

## ADMINISTRATIVE PANEL DECISION

GXS Bank Pte. Ltd. v. Zhong Guo Gong Xiao Dian Zi Shang Wu You Xian Gong Si (中国供销电子商务有限公司)  
Case No. D2022-5047

### 1. The Parties

The Complainant is GXS Bank Pte. Ltd., Singapore, represented by Allen & Gledhill LLP, Singapore.

The Respondent is Zhong Guo Gong Xiao Dian Zi Shang Wu You Xian Gong Si (中国供销电子商务有限公司), China.

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2022. On January 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2023, 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<sup>1</sup> and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On January 10, 2023, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On January 12, 2023, the Center received an email in English from the Respondent’s representative that did not address the language of the proceeding. On January 13, 2023, the Complainant submitted its request that English be the language of the proceeding. The Complainant filed an amended Complaint in English on January 15, 2023.

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”).

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<sup>1</sup> The Panel notes that the original Complaint has incorrectly named the Registrar as the Respondent.

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 January 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2023. The Respondent did not submit any formal response other than its authorized representative's email of January 12, 2023. Accordingly, the Center notified the Parties that it would proceed to the panel appointment on February 10, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on February 17, 2023. 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 digital bank licensed by the Singapore Monetary Authority. It is a consortium formed by Grab Holdings Inc and Singapore Telecommunications Limited. The Complainant holds Singaporean trademark registration number 40202115508R for GXS (application filed on July 1, 2021) for which the registration procedures were completed on January 20, 2022, specifying goods and services in classes 9, 35, 36, 38, 42, and 45. That trademark registration is current. On July 18, 2022, the Complainant filed Singaporean trademark applications numbers 40202252082W, 40202252083G, and 40202252084K for GXS BANK, GXSBANK, and a figurative GXS mark, respectively. Those applications are currently pending. According to press reports in evidence, the launch of the Complainant's bank and its first product were announced in August 2022. The Complainant now offers the GXS Savings Account and the GXS digital banking mobile application, among other products. It operates a website in connection with the domain name <gxs.com.sg> where it offers its products and services. It also operates social media accounts.

The Respondent is a Chinese company named 中国供销电子商务有限公司 which is transcribed in the Registrar's Whols database as "Zhong Guo Gong Xiao Dian Zi Shang Wu You Xian Gong Si" and translated on the Respondent's website as "China CO-OP Electronic Commerce Co., Ltd". Its contact email address uses the domain name <echinacoop.com>. According to evidence provided by the Complainant, the Respondent operates a website in Chinese associated with the domain name <gxds.fupin832.com> where it provides information about itself. The website states that the Respondent was established on May 28, 2015 under 中华全国供销合作总社 (*i.e.*, the All-China Federation of Supply and Marketing Cooperatives) by 中国供销集团 (*i.e.*, the China CO-OP Group) for the purpose of serving agriculture, rural areas and farmers, with a commitment to building a comprehensive service platform for the supply chain of agricultural products. The Panel takes note that the Respondent's website appears to be a sub-domain of a larger website at "www.fupin832.com" associated with the 脱贫地区农副产品网络销售平台 or "832 platform", an online sales platform for agricultural and agricultural by-products in impoverished areas. According to the larger website, the 832 platform operates under the guidance of the Chinese Ministry of Finance, the Chinese Ministry of Agriculture and Rural Affairs, the National Rural Revitalization Bureau, and the All-China Federation of Supply and Marketing Cooperatives.<sup>2</sup>

The disputed domain name was registered on August 10, 2015. It does not resolve to any active website; rather, it is passively held.

On October 3, 2022, the Complainant attempted to contact the Respondent via an online form on the Registrar's website and offered to purchase the disputed domain name at a reasonable price; no reply was received.

