

ADMINISTRATIVE PANEL DECISION

Wolfspeed, Inc. v. 王晓文 (Wang Xiaowen)
Case No. DCN2022-0034

1. The Parties

The Complainant is Wolfspeed, Inc., United States of America (“USA”), represented by Kilpatrick Townsend & Stockton LLP, USA, and Kilpatrick Townsend & Stockton Intellectual Property Agency (Beijing) Co., Ltd., China.

The Respondent is 王晓文 (Wang Xiaowen), China.

2. The Domain Name and Registrar

The disputed domain name <wolfspeed.com.cn> is registered with 易介集团北京有限公司 (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 8, 2022. On June 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 10, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the China ccTLD Dispute Resolution Policy (the “Policy”), the China ccTLD Dispute Resolution Policy Rules (the “Rules”), and the WIPO Supplemental Rules for China ccTLD Dispute Resolution Policy and China ccTLD Dispute Resolution Policy Rules (the “WIPO Supplemental Rules”).

In accordance with the Rules, Articles 5 and 6, and Articles 14 to 16, and the WIPO Supplemental Rules, Paragraph 4(d), the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceedings commenced on June 15, 2022. In accordance with the Rules, Articles 17 and 49, the due date for Response was July 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 6, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 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, Article 29.

4. Factual Background

The Complainant is a multinational company specialized in silicon carbide technology and particularly provides silicon carbide semiconductor products. The Complainant's product families include silicon carbide materials, silicon carbide power semiconductor products and radio frequency (RF) products targeted for applications such as electric vehicles, fast charging inverters, power supplies, telecom and military and aerospace. The Complainant currently has over 3,400 employees and operates in 17 countries, including in the Respondent's jurisdiction China, where it is active in, *inter alia*, Hong Kong, China, Shanghai and Shenzhen.

The Complainant owns a trademark portfolio protecting the mark WOLFSPEED, including, amongst others, the following trademark registrations, USA trademark registration number 5530597 for the figurative mark WOLFSPEED, registered on July 31, 2018; and Chinese trademark registration number 18188712 for the word mark WOLFSPEED, registered on December 7, 2016. The Complainant also provides evidence that it owns a China country code Top-Level Domain ("ccTLD") domain name, *i.e.*, <wolfspeed.cn> (registered on August 4, 2015) which redirects to the Chinese language pages within its main website hosted at its official domain name <wolfspeed.com>.

The disputed domain name was registered on November 26, 2019, and is linked to an active website predominantly in English, which offers the disputed domain name for sale.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is identical to its trademark WOLFSPEED, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

The Complainant provides evidence of its company and marketing materials, including the content of its official website. Moreover, the Complainant provides evidence that the disputed domain name is linked to an active webpage where the Complainant claims that the disputed domain name is offered for sale for an amount in excess of the out-of-pocket costs related to the disputed domain name. The Complainant essentially contends that such use does not confer any rights or legitimate interests onto the Respondent in respect of the disputed domain name, and constitutes bad faith. Finally, the Complainant also contends that the Respondent has engaged in a pattern of bad faith cybersquatting.

The Complainant requests the transfer of the disputed domain name.

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 Article 6 of the Policy, Article 8 of the Rules and Paragraph 18 of the WIPO Supplemental Rules, unless otherwise agreed by the Parties, or determined by the Panel under exceptional circumstances, the language of the administrative proceeding shall be Chinese.

The Complainant filed its Complaint in English, including a request that the language of the proceeding be English. On June 15, 2022, the Center formally notified the Respondent in Chinese and English of the

Complaint and of the commencement of the proceeding, including that the Complaint was filed in English. The Center also notified the Respondent in Chinese and English of its right to file a Response in either Chinese or English, and comment on the language of the proceeding in its Response. Nevertheless, the Respondent did not submit any response or comment in this administrative proceeding.

