

ADMINISTRATIVE PANEL DECISION

Tencent Holdings Limited v. Ravi Shrestha

Case No. DAI2023-0021

1. The Parties

The Complainant is Tencent Holdings Limited, Cayman Islands, United Kingdom, represented by Kolster Oy Ab, Finland.

The Respondent is Ravi Shrestha, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <wechat.ai> is registered with 101domain, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 5, 2023. On September 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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.

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 of the Complaint, and the proceedings commenced on September 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 10, 2023. On October 11, 2023, the Respondent's informal communication was received by the Center.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on October 18, 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 was founded in 1998.

In 2011, the Complainant established and since then has been operating the “WeChat” instant messaging, social media, and mobile payment application. By 2018, it had over 1 billion active users around the world. The application has been described as China’s “App for Everything”, although it is not just used in China. In 2021, Brand Finance Global 500 named “WeChat” one of the world’s strongest tech brands.

The Complaint includes evidence that the Complainant owns at least three registered trademarks for WECHAT including:

- (a) European Union Trademark No. 010344621 for WECHAT, which was registered on March 21, 2012 with effect from October 17, 2011, in respect of a wide range of relevant goods and services in International Classes 9 and 38;
- (b) United States Trademark No. 4442135 for WECHAT, which was registered in the Principal Register on December 3, 2013, also in respect of a wide range of relevant goods and services in International Classes 9 and 38; and
- (c) China Trademark No. 13863523 for WECHAT, which was registered on March 7, 2015, in International Class 9.

According to the Respondent’s communication, the Respondent obtained the registration of the disputed domain name in March 2016. According to the Whois record, the disputed domain name was registered on December 16, 2017.

According to the Complaint, the disputed domain name has not resolved to an active website. The Complaint, however, did not include a screenshot to verify this. At the time this decision is being prepared, however, the disputed domain name resolves to a website which appears to host a number of “posts” on an eclectic range of subjects. For example, “When Mars, Ray B.?”, “François de La Rochefoucauld: Master of aphorisms (and a failure of none)”, “Sifting through the chemicals burnin’ in my bloodstream!”, “2050”, and so on.

A notable feature of the landing page is that the first five posts are dated in 2019, there are then four posts dated in 2018, four posts dated in 2017, three posts in 2015, 14 in 2014, 10 in 2013, and with the first post being dated September 19, 2010.

The Respondent does not address this issue.

In order to examine these discrepancies, the Panel consulted the Wayback Machine. It shows that a website at “www.wechat.ai” has been crawled six times between May 25, 2017 and March 19, 2023.

The Panel was unable to retrieve the pages archived on the two dates in 2017. The pages archived on March 14, 2018 and May 4, 2019 appear to be pages provided by the Registrar or host and are headed “Future home of [...] wechat.ai”. The next page, on December 26, 2021, redirects to a page on Dan.com headed “The name wechat.ai is for sale” and solicits the browser to “Make an offer”. The last page archived, on March 19, 2023, also redirects to the Dan.com page headed “The name wechat.ai is for sale”.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (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.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of several registered trademarks for WECHAT.

The second stage of this inquiry simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of "likelihood of confusion" under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the Top Level Domain ("TLD") (in this case ".ai") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.1.

Disregarding the ".ai" TLD, the disputed domain name consists of the Complainant's registered trademark only. Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (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.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement, like each element, falls on the Complainant. UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is usually sufficient for a complainant to raise a *prima facie* case against the respondent under this head and the burden of production will shift to the respondent to rebut that *prima facie* case. The ultimate burden of proof, however, remains with the Complainant. See e.g., [WIPO Overview 3.0](#), section 2.1.

The Respondent registered the disputed domain name five or six years after the Complainant began using its trademark, and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any trademarks for the disputed domain name.

The Respondent does not dispute these matters. In his response, however, the Respondent states that he registered the disputed domain name in March 2016 "to ideate upon my exploratory curiosity". According to the response, the Respondent's idea has morphed over time and he is now working on creating a crowdsourced conversational AI bot:

"(hence the name wechat) that also leverages existing AI LLMs, including Bard (from Google), ChatGPT (from OpenAI), Poe (from Quora), Claude (from Anthropic) and Gorilla (from Microsoft). The primary goal is to help scholars and beginners around the world to seek complex ideas, gather knowledge, organize thoughts and beliefs on a particular topic through this website via Socratic questioning method."

The Respondent does not include evidence such as business plans, correspondence related to business formation, or the like which might corroborate that claim. See [WIPO Overview 3.0](#), section 2.2.

If as the Respondent says the idea of creating a crowdsourced conversational AI bot was something that morphed and developed over time, it is difficult to accept that idea explains his choice of the disputed domain name when he registered it - whether that was in March 2016 or December 2017. It is also inconsistent with the Wayback Machine evidence that, at least between 2021 and March 2023, the disputed domain name was being offered for sale. Furthermore, the Respondent's explanation does not explain how the disputed domain name now resolves to a website which features blog posts on diverse subjects between 2010 and 2019 including posts apparently made before the Respondent became the registrant and which were not archived by the Wayback Machine.

In these circumstances, it is not open to the Panel to accept the Respondent's purported explanation for the adoption and proposed use of the disputed domain name.

Accordingly, the Panel finds that the Complainant has established the required *prima facie* case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted that *prima facie* case. Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint. See e.g., *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

Even in 2016 and 2017, it seems very likely that “WeChat” was very well and widely known around the world, not just in China.

The Respondent contends that the Complainant was not involved in AI initiatives in 2016 and says further that “we chat” is a common expression in English like “we sign” or “we talk” and claims he never thought about the Complainant or its “ancillary” products when registering the disputed domain name.

Accepting that “we chat” can be an ordinary English expression, the reasons leading to the rejection of the Respondent’s claim to rights or legitimate interests discussed above also lead to the Panel not accepting the Respondent’s denial in this connection.

In light of that, the Panel considers it much more likely that the Respondent was well aware of the Complainant and its trademark when registering the disputed domain name and did so to take advantage of its resemblance to the Complainant’s trademark. In those circumstances, therefore, the Panel finds that the disputed domain name was registered in bad faith contrary to the Policy.

In the absence of rights or legitimate interests in the disputed domain name, at the very least offering it for sale through Dan.com constitutes use in bad faith under the Policy. Such conduct involves opportunistic speculation on the value of the disputed domain name arising from its resemblance to the Complainant’s trademark. The failure of the Respondent’s crowdsourced conversational AI bot claim and the offering of the disputed domain name for sale through Dan.com indicates that the current form of the website is merely colourable or pretextual.

Accordingly, the Panel finds the Respondent has registered and used it in bad faith.

The Complainant, therefore, has established all three requirements under the Policy.

6. 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 name <wechat.ai> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: November 2, 2023