

ADMINISTRATIVE PANEL DECISION

Marchesi Antinori S.p.A. (安东尼世家股份公司) v. 成佳玲 (cheng jia ling)
Case No. D2024-4935

1. The Parties

The Complainant is Marchesi Antinori S.p.A. (安东尼世家股份公司), Italy, represented by IP skill, Italy.

The Respondent is 成佳玲 (cheng jia ling), China.

2. The Domain Name and Registrar

The disputed domain name <antinoriusa.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 November 28, 2024. On November 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 2024, 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 (unidentified Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 2, 2024, 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 on December 6, 2024.

On December 2, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On December 6, 2024, the Complainant confirmed its request that English be the language of the proceeding, and submitted a Chinese translation of the amended Complaint. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended Complaint and translated 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 Chinese and English of the Complaint, and the proceedings commenced on December 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 30, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on January 6, 2025. 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 prominent Italian producer of wines, with a tradition of almost seven centuries, i.e. since the Antinori family joined the Arte Fiorentina dei Vinattieri in 1385. The Complainant also owns vineyards in the United States of America ("United States") Napa Valley wine region, where it operates as "Antinori USA" or "Antinori Napa Valley".

The Complainant provides evidence that it owns an international portfolio of trademark registrations for ANTINORI marks, including, but not limited to, United States Trademark Registration no. 1155028 for ANTINORI, registered on May 19, 1981, in international class 33; and Chinese Trademark Registration no. 3630883 for ANTINORI, registered on March 14, 2005, in international class 33.

The disputed domain name was registered on October 28, 2024, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant provides evidence that the disputed domain name was linked to an active webpage containing pornographic content. However, on the date of this Decision, the Panel notes that the disputed domain name resolves to an inactive webpage.

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 the Complainant's trademark as it incorporates the Complainant's ANTINORI trademark in its entirety, with the only differing element being the addition of the geographical acronym "usa" to the disputed domain name, which may refer to the Complainant's activities in the United States. The Complainant also provides evidence that the disputed domain name is linked to an active webpage containing pornographic content, which, the Complainant argues, confers no rights or legitimate interest in the disputed domain name on the Respondent, and which means that the Respondent has registered and is using the disputed domain name in bad faith.

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

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. The Complainant submitted the amended Complaint in English, accompanied by a Chinese translation. In the amended Complaint, the Complainant requested that the language of the proceeding be English for several reasons, including the statement that the primary language used in business is English, the fact that the disputed domain name is written in Latin script and in the English language, and the fact that the Complainant and its representative have no knowledge of the Chinese language, and therefore, should they be compelled to submit all the documents in Chinese, the administrative proceedings would be unduly delayed and the Complainant would have to incur substantial expenses for the translation.

The Respondent did not make any submissions with respect to the language of the proceeding.

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).

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 Issues

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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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

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

Although the addition of other terms here, "usa", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence, the Panel notes that the disputed domain name resolved to an active webpage displaying pornographic content. In the Panel’s view, no rights or legitimate interests derive from using a third-party trademark to divert Internet users for commercial gain to a pornographic website, see in this regard also prior UDRP decisions such as *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#); *Seintec Norte, S.L. v. yu Liu, wangluochuanmei*, WIPO Case No. [D2021-1815](#); *Andrey Ternovskiy dba Chatroulette v. Protection of Private Person / Aleksandr Katkov*, WIPO Case No. [D2017-0381](#); and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#).

However, the Panel notes that on the date of this decision, the disputed domain name directs to an inactive webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent under the circumstances of this case (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#) and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔那 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Finally, the Panel also finds that the nature of the disputed domain name, incorporating the Complainant’s trademark in its entirety and containing the common geographic acronym “usa” (where the Complainant particularly operates under the trade name “Antinori USA”), carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent, by registering the disputed domain name, which the Panel sees as an attempt to appropriate a domain name confusingly similar to the Complainant’s trademarks which are well known in the wine industry, most likely targeted the Complainant’s prior trademarks for ANTINORI. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Furthermore, the Panel also notes that the Complainant’s trademarks for ANTINORI were registered decades before the registration date of the disputed domain name. The Panel deduces from these

elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. The Panel also notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for ANTINORI, including in the Respondent's jurisdiction, China. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the website linked to the disputed domain name displayed pornographic content, which shows that the Respondent was abusing the Complainant's trademark to mislead and divert Internet users for commercial gain to such website, and thereby also tarnished the Complainant's marks (see in this regard also previous UDRP decisions such as *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#), *Seintec Norte, S.L. v. yu Liu, wangluochuanmei*, WIPO Case No. [D2021-1815](#), and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#)).

Noting that on the date of this Decision the disputed domain name directs to an inactive website, the Panel refers to the settled view of panels applying the Policy which have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the strong reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 name <antinoriusa.com> be transferred to the Complainant.

/Deanna Wong Wai Man/
Deanna Wong Wai Man
Sole Panelist
Date: January 13, 2025