The Panel, which is familiar with both English and Chinese, has carefully considered all elements of this case, in particular, 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 the Respondent (the Panel notes that the Respondent was duly and timely invited to respond in either Chinese or English); the evidence produced by the Complainant which proves that the website linked to the disputed domain name is predominantly in English (with only a few words in Chinese), from which the Panel deduces that the Respondent appears to be able to understand and communicate in English; and the fact that Chinese as the language of the proceeding could lead to unwarranted delays and costs for the Complainant. In view of these exceptional circumstances, the Panel grants the Complainant's request, and decides that the language of this administrative proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain name is identical or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests;
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name or major part of the disputed domain name; and
- (c) the Respondent has registered or has been using the disputed domain name in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar to the Complainant's Name or Mark in which the Complainant has Civil Rights or Interests

The Panel finds that the Complainant has shown that it has valid civil rights or interests in the mark WOLFSPEED based on its use and registration of the same as a trademark in several jurisdictions, including in China.

Moreover, as to whether the disputed domain name is identical or confusingly similar to the Complainant's aforementioned trademark, the Panel finds that the disputed domain name consists of only the Complainant's registered trademark WOLFSPEED, combined with the suffix ".com.cn". The applicable Top-Level Domain ("TLD") and the second-level portion of a domain name (here ".com.cn") may be disregarded by the Panel under the first element test. Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trademark in which the Complainant has civil rights or interests and the first element required by the Policy is fulfilled.

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 name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that it appears from the evidence that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent. However, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts, the Panel notes that the website linked to the disputed domain name currently only displays an invitation to submit financial offers for the sale of the disputed domain name, which cannot be considered as use of the disputed domain name, or a corresponding name, in connection with a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use (see in this regard also earlier decisions under the Policy such as *Boehringer Ingelheim Animal Health France v. 马海建 (Ma Hai Jian)*, WIPO Case No. [DCN2021-0034](#)).

The Panel considers that none of the circumstances of rights or legitimate interests envisaged by Article 10 of the Policy apply. The Panel also notes that no evidence or arguments have been submitted by the Respondent in reply. The Panel therefore finds that the Complainant has satisfied the requirements for the second element under the Policy.

C. Registered or Used in Bad Faith

The registration of the disputed domain name, which is identical to the Complainant's trademarks, is clearly intended to mislead and divert Internet users away from the Complainant's official website (which is hosted at the Complainant's official domain names which are very similar to the disputed domain name, *e.g.*, the abovementioned domain names <wolfspeed.cn> and <wolfspeed.com>), and lead them to the website hosted at the disputed domain name. Given the prior registration of the Complainant's trademarks (including in the Respondent's jurisdiction China), the Complainant's substantial business activities in the Respondent's jurisdiction China and the fact that the disputed domain name is identical to such trademarks, the Panel finds that the Respondent deliberately targeted the Complainant's trademarks by his/her registration of the disputed domain name and therefore knew, or should have known, of the Complainant's registered trademarks for WOLFSPEED. In the Panel's view, the preceding elements clearly establish the bad faith of the Respondent in registering the disputed domain name.

As to use of the disputed domain name in bad faith by the Respondent, the website linked to the disputed domain name currently only displays an invitation to submit financial offers for the sale of the disputed domain name and refers interested parties to two email addresses, a WeChat account, a phone number or to several domain name marketplaces including Sedo. The Panel refers to the evidence submitted by the Complainant, which proves that the Respondent listed the disputed domain name on the Sedo domain name marketplace, with a minimum selling price of USD 10,000, which the Panel considers a price well in excess of the Respondent's out-of-pocket costs related to the disputed domain name. This leads the Panel to conclude that the Respondent is using the disputed domain name to try to sell it to the Complainant, who is the owner of the corresponding trademark for WOLFSPEED, or to a competitor of the Complainant, and to obtain unjustified benefits through such sale. The Panel notes that this constitutes direct evidence of the bad faith of the Respondent under Article 9(a) of the Policy. 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 well-known third party trademarks such as <calvinkleinjeans.cn> and <amazonkindle.com>. In the Panel's view, the preceding elements clearly establish the bad faith of the Respondent in using the disputed domain name.

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 element under the Policy.

7. Decision

For the foregoing reasons, in accordance with Articles 14 of the Policy and 40 of the Rules, the Panel orders that the disputed domain name <wolfspeed.com.cn> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: July 28, 2022