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<sup>2</sup> The Panel notes its general powers articulated *inter alia* in paragraphs 10 and 12 of the Rules and has visited the Respondent's publicly available website and the second-level domain website in order to evaluate the allegations in the Complaint about the identity and activities of the Respondent. The Panel considers this process of evaluation useful in assessing the merits of this dispute. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant is the owner of registered trademark rights in the GXS mark. It is also the owner of substantial goodwill and reputation in the GXS and GXS BANK marks by reason of its extensive use and promotion of such marks. The disputed domain name is identical to the GXS BANK mark and confusingly similar to the GXS mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent appears to be an e-commerce company which engages in production and supply in the agricultural field. The Complaint annexes the About Us page from the Respondent's website and the Respondent's Baidu profile page. The Complainant wishes to highlight the highly covert nature of the Respondent's identity. There is no evidence that the disputed domain name has ever been actively used since it was first registered more than 7 years ago. The Complainant has not granted the Respondent any license or any authorization of any kind to use the Complainant's trademarks. The Complainant is not in any way associated or affiliated with the Respondent.

The disputed domain name has been registered and is being used in bad faith. There is no evidence that the Respondent has ever put the disputed domain name to use since it was registered more than 7 years ago. Considering that banks are highly regulated institutions and the obtaining of the necessary regulatory approvals would require the expenditure of significant resources, it is inconceivable that a company that genuinely intended to use the disputed domain name for a banking business would register it and thereafter abandon all use of it. The clear absence of rights or legitimate interests coupled with no plausible credible explanation for the Respondent's choice of the disputed domain name leads to a clear inference of bad faith. To the best of the Complainant's knowledge, there are no other banks or financial institutions known by the name "GXS" or "GXS Bank", which strongly suggests that the Respondent also cannot be known by the disputed domain name. The Respondent had taken deliberate steps to conceal its identity and ensure that communication with it cannot be easily made by registering the disputed domain name anonymously, with the only method of contacting it being an online form on the Registrar's website. The Complainant's trademarks have a degree of distinctiveness or reputation. The Respondent nonetheless continued to passively hold the disputed domain name despite not having any rights or legitimate interests in it. The Respondent's passive holding of the disputed domain name does not preclude a finding of use in bad faith.

### **B. Respondent**

The Respondent's authorized representative, Lantai Partners, contacted the Center prior to the notification of the Complaint but did not intervene further in the proceeding. The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Procedural Issue: 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 language of the proceeding be English. Its main arguments are that the Respondent's authorized representative is fluent in English; the disputed domain name is composed of English characters; the Complainant is a Singapore company where the only working language is English; neither the Complainant nor its legal representatives are able to translate the Complaint without a

professional translation service, which would result in significant delay and costs to the Complainant.

Paragraph 10(b) and (c) of the Rules require 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 the Complaint and amended Complaint were filed in English. The email communication received from the Respondent's authorized representative is also in English, which indicates that the Respondent is able to understand the Complaint and present its case in that language. Further, despite the Center having sent an email regarding the language of the proceeding and the Notification of the Complaint in English and Chinese, the Respondent has not requested that Chinese be the language of the proceeding or intervened in this proceeding beyond its authorized representative's initial enquiry. Therefore, the Panel considers that requiring the Complainant to translate the Complaint would create an undue burden and delay.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (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.

The burden of proof of each element is borne by the Complainant. The Respondent's failure to respond to the Complainant's contentions does not by itself mean that the Complainant is deemed to have prevailed. See [WIPO Overview 3.0](#), section 4.3.

### **A. Identical or Confusingly Similar**

Based on the evidence presented, the Panel finds that the Complainant has registered rights in the GXS trademark. Even though the trademark registration occurred after the registration of the disputed domain name, it suffices for the purposes of the first element of paragraph 4(a) of the Policy that the Complainant acquired its trademark rights prior to filing its Complaint, as is the case here.

The Complainant has filed applications to register other marks. However, as those applications are currently pending, they do not in themselves create rights for the purposes of the Policy.

The Complainant also claims to own substantial goodwill and reputation in the marks GXS and GXS BANK by reason of its allegedly extensive use and promotion of such marks. The evidence shows that the launch of the bank and its first product using these marks was announced in August 2022, four months before the filing of the Complaint. There is no advertising or press coverage of the Complainant or its products prior to 2022 on the record. The Complainant's Facebook and Instagram accounts have fewer than 600 followers each but its LinkedIn account has almost 6,000 followers. In any case, it is unnecessary for the Panel to determine the existence of any unregistered rights in view of the other findings below.

