

## ADMINISTRATIVE PANEL DECISION

Hermes International v. Kenny Wong, MTT International; Hao Qing Yang (郝庆杨); and Li Gui He (李桂和)  
Case No. D2022-3867

### 1. The Parties

The Complainant is Hermes International, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Kenny Wong, MTT International, Hong Kong, China (the “First Respondent”); Hao Qing Yang (郝庆杨), China (the “Second Respondent”); and Li Gui He (李桂和), China (the “Third Respondent”).

### 2. The Domain Names and Registrars

The disputed domain names <bbhermes.com>, <betterhermes.com>, <clubhermes.com>, <ddhermes.com>, <firthermes.com>, <focushermes.com>, <hermesaaa.com>, <hermesale.com>, <hermesauthentic.com>, <hermesbaby.com>, <hermesb.com>, <hermescheap.com>, <hermesclone.com>, <hermesdaily.com>, <hermesdiscount.com>, <hermesempire.com>, <hermesfactory.com>, <hermesfake.com>, <hermesfans.com>, <hermesfashion.com>, <hermesgate.com>, <hermesginza.com>, <hermeshimalaya.com>, <hermeshongkong.com>, <hermesshop.com>, <hermeskingdom.com>, <hermeskuwait.com>, <hermesleather.com>, <hermesmaison.com>, <hermesmall.com>, <hermesmirror.com>, <hermesmore.com>, <hermesofficial.com>, <hermesorder.com>, <hermespurse.com>, <hermesqatar.com>, <hermesqueen.com>, <hermessales.com>, <hermesseller.com>, <hermessky.com>, <hermesstation.com>, <hermesstyle.com>, <hermestaipei.com>, <hermesstation.com>, <hermestogo.com>, <hermestown.com>, <hermesuae.com>, <hermesunion.com>, <hermesvalley.com>, <hermesvip.net>, <hermesvogue.com>, <hermesw.com>, <hermesworkshop.com>, <hermes4u.com>, <hihermes.com>, <kkhermes.com>, <ladyhermes.com>, <lethermes.com>, <lotushermes.com>, <misshermes.com>, <mmhermes.com>, <mshermes.com>, <pursehermes.com>, <replicahermes.com>, <royalhermes.com>, <sachermes.com>, <superfakehermes.com>, <superhermes.com>, <tthermes.com>, <unclehermes.com>, <yyhermes.com>, and <51hermes.com> are registered with eName Technology Co., Ltd. (the “Registrar”).

The disputed domain name <perfecthermes.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On October 17, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On October 18, 2022, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 21, 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 an amended Complaint in English on October 24, 2022.

On October 21, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On October 24, 2022, the Complainant submitted a 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 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on November 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on November 30, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on December 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 is a multinational luxury fashion company, founded in 1837 and headquartered in France. The Complainant has large global business operations, particularly operating 306 stores across 45 countries and with a total revenue (according to its 2020 annual report), of EUR 6,389 million. The Complainant’s HERMES brand is considered among the world’s most influential mark, and is listed in reputable brand rankings such as those of Interbrand, Forbes, and etc.

The Complainant provides evidence that it owns a large international portfolio of trademark registrations for HERMES (word and device marks) in a large number of jurisdictions around the world, including in China, where the Respondents are located, see for example Chinese trademark registration No. 4933037, for the mark HERMES, registered on April 28, 2009; and United States of America trademark registration No. 0369271, for the mark HERMES, registered on July 18, 1939. The Complainant also has a strong online presence through its main official website hosted at its official domain name <hermes.com> and its social media channels.

The disputed domain names were all registered between December 31, 2015 and May 13, 2022 and are therefore of a later date than the abovementioned registered trademarks of the Complainant. The Complainant submits evidence that, at the date of filing of the Complaint, each of the disputed domain names directed to either: (a) e-commerce websites offering for sale HERMES-branded goods which are presumably counterfeit goods; (b) a login page requesting a password; or (c) an inactive page.

## 5. Parties' Contentions

### A. Complainant

The Complainant essentially contends that the disputed domain names are confusingly similar to its trademarks for HERMES, that the Respondents have 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 globally famous and well-regarded in the fashion industry, and provides printouts of its official website and of its marketing materials. The Complainant contends that all disputed domain names incorporate its famous HERMES marks and are therefore confusingly similar to such marks. The Complainant also contends that the Respondents are not, and have never been, authorized resellers, service providers, licensees, or distributors of the Complainant and are not commonly known by the disputed domain names. Moreover, the Complainant contends that the Respondents are not *bona fide* providers of goods or services under the disputed domain names and are not making legitimate noncommercial or fair use of the disputed domain names and, in support of this argument, the Complainant provides evidence that the disputed domain names are linked to either: (a) e-commerce websites offering for sale HERMES-branded goods which are presumably counterfeit goods; (b) a login page requesting a password; or (c) an inactive page. The Complainant essentially contends that such use does not confer any rights or legitimate interests in respect of the disputed domain names and constitutes bad faith. Finally, the Complainant also contends that the Respondents have engaged in a pattern of trademark-abusive registrations, by registering the disputed domain names as well as a large amount of other domain names incorporating famous third party brands.

