

ADMINISTRATIVE PANEL DECISION

TRANS SESÉ, S.L. v. 陈财贵 (Chen Cai Gui)

Case No. D2023-4283

1. The Parties

The Complainant is TRANS SESÉ, S.L., Spain, represented by ABG Intellectual Property Law, S.L., Spain.

The Respondent is 陈财贵 (Chen Cai Gui), China, represented by 企发发知识产权服务有限公司, China.

2. The Domain Name and Registrar

The disputed domain name <sese.com> is registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 16, 2023. On October 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 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 (Unavailable) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 2023 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 and its Chinese translation on October 22, 2023.

On October 17, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On October 20, 2023, the Complainant submitted the Chinese translation of the Complaint, and requested that English be the language of the proceeding. The Respondent submitted a request on October 22, 2023, requesting that Chinese be 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 October 25, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was November 14, 2023. The Response was filed with the Center on November 14, 2023.

The Center appointed Sok Ling MOI as the sole panelist in this matter on November 21, 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, domiciled in Spain, is a family owned business since 1965. In 1965, the founder, Alfonso Sesé Tena, started a business for the transportation of goods by road. 30 years later, in 1995, Alfonso Sesé and his sister, Ana Sesé grew the business on the back of their father's achievements with the opening of international locations and diversified the business beyond road transport into logistics and industrial services.

In the Complaint, the Complainant provided information of its proprietary ownership of only the following four trade mark registrations – and this is for two different trade mark versions incorporating the name “sesé”, namely:

(a)



(SESÉ word mark in colour)

(b)

(GRUPO SESÉ & lion head device mark)



Jurisdiction	Trade Mark	Class	Registration No.	Filing Date
European Union	SESÉ word mark in colour	35, 37, 39, 41	018887084	June 12, 2023
Brazil	GRUPO SESÉ & lion head device mark	39	913788317	November 26, 2017
United Kingdom	GRUPO SESÉ & lion head device mark	35, 39, 41	UK00917503665	November 22, 2017
European Union	GRUPO SESÉ & lion head device mark	35, 39, 41	017503665	November 22, 2017

(In Annex 11, the Complainant furnished evidence of a few additional trade mark registrations, but as the contents were entirely in Spanish and not translated into English (despite the Complainant requesting English to be the language of the proceeding), the Panel is not able to understand and take into account. In any event, it appears that none of these registrations pre-date 2011.)

The Complainant also owns and operates its official website through the domain name <gruposese.com> to promote its business activities:

The disputed domain name was registered on December 6, 1999, while its ownership was transferred to the Respondent on July 30, 2015. According to the evidence submitted by the Complainant, the disputed domain name redirected to “www.haoqq.com” (an English language parking website with many links).

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to its trade mark, as it incorporates the trade mark SESÉ in its entirety (minus for some marks, the term “grupo”);
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. In particular, the Respondent contends that:

- the Complainant's registered trade mark rights were for the composite mark which is not confusingly similar to “sese” appearing in the disputed domain name;
- the Respondent had spent substantial sums of money in purchasing the disputed domain name in 2015 and developing the website, and thus has legitimate interests in the disputed domain name;
- the Complainant's earliest trade mark registration was filed in 2017, which is later than the date of original registration of the disputed domain name in 1999, and also later than the date of (acquisition) transfer of the disputed domain name to the Respondent in 2015;
- the term “sese” may represent the Chinese pinyin equivalent of various Chinese words such as “色色” (which means “lust”), and it is valuable as a “CVCV” type domain name;

an Internet search using Baidu did not disclose any results relating to the Complainant.

6. Discussion and Findings

6.1 Procedural Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English followed by a Chinese translation. The Complainant requested that the language of the proceeding be English for several reasons. The Respondent requested that the language of the proceeding be Chinese, claiming that he is a Chinese national living in China in which Chinese is the main language.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.5.1).

Although the Respondent appears to be a Chinese individual, the Panel finds *prima facie* evidence in the present proceeding to suggest that the Respondent has sufficient knowledge of English. In particular, the Panel notes that the disputed domain name comprises only Latin characters rather than Chinese characters; and that it redirected to an English language website "www.haoqq.com". The Respondent has confirmed the domain name <haoqq.com> is owned by him (Annex 3 to the Response). The Panel further notes that the Center has informed the Respondent that it would accept a Response in either English or Chinese.

Accordingly, 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.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be 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 transferred:

- (i) the disputed domain name registered by the respondent 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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trade mark SESÉ for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is reproduced within the disputed domain name despite the accent. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Registered and Used in Bad Faith

The Panel notes that the Complainant did not have (or if it does, does not provide evidence of such) registered trade mark rights in respect of the name "sesé" as at the date of registration of the disputed domain name (i.e., on December 6, 1999 or July 30, 2015). Given that the Complainant was founded in 1965, if there was evidence of trade mark rights (registered or otherwise) from prior to 1999 or 2015 for that matter, it would be incumbent on the Complainant to provide evidence of this in its Complaint – it does not, and merely suggests in a conclusory manner that if the Respondent had searched the Internet it would have found the

Complainant, and since the disputed domain name is for sale, the Complainant must have been the Respondent's target.

The Complainant's name is "TRANS SESÉ, S.L." and it has been using the domain name <gruposesese.com> for its official website to promote its business activities. The Panel notes that the term "sesé" is a common Spanish surname and if used in such capacity may be lacking in distinctiveness. The burden of proof is on the Complainant to establish that through its use and promotion, the term "sesé" has acquired a secondary meaning such that the relevant public would view it as a badge of origin exclusively associated with the Complainant's business. However, the Complainant did not furnish any clear date-specific evidence (whether in the form of annual revenue, annual marketing expenditure, advertising and promotional materials, media recognition, or industry accolades) to show that it has acquired common law or unregistered rights in respect of the name "sesé" as at 1999 when the disputed domain name was first registered, or at 2015 when the disputed domain name was acquired by the Respondent. All said, the Complaint contains a series of conclusory statements which are not supported by evidence and which do not even add up to allowing the Panel to draw an inference of bad faith on the part of the Respondent. In the absence of clear convincing evidence, the preference would be to preserve status quo taking into account the relative prejudice to the parties.

In the circumstances, the Panel finds that the Complainant has failed to establish the third element of the Policy.

C. Rights or Legitimate Interests

The Panel's above finding would be sufficient to dispose of the matter and there would be no need to address the second element.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Sok Ling MOI/

Sok Ling MOI

Sole Panelist

Date: December 17, 2023