ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Waitos AI, S.L. v. Jie Chen, Newmotors LLC
Case No. DAI2026-0025

1. The Parties

The Complainant is Waitos AI, S.L., Spain, represented by Falcón Abogados, Spain.

The Respondent is Jie Chen, Newmotors LLC, United States of America ("United States"), self-represented.

2. The Domain Name and Registrar

The disputed domain name <creart.ai> is registered with Name.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 14, 2026. On April 14, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 2026, 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 April 22, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2026. The Response was filed with the Center on April 30, 2026.

The Center appointed Jeremy Speres as the sole panelist in this matter on May 5, 2026. 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

Little information is provided in the Complaint concerning the Complainant's business, apart from the following. The Complainant offers an artificial intelligence ("AI") image generation application targeted at end users under the CREART mark.

The Complainant has filed several trademark applications for its CREART (device) mark, some of which have proceeded to registration, while others have not. The earliest-filed and earliest-registered trademark is European Union Trademark Registration No. 019228142 CREART (device) in class 9, having an application date of August 5, 2025, and a registration date of December 21, 2025. The Complainant has a pending application in the Respondent's jurisdiction, specifically United States Trademark Application No. 99381408 CREART (device) in classes 9, and 42, having an application date of September 8, 2025. The Complainant also owns International Trademark Registration No. 1908881 CREART (device) in classes 9, and 42, designating, among others, China. Despite this International Trademark Registration having a registration date of October 15, 2025, none of the designations have been granted protection in the relevant designated jurisdictions, and the China designation in particular is still listed as "Awaiting decision" as at the date of this Decision.

The Respondent is a technology business focused on the development of AI applications. The disputed domain name was registered on November 21, 2025, and resolves to a website offering AI design services to e-commerce merchants. The website is entitled "Creart - The AI Agent Built for E-commerce" and features various descriptions of the service, including: "AI agents optimized for e-commerce, based on advanced multi-modal models, deep understanding of design standards. No complex prompts needed—just describe your needs like talking to a colleague for ready-to-use professional assets." The website also features a price list, a waiting list signup form, and descriptions of supported AI generation models.

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 was registered and is being used in bad faith in order to take advantage of confusion with the Complainant's mark by adopting an identical name and using it for closely related services for the Respondent's commercial gain.

B. Respondent

The Respondent contends that it registered the disputed domain name independently, as a combination of "create" and "art," a descriptive term well suited to its AI-powered design platform, and not to target the Complainant.

The Respondent claims rights and legitimate interests based on its bona fide offering of AI design and e-commerce-related services under the name "Creart".

The Respondent denies bad faith as it was unaware of the Complainant at the time of registration, did not seek to exploit any trademark rights, and is using the disputed domain name for a genuine business rather than to mislead users or trade off the Complainant's mark.

6. Discussion and Findings

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 of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The entirety of the textual element 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 3.1, section 1.7. To the extent that the design elements of the Complainant's mark are incapable of representation in domain names, these elements are generally disregarded for purposes of assessing identity or confusing similarity. WIPO Overview 3.1, section 1.10.

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

B. Rights or Legitimate Interests

For the reasons discussed in relation to the third element below, there is no need for the Panel to consider the second element.

C. Registered and Used in Bad Faith

For the following reasons, the Complainant has not met its burden of proving, on balance of probabilities, that it is more likely than not that the Respondent has targeted the Complainant.

None of the Complainant's trademarks were registered when the disputed domain name was registered. Where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. WIPO Overview 3.1, section 3.8.1. There are exceptions where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights (see WIPO Overview 3.1, section 3.8.2), however, as discussed below, there is insufficient evidence in the record supporting such a finding.

The Complainant claims to have launched its CREART application in 2023 and claims that it has acquired "recognition" in the market with a "strong presence" in the AI sector. However, no evidence is provided in support of these contentions, and no evidence showing any use of the mark by the Complainant is provided at all.

Even if the Panel accepts that the Complainant has used the mark since 2023, there is no clear evidence of awareness of the mark or targeting on the part of the Respondent in the record. The Panel has independently[1] viewed the Complainant's website at the domain name <waitos.com>, which describes its CREART application and links to listings for it on two mobile application stores. Apart from the shared "creart" element, the Respondent's platform does not appear to feature any of the other distinguishing elements of the Complainant's branding and there is no passing off or impersonation. The logos, colors, and general look and feel of the Parties' respective applications are easily distinguishable, and, besides the name, there is no other indication pointing to targeting by the Respondent. It is noteworthy that the Complainant's trademarks and its mobile application listings are all dominated by a large and prominent image of a lion which is entirely absent from the Respondent's application. If the Respondent's intention was

[1] In accordance with its powers articulated inter alia in paragraphs 10 and 12 of the Rules, the Panel is entitled to conduct limited independent research into matters of public record. WIPO Overview 3.1, section 4.8.

to capitalize on confusion with the Complainant, then, given the prominence of this lion image, it would have been natural to reproduce it, which the Respondent has not done. There is also no evidence that the Respondent has a history of cybersquatting and no evidence of any actual confusion.

