

ADMINISTRATIVE PANEL DECISION

Sonatype, Inc. v. Zhi Chao Yang
Case No. D2023-2460

1. The Parties

The Complainant is Sonatype, Inc., United States of America, represented by Mosaic Legal Group, PLLC, United States of America (“United States”).

The Respondent is Zhi Chao Yang, China.

2. The Domain Names and Registrar

The disputed domain names <mysonatype.com>, <sonatypee.com>, and <sonatypes.com> are registered with Cloud Yuqu LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 8, 2023, 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.

On June 9, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 10, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the 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 June 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 6, 2023.

The Center appointed Sok Ling MOI as the sole panelist in this matter on July 26, 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

According to the Panel's independent Internet search, the Complainant is in the business of software supply chain management, and owns the domain name <sonatype.com> through which it operates its official website. The Complainant has used SONATYPE as a trade mark in commerce in connection with various goods and services as early as March 2007.

The Complainant owns the following trade mark registrations:

Jurisdiction	Mark	Registration No.	Class	Registration Date
United States	SONATYPE	4,082,404	9 & 42	January 10, 2012
United States	SONATYPE NEXUS	4,400,529	9 & 42	September 10, 2013
United States	NEXUS REPOSITORY	5,610,037	9	November 20, 2018

The disputed domain names <mysonatype.com>, <sonatypee.com> and <sonatypes.com> were registered on June 13, 2022. According to the evidence submitted by the Complainant, each of the disputed domain names resolves to a parking webpage featuring sponsored links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its SONATYPE trade mark, the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

The Complainant requests for 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 Formality Issue - Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, 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.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the proceeding takes place with due expedition and that the Parties are treated equitably and given a fair opportunity to present their respective cases.

The language of the Registration Agreement for the disputed domain names is Chinese. From the evidence on record, no agreement appears to have been entered into between the Complainant and the Respondent regarding the language issue. The Complainant filed its Complaint in English and has requested that English

be the language of the proceeding. The Respondent did not respond on the issue of the language of the proceeding.

The Panel finds sufficient evidence in the present proceeding to suggest that the Respondent has sufficient knowledge of English. In particular, the Panel notes that:

- (a) the disputed domain names are registered in Latin characters, rather than Chinese script; and
- (b) according to the evidence submitted by the Complainant (Annex 6 and Annex 7 to the Complaint), the websites to which the disputed domain names resolve contains contents entirely in English.

Additionally, the Panel notes that:

- (a) the Center has notified the Respondent in both Chinese and English of the proceeding;
- (b) the Respondent has been given the opportunity to present its case in this proceeding; and
- (c) the Center has informed the Respondent that it would accept a Response in either English or Chinese.

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case.

The Panel has taken into consideration the fact that to require the Complaint to be translated into Chinese would, in the circumstances of this case, cause an unnecessary cost burden to the Complainant and would unnecessarily delay the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that it shall accept the Complaint and all supporting materials as filed in English, that English shall be the language of the proceeding, and that the decision will be rendered in English.

6.2 Substantive Issue - Findings

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be cancelled or transferred:

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

On the basis of the arguments and evidence introduced by the Complainant, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in SONATYPE by virtue of its use and registration of the same as a trade mark. There is no specific requirement under the Policy to have a trade mark registration in the jurisdiction where the Respondent is based, namely China.

Each of the disputed domain names incorporates the Complainant's trade mark SONATYPE in its entirety. Neither the addition of the letter "e" or "s" or the word "my" prevents a finding of confusing similarity between the disputed domain names and the Complainant's trade mark. The addition of the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and is generally disregarded for the purpose of the confusing similarity assessment.

Consequently, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trade mark.

Accordingly, the Complainant has satisfied the requirements of the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant bears the burden of proof to establish that the respondent lacks rights or legitimate interests in the disputed domain name. However, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, the burden of production shifts to the respondent to come forward with evidence in support of its rights or legitimate interests in the disputed domain name. The respondent may establish its rights in the disputed domain name by demonstrating any of the following, without limitation, under paragraph 4(c) of the Policy:

- (i) before any notice to it 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 has been commonly known by the disputed domain name, even if it has acquired no trade mark 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 trade mark or service mark at issue.

See *Taylor Wimpey PLC, Taylor Wimpey Holdings Limited v. honghao Internet foshan co, ltd*, WIPO Case No. [D2013-0974](#).

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the SONATYPE trade mark or to seek registration of any domain name incorporating the trade mark. The Respondent appears to be an individual by the name of "Zhi Chao YANG". There is no evidence suggesting that the Respondent is commonly known by the disputed domain names or has acquired any trade mark rights in the term "sonatype".

According to the evidence submitted by the Complainant, each of the disputed domain names resolves to a parking webpage featuring sponsored links to third party websites some of which offer services competitive to the Complainant's business. Presumably, the Respondent receives pay-per-click ("PPC") fees from the linked websites. UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel is satisfied that the Complainant has made out a *prima facie* case showing that the Respondent lacks rights or legitimate interests in the disputed domain names. The burden of production thus shifts to the Respondent to come forward with evidence of its rights or legitimate interests in the disputed domain names. Since the Respondent did not file a response to the Complaint and has thus failed to offer any explanation for the registration of the disputed domain names, the *prima facie* case has not been rebutted. Consequently, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain names.

Accordingly, the Complainant has satisfied the requirements of the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

- (i) circumstances indicating that the respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent has registered the disputed domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (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 online 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.

In this case, the Respondent has registered three domain names which are obvious typographical variants and misspelled versions of the Complainant's domain name <sonatype.com>. According to the evidence submitted by the Complainant, the websites to which each of the disputed domain names resolves reproduced the Complainant's trade marks SONATYPE NEXUS and NEXUS REPOSITORY" (Annex 7 and Annex 8 to the Complaint). This suggests that the Respondent was aware of and specifically targeting the Complainant when he registered the disputed domain names. The Panel finds that the circumstances referred to in paragraph 4(b)(ii) of the Policy are applicable to the present case.

According to the evidence submitted by the Complainant, each of the disputed domain names resolves to a parking webpage featuring sponsored links to third party websites some of which offer services competitive to the Complainant's business. The consensus view of previous UDRP panels is that a domain name registrant is normally deemed responsible for content appearing on a website at its domain name, even if such registrant may not be exercising direct control over such content - for example, in the case of advertising links appearing on an "automatically" generated basis. The Panel notes the presumption that the Respondent or a third party stands to profit or make a "commercial gain" from advertising revenue by such an arrangement trading on third-party trade marks. In the Panel's opinion, such links clearly seek to capitalize on the trade mark value of the Complainant's SONATYPE trade mark. The Panel therefore determines that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his websites by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of the Respondent's websites, and the Panel finds that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case.

Taking into account all the circumstances, the Panel is satisfied that the Respondent's registration and use of the disputed domain names is in bad faith.

Accordingly, the Complainant has satisfied the requirements of the third element under 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 names, <mysonatype.com>, <sonatypee.com> and <sonatypes.com> be transferred to the Complainant.

/Sok Ling MOI/

Sok Ling MOI

Sole Panelist

Date: August 11, 2023