

ADMINISTRATIVE PANEL DECISION

The Chemours Company, LLC v. Yang Zhi Chao (杨智超)
Case No. D2022-2508

1. The Parties

The Complainant is The Chemours Company, LLC, United States of America (“U.S.”), represented by Bates & Bates LLC, U.S.

The Respondent is Yang Zhi Chao (杨智超), China.

2. The Domain Names and Registrar

The disputed domain names <cchemours.com>, <cemours.com>, <chemiurs.com>, <chemoirs.com>, <chemoours.com>, <chemoues.com>, <chemoura.com>, <chemouurs.com>, <chemoyrs.com>, <chempurs.com>, <chhemours.com>, <chmeours.com>, <chmours.com>, <chrmours.com>, <chwmours.com>, <vhemours.com>, and <xhemours.com> are 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 July 9, 2022. On July 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 2022 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 July 19, 2022.

On July 14, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On July 18, 2022, the Complainant confirmed its 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 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 July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2022.

The Center appointed Francine Tan as the sole panelist in this matter on August 23, 2022. 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, The Chemours Company, LLC, is a 2015 spin-off of the company E. I. du Pont de Nemours and Company. The Complainant is a multinational which offers a wide range of chemical products worldwide.

The Complainant is the owner of the CHEMOURS trade mark. It also has over 25 domain names which comprise the word “Chemours”, including but not limited to <chemours.com>. The <chemours.com> domain name was registered on March 17, 2014.

The Complainant’s trade mark registrations include the following:

- U.S. Trade Mark Registration No. 5163745 for CHEMOURS, registered on March 21, 2017;
- U.S. Trade Mark Registration No. 5915042 for  **Chemours** registered on November 19, 2019; and
- U.S. Trade Mark Registration No. 5897379 for  **Chemours** registered on October 29, 2019.

The disputed domain names were all registered on April 10, 2022 and resolved to identical parking pages reflecting identical sponsored paid-per-click (“PPC”) links. The links on the parking page were for “Chemical industry”, “Dow Careers”, and “Chemical Company”.

5. Parties’ Contentions

A. Complainant

The disputed domain names are confusingly similar to the Complainant’s CHEMOURS mark in which the Complainant has rights. The disputed domain names incorporate confusingly similar and nearly identical versions of the Complainant’s CHEMOURS trade mark. The disputed domain names are “typosquats” of the Complainant’s <chemours.com> domain name and differ from the Complainant’s CHEMOURS trade mark by either of the following:

- a. switching the placement of two letters in the second-level portion of the disputed domain names;
- b. omitting one letter in the second-level portion of the disputed domain names;
- c. adding an extra letter to the second-level portion of the disputed domain names; or

d. replacing one letter of the CHEMOURS trade mark with another letter next to it on a QWERTY keyboard.

The deliberate spelling errors have been recognized by previous panels as blatant examples of typosquatting where a domain name is confusingly similar and intended to attract Internet users who make typo mistakes. The disputed domain names are therefore confusingly similar to the Complainant's trade mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent registered the disputed domain names on April 10, 2022, which is more than eight years after the Complainant registered its <chemours.com> domain name. Although the disputed domain names are inactive, the Respondent has no rights or legitimate interests in the disputed domain names because they incorporate nearly identical, confusingly similar versions of the Complainant's CHEMOURS trade mark and there is no legitimate, non-infringing use that the Respondent can make of the disputed domain names. The Respondent is not affiliated with the Complainant and the Complainant did not authorize the Respondent to register and use the disputed domain names.

The disputed domain names were registered and are being used in bad faith and this is evidenced by the following:

- a. the disputed domain names consist of nearly identical, confusingly similar versions of the Complainant's CHEMOURS trade mark;
- b. the disputed domain names are malicious typosquats of the Complainant's <chemours.com> domain name;
- c. the Respondent concealed his true identity;
- d. the Respondent is attempting to trade off the Complainant's goodwill established in the CHEMOURS trade mark; and
- e. the Respondent has a clear pattern and practice of typosquatting on domain names that incorporate confusingly similar versions of third-party trade mark registrations. (See, e.g., *Modenatx, Inc. v. Yang Zhi Chao* (杨智超), WIPO Case No. [D2022-1674](#); *Teva Pharmaceuticals International GmbH v. 杨智超* (Yang Zhi Chao aka Zhi Chao Yang), WIPO Case No. [D2022-1158](#); *Blackbaud, Inc. v. 杨智超* (Yang Zhi Chao aka Zhi Chao Yang), WIPO Case No. [D2022-0641](#); *W.W. Grainger, Inc. v. Yang Zhi Chao* (杨智超), WIPO Case No. [D2021-2198](#); *Altria Group, Inc. and Altria Group Distribution Company v. 杨智超* (Yang Zhi Chao), WIPO Case No. [D2020-3395](#); *Skyscanner Limited v. Yang Zhi Chao*, WIPO Case No. [D2021-3675](#).)

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 names is Chinese. The Complainant requested that the language of the proceeding be English. The main reasons are that:

- (i) The English language is most widely used in international relations and is one of the working languages of the Center.
- (ii) To proceed in Chinese, the Complainant would have to retain specialized translation services at a cost

which is very likely to be higher than the overall cost of the proceedings.

