

ADMINISTRATIVE PANEL DECISION

LEGO Juris A/S v. 陈露 (Chen Lu)

Case No. D2022-2904

1. The Parties

The Complainant is LEGO Juris A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 陈露 (Chen Lu), China.

2. The Domain Name and Registrar

The disputed domain name <legometa.com> (the “Domain Name”) is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 5, 2022. On August 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 12, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 12, 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 August 15, 2022.

On August 12, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 15, 2022, the Complainant submitted 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 August 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 9, 2022.

The Center appointed Karen Fong as the sole panelist in this matter on September 22, 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 is a company based in Denmark and is the owner of the LEGO brand of construction toys and other "Lego" products. The Complainant has licensees who are authorized to exploit the Complainant's trade mark rights in LEGO all over the world including China. Lego products are sold in more than 130 countries including China. The Lego Group of companies has expanded its use of the LEGO trade marks to computer hardware, software, and computer controlled robotic construction sets.

The Complainant has trade mark registrations for LEGO all over the world in a variety of classes, among others, Chinese trademark registration number 75682, registered on December 22, 1976, and Chinese trademark registration number 135134, registered on January 5, 1980 (the "Trade Mark"). The Complainant is also the owner of close to 5,000 domain names containing the term "lego". It maintains a website connected to the domain name <lego.com>. LEGO was recognized by Superbrands UK as the top Consumer Superbrand for 2019 and recognized by Time as the Most Influential Toy of All Time in 2014.

The Respondent, who is based in China registered the Domain Name on October 31, 2021. The Domain Name redirects to Dan.com where it is being offered for sale for USD 12,300. The Complainant's representative sent a cease and desist letter to the Respondent through the online Whois contact portal on January 30, 2022 and two reminders but received no response.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the Domain Name, and that the Domain Name was registered and is being used in bad faith. The Complainant requests transfer of the Domain Name to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove each of the following, namely that:

(i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

B. Language of the Proceeding

The Rules, paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the domain name, the language of the 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. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

The Complainant submits that the language of the proceeding should be English mainly for the following reasons:

- the Complainant is unable to communicate in Chinese and translation of the Compliant would unfairly disadvantage and burden the Complainant and delay the proceeding and adjudication of the matter;
- the Domain Name is in Latin characters;
- the content of the website connected to the Domain Name is in English;
- the dominant part of the Domain Name is “lego” which has no meaning in Chinese; and
- the Respondent did not request for the cease and desist letter sent in English to be translated into Chinese.

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.

The Panel accepts the Complainant’s submissions regarding the language of the proceeding.

The Respondent has not challenged the Complainant’s request and in fact has failed to file a Response. The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner. In this case, the Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel notes that all of the communications from the Center to the Parties were transmitted in both Chinese and English. In all the circumstances, the Panel determines that English be the language of the proceeding.

C. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established that it has rights to the Trade Mark.

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the trade mark and the domain name to determine whether the domain name is confusingly similar to the trade mark. The test involves a side-by-side comparison of the domain name and the textual components of the relevant trade mark to assess whether the mark is recognizable within the domain name.

In this case the Domain Name contains the Complainant’s distinctive Trade Mark in its entirety together with the term “meta”. The addition of this term does not negate the confusing similarity between the Trade Mark and the Domain Name. *E.g., N.V. Organon Corp. v. Vitalline Trading Ltd., Dragic Veselin / PrivacyProtect.org*, WIPO Case No. [D2011-0260](#); *Oakley, Inc. v. wu bingjie aka bingjie wu/Whois Privacy Protection Service*, WIPO Case No. [D2010-0093](#); *X-ONE B.V. v. Robert Modic*, WIPO Case No. [D2010-0207](#).

For the purposes of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”) which in this case is “.com”. It is viewed as a standard registration requirement (section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

The Panel finds that the Domain Name is confusingly similar to a trade mark in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled.

D. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights or legitimate interests in the domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trade mark or service mark at issue.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a domain name, it is well established that, as it is put in section 2.1 of the [WIPO Overview 3.0](#) that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with relevant evidence of rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that it has not authorised, licensed, or otherwise permitted the Respondent to use the Trade Mark in the Domain Name or for any other purpose. The Complainant is not aware of any evidence which demonstrates that the Respondent is commonly known by a name corresponding to the Domain Name. The Trade Mark is well known and has no other significance other than being obviously connected to the Complainant. The Domain Name redirects to a page which offers the Domain Name for sale for USD 12,300. Therefore, the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services, and is not making any legitimate noncommercial or fair use of the Domain Name.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not replied to the Complainant’s contentions to provide explanation of its rights or legitimate interests in relation to the Domain Name and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the Domain Name.

In addition, the Panel notes the nature of the Domain Name carries a risk of implied affiliation with the Complainant (section 2.5.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

E. Registered and Used in Bad Faith

To succeed under the Policy, the Complainant must show that the Domain Name has been registered and used in bad faith.

The Trade Mark is a distinctive and well-known trade mark and has been recognized by other UDRP panels as such.

The Panel is satisfied that the Respondent must have been aware of the Complainant's well-known Trade Mark when he/she registered the Domain Name given the fame of the Trade Mark. It is implausible that he/she was unaware of the Complainant when the Domain Name was registered.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent's choice of the Domain Name is also a significant factor to consider (as stated in section 3.1.1 of the [WIPO Overview 3.0](#)). The Domain Name falls into the category stated above and the Panel finds that registration is in bad faith.

The Domain Name is also being used in bad faith. The Domain Name redirects to a page which offers the Domain Name for sale for USD 12,300. This is evidence that the Respondent has registered the Domain Name primarily for the purpose of selling as set out in paragraph 4(b)(i) of the Policy.

Further, even if one were to consider that the Domain Name is not in active use, section 3.3 of the [WIPO Overview 3.0](#) states that:

"[f]rom the inception of the UDRP, panelists 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. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

In this case, the Trade Mark has no meaning other than that of the name of the Complainant. It is implausible that any good-faith use to which the Domain Name may be put. Further, the Respondent has failed to file a response nor responded to the cease and desist letter from the Complainant. This is also a situation where in the absence of any arguments to the contrary, given the fame of the Trade Mark and the area of activity where it operates, it is implausible that there can be any good-faith use to which the Domain Name may be put.

Considering the circumstances, the Panel considers that the Domain Name is also being used in bad faith.

Accordingly, the Complaint has satisfied the third element of the UDRP, *i.e.*, the Domain Name was registered and is being used in bad faith.

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 Domain Name <legometa.com> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: October 6, 2022