The Complainant requests the transfer of the disputed domain names.

### B. Respondents

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

## 6. Discussion and Findings

### 6.1 First Preliminary Issue: Consolidation of the Respondents

The Complainant requests consolidation in regard to the Respondents. The disputed domain names are currently owned by seemingly multiple registrants. In this regard, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states in section 4.11.2: "Where a complaint is filed against multiple respondents, 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." See in this regard also prior UDRP decisions such as *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

In this case, the Panel has carefully reviewed all factual elements, giving particular weight to the following elements and facts: (A) all disputed domain names consist of the Complainant's HERMES trademark combined with an array of descriptive, geographical or seemingly meaningless terms, thereby exposing a pattern; (B) the First Respondent who owns the disputed domain name <perfecthermes.com> shares the same email address as that of the Third Respondent who owns 71 of the 73 disputed domain names; (C) the Second and Third Respondents are based in Guangzhou City, Guangdong Province, China with similar postcodes; (D) the disputed domain names either resolve to the same or very similar e-commerce websites offering for sale HERMES-branded goods, resolve to an identical login page or are inactive; in particular, the disputed domain name <lethermes.com> owned by the Second Respondent resolves to an identical login page resolved from some of the disputed domain names owned by the First and Third Respondents; (E) all

disputed domain names apart from <perfecthermes.com> are registered with the Registrar eName Technology Co., Ltd.; and (F) according to the Complainant's evidence, the Respondents own a large number of domain names which apparently infringe on famous third-party trademarks, which suggests that the Respondents are acting together in a common enterprise of cybersquatting. The Panel also notes that the Respondents did not submit any arguments and did not contest the request for consolidation.

In view of the above elements, the Panel finds that the Respondents are connected. The websites linked to the disputed domain names are under common control, that in this case consolidation would be fair and equitable to all Parties involved and would safeguard procedural efficiency. The Panel therefore decides to grant the request for consolidation of the Respondents and shall hereafter refer to the Respondents jointly as "the Respondent".

## **6.2 Second 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 proceeding.

According to the Registrar eName Technology Co., Ltd.'s verification response, the language of the Registration Agreements for the 72 disputed domain names is Chinese. The Registrar GoDaddy.com, LLC has confirmed that the language of the Registration Agreement for the disputed domain name <perfecthermes.com> is English. 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.

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 Chinese and in English and in a timely manner to present its comments and response in either Chinese or English, but chose not to do so); the fact that all disputed domain names are written in Latin letters and not in Chinese characters and that some websites linked to the disputed domain names contain offers for sale and phrases in English; and, finally, the fact that Chinese as the language of 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.

## **6.3 Discussion and Findings on the Merits**

The Policy requires the Complainant to prove three elements:

- a) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- b) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- c) 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 provided sufficient evidence that it has valid rights in the mark HERMES, based on its use and registration of the same as a trademark in various jurisdictions, including in China.

Further, as to confusing similarity of the disputed domain names with the Complainant's trademarks, the Panel finds that all disputed domain names consist of the Complainant's HERMES trademark combined with an array of descriptive, geographical, or seemingly meaningless terms. On this issue, the Panel refers to the [WIPO Overview 3.0](#), section 1.8 which states: "[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." Accordingly, the Panel considers that the disputed domain names all contain the entirety of the Complainant's trademark for HERMES, which remains easily recognizable in the disputed domain names, and the addition of the other terms does not prevent a finding of confusing similarity. Finally, the Panel also notes that the applicable Top-Level Domain ("TLD") (here ".com" or ".net" for the disputed domain names) may be disregarded by the Panel under the first element test (see [WIPO Overview 3.0](#), section 1.11.1).

Accordingly, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark. The Panel rules 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 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, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence of this case, the Panel notes that the disputed domain names are linked to either: (a) e-commerce websites offering for sale HERMES-branded goods which are presumably counterfeit goods; (b) a login page requesting a password; or (c) an inactive page.

As to the disputed domain names used as e-commerce websites, the Panel finds that such use shows a clear intent on the part of the Respondent to obtain unlawful commercial gain from incorporating the Complainant's famous HERMES trademarks in the disputed domain names, namely to purportedly offer HERMES-branded products, which are likely counterfeit products, as explicitly recognized by the Respondent on several of such websites (see for instance at the "About Us" section of disputed domain name <superhermes.com> which explicitly states that the handbags sold are "the highest grade of Hermes handbag image copy") and as suggested by several of the disputed domain names themselves (see for instance the disputed domain name <hermesfake.com>). In the Panel's view, these elements clearly show that the Respondent's intention is not to make any use of the disputed domain names for a *bona fide* offering of goods or services, or to make a legitimate noncommercial or fair use of the disputed domain names. Instead, it shows the Respondent's intention to include the Complainant's trademarks into the disputed domain names to mislead Internet users and to obtain unlawful commercial gain. The Panel also refers to the [WIPO Overview 3.0](#), section 2.13.1, which states: "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."

