

## ADMINISTRATIVE PANEL DECISION

Jelmar, LLC v. 杨智超 (Zhi Chao Yang aka Yang Zhi Chao)  
Case No. D2022-3457

### 1. The Parties

The Complainant is Jelmar, LLC, United States of America (“USA”), represented by Neal, Gerber & Eisenberg LLP, USA.

The Respondent is 杨智超 (Zhi Chao Yang aka Yang Zhi Chao), China.

### 2. The Domain Names and Registrars

The disputed domain names <clrbands.com>, <clrbbrands.com>, <clrbbrads.com>, <clrbbrandd.com>, <clrbbrandds.com>, <clrbbrandss.com>, <clrbbranss.com>, <clrbbrnads.com>, and <clrbrrands.com> are registered with eName Technology Co., Ltd.; and the disputed domain name <clrbbrand.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrars”).

### 3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 16, 2022. On September 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 20, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 25, 2022.

On September 20, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant submitted its request that English be the language of the proceeding on September 23, 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 proceedings commenced on September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 20, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on October 31, 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 limited liability company incorporated under the laws of the State of Illinois, and is headquartered in the USA. The Complainant is active in the household cleaning products market since 1949 and commercializes cleaning products through brick-and-mortar and e-commerce stores.

The Complainant owns an international portfolio of trademark registrations for a series of CLR trademarks, including word marks and logo marks. These trademarks include, but are not limited to, International Trademark Registration number 1094137 for CLR, registered on September 22, 2011 and designating, *inter alia*, the European Union and the United Kingdom; and European Union Trademark Registration number 1845163 for the figurative mark CLR, registered on October 22, 2001. The Complainant also maintains an Internet presence through its official websites, including the one located at its official domain name <clrbrands.com>, registered on February 7, 2007, which hosts a website that displays information about the Complainant and its commercial activities.

As to the registration dates of the disputed domain names, the disputed domain name <clrbrand.com> was registered on January 19, 2022, while the disputed domain names <clrbands.com> and <clrbrads.com> were registered on May 1, 2022, and the disputed domain names <clrbbrands.com>, <clrbrandd.com>, <clrbrandds.com>, <clrbrandss.com>, <clrbranss.com>, <clbrnads.com>, and <clbrbrands.com> were registered on May 18, 2022. All disputed domain names are therefore of a later date than the abovementioned registered trademarks of the Complainant. All disputed domain names are currently linked to active websites, each displaying what are presumed to be pay-per-click hyperlinks relating to, *inter alia*, cleaning products, except for the disputed domain name <clrbrand.com>, which directs to a blank page.

The Complainant attempted to settle this matter amicably through its demand letter of April 18, 2022 to the Registrar Chengdu West Dimension Digital Technology Co., Ltd. The Complainant received an answer from the Registrar Chengdu West Dimension Digital Technology Co., Ltd., which directed the Complainant to file a UDRP complaint to settle this matter.

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

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

The Complainant essentially contends that the disputed domain names are confusingly similar to its prior trademarks for CLR, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names were registered, and are being used in bad faith.

The Complainant claims that its trademarks are distinctive and used intensively, and provides evidence of its official website contents and marketing materials. The Complainant essentially contends that the Respondent chose to register the disputed domain names including the Complainant's CLR marks combined with an intentionally misspelled version of the word "brands" to create consumer confusion and to obtain unlawful financial gains through placing pay-per-click hyperlinks at the websites connected to the disputed domain names. For disputed domain name <clrbrand.com>, the Complainant argues that it may be used for

email phishing, given its similarity in appearance to the legitimate <clrbrands.com> domain name. The Complainant contends that such illegitimate use of the disputed domain names does not grant the Respondent any rights or legitimate interests in the disputed domain names. The Complainant finally also claims in its amended Complaint that the Respondent was involved in a very large number of previous domain name disputes where bad faith registration and use was found by the respective panels in those cases, and therefore argues that the Respondent has engaged in a pattern of trademark-abusive conduct. The Complainant essentially contends that the registration and use of the disputed domain names in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain names.

## **B. Respondent**

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

## **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 Registrars' verification responses, the language of the Registration Agreements for the disputed domain names is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comments 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 in a timely manner by the Center to present his comments and response in either English or Chinese, but chose not to do so); the fact that the websites hosted at the disputed domain names contain links only in English and that the disputed domain names comprise English words and are written in Latin letters and not in Chinese characters; the fact that the Respondent was involved in a large amount of previous UDRP proceedings conducted in English and has demonstrated a pattern of typosquatting of distinctive English-language trademarks; and, finally, the fact that Chinese as the language of this 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 decides that the language of this proceeding shall be English.

### **6.2. Discussion and Findings on the Merits**

The Policy requires the Complainant to prove the following three elements:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are 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 sufficient evidence that it has valid rights in the mark CLR, based on its intensive use and registration of the same as a trademark in several jurisdictions.

Moreover, as to confusing similarity, the Panel considers that the disputed domain names each incorporate the entirety of the Complainant's CLR trademark. In this regard, the Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, which states: "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." The Panel finds that the aforementioned disputed domain names all incorporate the entirety of the Complainant's trademark for CLR, each time combined with the term "brand", or misspelled variations thereof, which do not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8). The Panel therefore considers all of the aforementioned disputed domain names confusingly similar to the Complainant's trademark for CLR.

Furthermore, the Panel notes that each of the applicable generic Top-Level Domains ("gTLDs") (".com" in this case) are viewed as standard registration requirements for the disputed domain names, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel concludes that the disputed domain names are all confusingly similar to the Complainant's trademark and finds 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 is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a *bona fide* provider of goods or services under the disputed domain names and is not making a legitimate noncommercial use or fair use of the disputed domain names. The Panel also notes that the Respondent is not commonly known by the disputed domain names. 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, the Respondent did not provide any Response or evidence in this proceeding.

Furthermore, upon review of the facts, the Panel notes that all disputed domain names (except for <clrbrand.com>) direct to active webpages containing what are presumed to be pay-per-click hyperlinks relating to, *inter alia*, cleaning products, which are products competing with the Complainant's own products. The Panel concludes that this shows the Respondent's intention to compete with, or capitalize on the reputation and goodwill of the Complainant's trademark for CLR (see also [WIPO Overview 3.0](#), section 2.9 and previous UDRP decisions in this sense such as *Maker Studios, Inc. v. ORM LTD / Contact Privacy Inc. Customer 0137258808*, WIPO Case No. [D2014-0918](#), and *Comerica Incorporated v. Balticsea LLC / Contact Privacy Inc. Customer 0131519121*, WIPO Case No. [D2013-0932](#)). As to the disputed domain name <clrbrand.com>, the Panel notes that this disputed domain name refers to a blank page. In this regard, the Panel finds that holding a domain name passively, without making any use of it, does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard 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)*, WIPO Case No. [D2021-1685](#)).

On the basis of the foregoing, the Panel finds 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.