The Respondent's GitHub evidence shows that it had begun development of its application as early as November 2025, which was prior to receiving the Complainant's cease and desist correspondence in February 2026 and prior to filing of the Complaint. Although the Respondent states that its application is still in an "invitation-based testing and pre-commercialization stage", the Response includes considerable evidence showing active testing and related subscriptions, development contributions, team collaboration, and infrastructure payments. The Respondent's use of the disputed domain name thus appears to be for a genuine business, and not merely as a pretext.

The Respondent's offering is related to the Complainant's in the sense that it also offers AI image generation capabilities to some degree, but it does not appear to be directly competitive with the Complainant, and it is offered via different channels. The Respondent's offering is business-to-business, targeting e-commerce merchants via a software-as-service ("SaaS") platform, apparently offering functionality beyond AI image generation, whereas the Complainant targets end consumers via mobile applications and offers only AI image generation.

The Respondent's contention that it devised "CREART" independently, as a portmanteau of "create" and "art", is plausible. The two dictionary words comprising the portmanteau are easily recognizable, and the portmanteau's descriptive nature in relation to the Respondent's offering is clear. The Panel's limited Internet searches also show that there are numerous other businesses using "creart" as a brand name, and the Panel's search of the international trademark search database TMView revealed 51 registered trademarks consisting of "CREART" besides those of the Complainant. The Respondent's contention that it devised its product name independently as a portmanteau is thus supported by the fact that many others have apparently done likewise. This also shows that even if the Respondent had conducted pre-registration clearance searches, it would not necessarily have been led to the conclusion that the CREART mark is associated with the Complainant exclusively, or that the disputed domain name might abuse any nascent Complainant trademarks, none of which had proceeded to registration when the disputed domain name was registered.

In the absence of any clear evidence of targeting, the Complainant's case is essentially based on the Respondent using the same name in a related (but not directly competitive) field. If the Complainant were to have shown that its mark enjoyed a reputation and/or unregistered trademark rights prior to registration of the disputed domain name, then it might, depending on the evidence, have been appropriate to infer targeting or at least that the Respondent should have known that the disputed domain name is identical to the Complainant's mark. WIPO Overview 3.1, section 3.2.2. However, there is no evidence of a reputation in the record, and no evidence showing that the Respondent was or should have been aware of the Complainant when it registered the disputed domain name.

In the circumstances, the Respondent's explanation, especially in the crowded AI application naming space, is plausible, and there is insufficient evidence in the record, on balance of probabilities, indicating that this explanation was not in fact what the Respondent had in mind when registering and using the disputed domain name.

The Complainant's case appears to be one of trademark infringement *per se*, which is beyond the cybersquatting scope of the Policy. See *HT S.R.L. (formerly Hacking Team S.r.l.) v. Domains By Proxy, LLC / Mordechai Weissbrot*, WIPO Case No. D2018-0710, where it was stated:

"In certain circumstances a domain name and a similar trademark belonging to another entity may co-exist innocently in different or even in similar areas of business, particularly where the key words are generic or descriptive. The Policy is not concerned with trademark infringement *per se* or with conflict between trademarks, matters of which belong in another forum, but is concerned with conflict between a domain name and a trademark where there is abusive registration and use of the domain name."

The Panel is aware that some panelists have held that (properly argued and evidenced) trademark infringement would render a respondent's use not legitimate under the Policy. WIPO Overview 3.1, section 2.13. However, in this case, the earliest of the Complainant's trademarks had not proceeded to registration when the Respondent registered the disputed domain name and first began developing its application. It is also noted that the Respondent is based in the United States and claims to target users in China. The Complainant's United States trademark application has to date not proceeded to registration, and the China designation of the Complainant's International Trademark Registration is listed as "Awaiting decision" as at the date of drafting of this Decision. The Complainant thus does not yet have any registered trademarks in the two most obvious jurisdictions for an infringement claim, and it is not clear on the record whether the Respondent trades in the European Union, where the Complainant's only registered trademarks apply. On the present record then, without the Panel opining on the merits, any claim of trademark infringement is not clear-cut.

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Jeremy Speres/
Jeremy Speres
Sole Panelist
Date: May 8, 2026