is in English, thus it is clear that the Respondent understands English and is able to write and read in that language; whereas the Complainant would incur significant additional costs and delays if it were required to translate all correspondence to or from Chinese. The Complainant further submits that conducting the proceeding in both English and Chinese would place it at a disadvantage, as it cannot review the Response filed in Chinese. The Complainant requests time to receive and review a translation of the Response and an opportunity to respond thereto as appropriate prior to the notification of this Decision.

The Respondent urges the Panel to determine that the language of the proceeding is Chinese. It refers to paragraph 11(a) of the Rules and notes that the Registration Agreement is in Chinese and that the Parties have never reached any agreement regarding the language of the proceeding.

Paragraph 10(b) and (c) of the Rules requires the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that in this proceeding the Complaint and the amended Complaint were filed in English. Although the Response was written in Chinese, several annexes to it are in English and the website to which

the disputed domain name formerly resolved was in English, from which it is reasonable to infer that the Respondent understands that language. Moreover, the content of the Response, which includes detailed replies to assertions by the Complainant, demonstrates that the Respondent has indeed understood the Complaint. Therefore, the Panel considers that requiring the Complainant to translate the Complaint, as amended, would create an undue burden and delay.

As regards the Complainant's request for an opportunity to reply to the Response filed in Chinese, the Panel recalls that the Rules provide for a single Complaint and a single Response. In view of the Panel's findings in Section 6.2 below, the Panel sees no reason to delay its Decision to await a possible supplemental filing from the Complainant. The Panel finds the record of the present proceeding sufficient to reach its conclusions and considers it unnecessary to request further statements or documents from either Party in accordance with paragraph 12 of the Rules. In these circumstances, the Panel sees no reason why accepting all submissions as filed in their respective original languages would cause unfairness to either Party.

For the above reasons, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English, but the Panel will accept the Response as filed in Chinese without a translation without giving the Complainant an opportunity to make a supplemental filing in reply.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the CERES POWER mark.

The disputed domain name wholly incorporates the CERES POWER trademark, adding a hyphen in place of the space between the words. The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, does not avoid a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.11.

The Respondent argues that the Parties' respective products are dissimilar. However, the Panel recalls that the assessment under the first element of paragraph 4(a) of the Policy involves a side-by-side comparison of a domain name and a trademark. In the present case, given that the disputed domain name incorporates the entirety of the CERES POWER trademark, it may be considered confusingly similar to that mark. See [WIPO Overview 3.0](#), section 1.7.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name 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 name, even if [the Respondent has] acquired no trademark or service mark rights; or
- (iii) [the Respondent is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

With respect to the first and third circumstances set out above, the disputed domain name formerly resolved to a commercial website promoting electronic equipment ostensibly offered by a United States company named Ceres Renewable Energy Technology Inc. The Parties agree that this company does not exist. The claims on the website regarding the company's existence and activities since 2003 were false or misleading. The fact that the disputed domain name is virtually identical to the Complainant's CERES POWER mark implies a high risk of false affiliation. Further, the website presented this non-existent company alongside a photograph of the Complainant group's building showing the Complainant's CERESPOWER trademark. The Panel finds that this photograph was clearly intended to create the impression that the website and the products offered on it were somehow affiliated with, or endorsed by, the Complainant. The Complainant submits that the Respondent is neither sponsored by, nor associated with, it in any way. At the present time, the disputed domain name does not resolve to any active website. In view of these circumstances, the Panel finds that the Complainant has made a *prima facie* case that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, nor making a non-commercial or fair use of the disputed domain name for the purposes of the Policy.

With respect to the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as “乐卫平”, which he has transcribed as “yueweiping”, while he has listed his English name as “Philip Le”, none of which is the disputed domain name. Mr. Le's email address uses a domain name associated with a website for a Chinese company with neither “Ceres” nor “Power” in its name. Although the website associated with the disputed domain name presents a United States company that includes “Ceres” in its corporate name, that company does not exist. Accordingly, the Panel finds that the Complainant has made a *prima facie* case that the Respondent (as an individual, business, or other organization) is not commonly known by the disputed domain name.

The website associated with the disputed domain name displayed a registered trademark consisting of the Chinese Ceres logo. However, the registered proprietor of that mark was a third party, Zhuhai Juxing Sheng Import and Export Co., Ltd, and the registration was cancelled for non-use in 2020.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Turning to the Respondent's arguments, he claims that the United States company presented on the website associated with the disputed domain name is in the process of formation (more than nine years after the registration of the disputed domain name). However, the Panel finds that, even if this were true, the statements regarding that company and its products on the Respondent's website would still be false or misleading. The Respondent concedes that the use of the photograph of the Complainant's building was inappropriate but questions whether Internet users would recognize the building. The Panel considers that customers searching for the Complainant would be likely to recognize the Complainant's CERESPOWER logo and be misled or at least confused about a possible affiliation of the website with the Complainant, or a possible endorsement by the Complainant of the products offered on the website.