Furthermore, as to the use of the other disputed domain names which is either used as a login page, and where a password was requested from Internet users, or which merely resolves to an inactive page, the Panel considers that such use also does not confer rights or legitimate interests in the disputed domain names on the Respondent. Notably, the use of a disputed domain name for potential phishing activities does not confer rights or legitimate interests on the Respondent (see [WIPO Overview 3.0](#), section 2.13.1) and holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests on the Respondent (see in this regard earlier UDRP decisions such as *Bollre SE v. 赵竹*

飞 (Zhao Zhu Fei), WIPO Case No. [D2020-0691](#)).

On the basis of the foregoing elements, 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**

Given the international reputation and fame of the Complainant's prior registered trademarks, the Panel finds that the registration of the disputed domain names, which all contain the entirety of such trademarks, clearly and consciously targeted the Complainant's prior registered trademarks for HERMES. The Panel deducts from these efforts to consciously target the Complainant's prior registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain names. The Panel also considers the disputed domain names to be so closely linked and so obviously connected to the Complainant and its trademarks that the Respondent's registration of these disputed domain names points toward the Respondent's bad faith. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the Complainant provides evidence that the disputed domain names direct either: (a) e-commerce websites offering for sale HERMES-branded goods which are presumably counterfeit goods; (b) a login page requesting a password; or (c) an inactive page. From the aforementioned use, the Panel concludes that the Respondent intentionally attracted Internet users for commercial gain to the disputed domain names, by creating consumer confusion between the disputed domain names and the Complainant's prior registered trademarks, which is direct evidence of bad faith, see paragraph 4(b)(iv) of the Policy. The Panel also accepts that use of certain disputed domain names used as login pages requesting a password (which carries the risk of potential phishing activities) show the bad faith intentions on the part of the Respondent. Furthermore, as to the use of certain of the disputed domain names as inactive pages, in this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "From 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 following elements: the fact that the disputed domain names are confusingly similar to the Complainant's trademarks, the high degree of distinctiveness and global fame of the Complainant's trademarks and the unlikelihood of any good-faith use to which the disputed domain names might be put by the Respondent. In these circumstances, the Panel considers that also the passive holding of those disputed domain names by the Respondent constitutes use of the disputed domain name in bad faith.

Finally, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Whois results submitted by the Complainant, from which it can be concluded that the Respondent has registered a large amount of domain names, including domain names containing famous third party trademarks such as AIR JORDAN (<airjorda.com>) and BMW (<mybmwcar.com>).

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 names in bad faith.

Finally, the Respondent has 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 requirement 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 names, <bbhermes.com>, <betterhermes.com>, <clubhermes.com>, <ddhermes.com>, <firsthermes.com>, <focushermes.com>, <hermesaaa.com>, <hermesale.com>, <hermesauthentic.com>, <hermesbaby.com>, <hermesb.com>, <hermescheap.com>, <hermesclone.com>, <hermesdaily.com>, <hermesdiscount.com>, <hermesempire.com>, <hermesfactory.com>, <hermesfake.com>, <hermesfans.com>, <hermesfashion.com>, <hermesgate.com>, <hermesginza.com>, <hermeshimalaya.com>, <hermeshongkong.com>, <hermesshop.com>, <hermeskingdom.com>, <hermeskuwait.com>, <hermesleather.com>, <hermesmaison.com>, <hermesmall.com>, <hermesmirror.com>, <hermesmore.com>, <hermesofficial.com>, <hermesorder.com>, <hermespurse.com>, <hermesqatar.com>, <hermesqueen.com>, <hermessales.com>, <hermesseller.com>, <hermessky.com>, <hermesstation.com>, <hermesstyle.com>, <hermestaipai.com>, <hermesunion.com>, <hermesvalley.com>, <hermesvip.net>, <hermesvogue.com>, <hermesw.com>, <hermesworkshop.com>, <hermes4u.com>, <hihermes.com>, <kkhermes.com>, <ladyhermes.com>, <lethermes.com>, <lotusermes.com>, <misshermes.com>, <mmhermes.com>, <mshermes.com>, <pursehermes.com>, <replicahermes.com>, <royalhermes.com>, <sachermes.com>, <superfakehermes.com>, <superhermes.com>, <tthermes.com>, <unclehermes.com>, <yyhermes.com>, <perfecthermes.com>, and <51hermes.com>, be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: December 28, 2022