(iii) The Respondent appears to be familiar with and fluent in English as, amongst other things, he registered the disputed domain names which comprise confusingly similar versions of the Complainant's CHEMOURS trade mark, which is in English and not Chinese characters; and all of the disputed domain names are linked to English language parking pages. Additionally, the Respondent has been involved in several earlier UDRP proceedings where English was the language of the proceeding (e.g., *Modenatx, Inc. v. Yang Zhi Chao* (杨智超), WIPO Case No. [D2022-1674](#)).

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

“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.”

The intention of paragraph 11(a) is to allow UDRP panels a measure of flexibility and discretion to consider the entire circumstances of each case, to ensure fairness between the parties, while at the same time not undermining the mandate for the proceeding to be administered in an expeditious manner. The relevant points of consideration would include the parties' level of familiarity with the respective languages, the expenses to be incurred, the possibility of delay in the proceeding if translations are required, as well as the language of the domain name(s) in dispute and of the resolving website(s).

Having considered the relevant factors and interests of the respective parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent is more likely than not familiar with and conversant in the English language, taking into account his selection of the disputed domain names which comprise misspelt versions of the Complainant's CHEMOURS trade mark. The Respondent had, moreover, been notified by the Center, in both Chinese and English languages, of the language of the Registration Agreement, the commencement of the proceeding, and deadline for filing a Response. He therefore had ample opportunity to raise any objection to the language of the proceeding or propose to submit his Response in Chinese, but he did not do so. In the absence of any objection and justification therefor by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Complainant has established it has rights in the CHEMOURS trade mark. All of the disputed domain names incorporate a misspelt version of the Complainant's CHEMOURS mark, which does not prevent a finding of confusing similarity with the Complainant's trade mark.

The generic Top-Level Domain “.com” is a technical requirement for domain name registrations and does not have any impact on the issue of the identity or confusing similarity between the disputed domain names and the Complainant's trade mark.

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant's extensive use and registrations of the CHEMOURS trade marks predate the registration date of the disputed domain names. The Complainant did not license nor authorize the Respondent to use CHEMOURS as a trade mark or in a domain name.

Neither is there any evidence that the Respondent is commonly known by any of the disputed domain names. The use of the disputed domain names which incorporate the Complainant's well-established trade mark to parking pages with identical PPC links for, "Chemical Industry", "Dow Careers", and "Chemical Company" (bearing in mind that the Complainant is a company dealing in chemicals and The Dow Chemical Company is a competing multinational) does not constitute a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy. The Respondent's choice of the disputed domain names shows a clear and deliberate intent to obtain an unfair commercial gain by misleading Internet users, including those who may mistype the domain name when looking for the Complainant's webpage at "www.chemours.com".

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainant's assertions and evidence.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

The Panel is persuaded in the circumstances of this case that the Respondent targeted the Complainant and its well-established CHEMOURS mark. There is no other reason for the Respondent to have registered the 17 disputed domain names, all being variations of misspellings of the word "Chemours", except for the sole purpose of riding off the reputation and goodwill in, and creating confusion with, the Complainant's CHEMOURS trade mark.

"If [...] circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant's trademark, e.g., through links to the complainant's competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, [...]. Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner." (See section 3.1.1 of the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#).)

The Panel finds that there has been bad faith registration and use. The facts and circumstances which support the finding include the following:

- (i) the high degree of distinctiveness and reputation of the Complainant's CHEMOURS mark;
- (ii) the Respondent's likely knowledge of the Complainant's rights in the CHEMOURS mark;
- (iii) the identical PPC links on the parking pages to which the disputed domain names resolve, which are related to and/or in competition with the Complainant's business;
- (iv) the nature of the disputed domain names which are all obvious misspelt variations of the CHEMOURS mark;

- (v) the Respondent's apparent pattern of abusive registrations involving third-party trade marks;
- (vi) the failure of the Respondent to submit a Response, or to provide any explanation for registering the disputed domain names; and
- (vii) the implausibility of any good faith use to which the disputed domain names may be put.

It can be surmised that the Respondent fully appreciated the value associated with the CHEMOURS trade mark, which is why he registered various misspelt versions of the CHEMOURS mark in the disputed domain names by a) switching the placement of two letters; b) omitting one letter; c) adding an extra letter; or substituting the letters, as pointed out by the Complainant, involve those which are adjacent on a QWERTY keyboard. The Respondent hoped to draw Internet traffic through typographical errors made by Internet users who may be searching for the Complainant's products or services. The Panel therefore concludes that the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been satisfied.

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, <cchemours.com>, <cemours.com>, <chemiurs.com>, <chemoirs.com>, <chemoours.com>, <chemoues.com>, <chemoura.com>, <chemouurs.com>, <chemoyrs.com>, <chempurs.com>, <chhemours.com>, <chmeours.com>, <chmours.com>, <chrmours.com>, <chwmours.com>, <vhemours.com>, and <xhemours.com>, be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: September 6, 2022