The Respondent asserts that the disputed domain name is actually used by the similarly-named Hong Kong company, Ceres Renewable Energy Technology (HK) Limited and that the commercial activities displayed on the website are genuine. The Panel notes that this Hong Kong company's name appears in the header of

certain screen captures from the website associated with the disputed domain name. The Respondent argues that the disputed domain name was registered, and the associated website established, on this company's behalf by a Chinese company named Shenzhen CSL Vacuum Science and Technology Co., Ltd. The Respondent does not clarify how he is related to either of these companies. He presents a brief letter of authorization purportedly from the Hong Kong company appointing Shenzhen CSL Vacuum Science and Technology Co., Ltd as its general agent in China and OEM supplier. The Panel attributes no weight to this letter because it is dated December 1, 2013, which was before the Hong Kong company was incorporated on January 22, 2014.¹ On the other hand, the Panel is willing to accept the evidence showing that Shenzhen CSL Vacuum Science and Technology Co., Ltd is a manufacturer of products for which the Hong Kong company has sought technical certification. However, while this suggests that those companies actually engage in business or are making preparations to do so, it does not demonstrate that the disputed domain name is being used in connection with a *bona fide* offering of goods or services, as the associated website is presented as that of another company that does not exist and falsely suggests an affiliation with, or endorsement by, the Complainant.

The Respondent further asserts that the Hong Kong company was authorized to use the Chinese Ceres logo by the registered proprietor of the trademark. While the Panel notes that the trademark application for this logo was filed on July 29, 2013, less than a month after the registration of the disputed domain name, nothing on the record demonstrates that the Hong Kong company was a licensee or business associate of the eventual registered proprietor, and little besides the product certifications shows that the Hong Kong company has used the mark. Moreover, the Respondent acknowledges that the trademark registration for the Chinese Ceres logo was cancelled for non-use in 2020. While he submits that the Hong Kong company may use the cancelled trademark, the only evidence of use since 2016 by any party consists of product certifications from July 2022, and the website associated with the disputed domain name itself. Even if the Hong Kong company has recently commenced or resumed use of the now-unregistered Chinese Ceres logo, this does not demonstrate that it has rights or legitimate interests in a Ceres brand.

Moreover, the Respondent's explanation as to why the disputed domain name includes the word "power" seems more directed toward justifying use of the word "energy". The Panel notes that the word "power" appears in product descriptions on the website associated with the disputed domain name. The Respondent argues that plasma generators and video generators are referred to as "power" supply products and he submits a 2008 price list prominently displaying the Chinese Ceres logo with the words "Best Plasma Power Supply Solutions". However, the Panel attributes little weight to this evidence as the price list displays the disputed domain name which was only registered seven years later. On the other hand, the Respondent acknowledges that the website associated with the disputed domain name displayed a photograph showing the Complainant's CERESPOWER logo under the heading "About Us". In these circumstances, the Panel finds the more likely explanation for the combination of "ceres" and "power" in the disputed domain name to be that the Respondent sought to trade on the Complainant's reputation in the CERES POWER mark in an attempt to attract Internet users to the website associated with the disputed domain name for commercial gain.

In view of the above, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case. Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, but these circumstances are not exhaustive. The fourth circumstance is as follows:

¹ The Panel notes its general powers articulated *inter alia* in paragraphs 10 and 12 of the Rules and has searched the publicly available Hong Kong, China company registration database at <icris.cr.gov.hk> in order to identify the date of incorporation of this company, as the Respondent was only able to provide its most recent business registration certificate. The Panel considers this process of verification useful in assessing the merits of the case. See [WIPO Overview 3.0](#), section 4.8.

(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain name was registered in 2013, years after the registration of the Complainant's CERES POWER trademark. The disputed domain name wholly incorporates that mark with no additional element besides a hyphen and a gTLD extension. Although the Respondent provides an extract from the WIPO Global Brands Database showing that different parties in different jurisdictions hold trademarks consisting of or including the element "Ceres", this does not account for the fact that the disputed domain name combines "ceres" with "power", as does the Complainant's mark. Given that the website associated with the disputed domain name displayed a photograph showing the Complainant's CERESPOWER logo under the heading "About Us", and that photograph was copied from an article about the Complainant group's business in China, the Panel is unable to accept the Respondent's claim that it registered "ceres" and "power" in the disputed domain name without reference to the Complainant. Rather, the Panel finds it more likely that the Respondent had the Complainant's CERES POWER mark in mind when he registered the disputed domain name.

As regards use, the disputed domain name formerly resolved to a website promoting certain electronic equipment. While the Respondent may be correct that the website did not make any reference to the Complainant besides the photograph of the Complainant's building showing its CERESPOWER logo, by the time that an Internet user reached the website he or she had already been diverted by the disputed domain name. Given the findings in Section 6.2B above, the Panel considers that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's CERES POWER mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product on the Respondent's website within the terms of paragraph 4(b)(iv) of the Policy.

The Panel notes that the use of the disputed domain name has now changed and that it no longer resolves to any active website. The Panel does not consider that this recent change of use alters its conclusion; if anything, it may show that the Respondent was attempting to hide his use of the disputed domain name and, as such, be a further indication of bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <ceres-power.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 2, 2022