The disputed domain name wholly incorporates the GXS mark as its initial element. It adds the word “bank” but the addition of this word does not avoid a finding of confusing similarity because the GXS mark remains clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

The only additional element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element may be disregarded in the comparison between the disputed domain name and the Complainant’s trademark for the purposes of the first element of paragraph 4(a) of the Policy. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, 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 of 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 noncommercial 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.

The Complainant submits that it has not granted the Respondent any license or authorization of any kind to use the Complainant’s trademarks.

As regards the first and third circumstances set out above, the disputed domain name does not resolve to any active website and does not appear ever to have done so. The passive holding of the disputed domain name indicates that it is not being used in connection with any *bona fide* offering of goods or services. Although the Respondent may be building or have already built a platform for the agricultural supply chain elsewhere, there is no evidence of any demonstrable preparations to use the disputed domain name in that way or in connection with any other offering of goods or services. Further, the passive holding of the disputed domain name does not constitute a legitimate noncommercial or fair use of the disputed domain name that would create rights or legitimate interests for the purposes of the Policy.

As regards the second circumstance set out above, the Respondent’s name is 中国供销电子商务有限公司, which may be transliterated as “Zhongguo Gongxiao Dianzi Shangwu Youxian Gongsi”, that it translates as “China CO-OP Electronic Commerce Co., Ltd”. None of these names is the disputed domain name. The Panel takes note that the Respondent abbreviates its name on its website to “供销电商”, which may be transliterated as “Gong Xiao Dian Shang”. The initials of that transcribed abbreviation are presumably the reason why the Respondent’s website address incorporates the letters “gxds”, but that combination of letters is not “GXS” as used in the disputed domain name. Nothing indicates that the Respondent has been commonly known by the disputed domain name.

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. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant’s contentions.

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**

The Panel recalls that the third element of paragraph 4(a) of the Policy contains two requirements that apply conjunctively. The Complainant is required to demonstrate both that the disputed domain name has been registered in bad faith and also that it is being used in bad faith. Failure to prove either requirement will result in denial of the Complaint.

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith. While these circumstances are not an exhaustive list, a conclusion that a domain name was registered in bad faith requires a finding that the respondent had a complainant's mark in mind at that time.

In the present case, the disputed domain name was registered on August 10, 2015. Nothing in the evidence indicates that the Complainant existed prior to 2021 (when it filed its first trademark application), which was six years after the registration of the disputed domain name. The Complainant did not exist in December 2019, when the plan to create it was announced, and it does not appear to have existed in December 2020, when the Singapore Monetary Authority announced its selection of an as-yet-unnamed consortium that is now the Complainant for the eventual award of a digital banking license. The bank and its first product were launched in 2022 and none of the evidence of use of the Complainant's marks predates that year. In these circumstances, there is no reason to believe that the Respondent could have known of the Complainant or its marks when it registered the disputed domain name in 2015, because they did not exist at that time. The histories of the Complainant's parent companies are not relevant because the Complainant does not allege that either of them used the mark GXS, GXS BANK, or similar. Nothing in the record indicates that the Respondent registered the disputed domain name in anticipation of the Complainant's rights either, because there is no evidence that the Complainant's trademarks were even proposed until long after the registration of the disputed domain name occurred. See [WIPO Overview 3.0](#), sections 3.8.1 and 3.8.2.

In view of these circumstances, the Panel need not speculate as to the reasons why the Respondent chose to combine the letters "GXS" with the word "bank" although it can be observed that a three-letter acronym has various potential meanings such as the initials for "Gong Xiao She" (*i.e.*, 供销社) and the Respondent appears to offer electronic money coupons on the 832 platform. In any case, given the timing of the registration of the disputed domain name, the Respondent could not have had the Complainant or its marks in mind when it registered the disputed domain name.

For the above reasons, the Panel does not find that the disputed domain name has been registered in bad faith. It is unnecessary to consider whether the disputed domain name is being used in bad faith. The Complainant has failed to satisfy the third element of paragraph 4(a) of the Policy.

### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: March 2, 2023