

## ADMINISTRATIVE PANEL DECISION

Accor v. 胡雪 (Ni Cary)  
Case No. D2023-0321

### 1. The Parties

The Complainant is Accor, France, represented by Dreyfus & associés, France.

The Respondent is 胡雪 (Ni Cary), China.

### 2. The Domain Name and Registrar

The disputed domain name <accor.group> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 3, 2023, 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 February 6, 2023.

On February 3, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On February 6, 2023, 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 February 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 3, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 10, 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 is a hotel operator. Its corporate group, the Accor Group, owns, manages, and franchises over 5,300 hotels in 110 countries, including 520 hotels in China, under brands that include Fairmont, Raffles, Swissôtel, Sofitel, Pullman, Novotel, Grand Mercure, and Ibis. The Complainant owns multiple trademark registrations including International trademark registration number 727696 for ACCOR, registered on December 28, 1999, designating multiple jurisdictions, including China, and specifying goods and services in classes 16, 39, and 42, including hotel services. That trademark registration remains current. The Complainant also registered multiple domain names, including <accor.com>, registered on February 23, 1998, and <groupaccor.com>, registered on March 6, 2018, which both redirect to <group.accor.com> that the Complainant uses in connection with its official website where it provides information about the Accor Group and its brands.

The Respondent is an individual resident in China.

The disputed domain name was registered on July 11, 2021. It redirects to a webpage on a domain name marketplace platform where it is listed for sale. The webpage invites Internet users to make offers for the disputed domain name. The minimum offer is USD 1,000 but a buyer can get the disputed domain name "right now" for USD 2,000.

On October 21, 2022, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar and an online form on the Registrar's website. It followed up with reminders but no response was received from the Respondent.

#### **5. Parties' Contentions**

##### **A. Complainant**

The disputed domain name is confusingly similar or identical to the Complainant's ACCOR trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is neither affiliated with the Complainant in any way nor authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating its trademark. The Respondent is not commonly known by the disputed domain name or the name "Accor". The Respondent has not made any reasonable and demonstrable preparations to use the disputed domain name.

The disputed domain name was registered and is being used in bad faith. It is implausible that the Respondent was unaware of the Complainant when she registered the disputed domain name. The disputed domain name incorporates the Complainant's well-known trademark ACCOR and associates it with the extension ".group", directly targeting the Complainant's official domain name <groupaccor.com> and corresponding to the Complainant's corporate structure. The composition of the disputed domain name evidences an intent to misleadingly divert consumers by taking unfair advantage of the goodwill and reputation of the Complainant's trademark ACCOR.

## B. Respondent

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

## 6. Discussion and Findings

### 6.1 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 Registrar confirmed that the language of the Registration Agreement for the disputed domain name is Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that it has no knowledge of Chinese hence translation of the Complaint into Chinese would create a significant burden on the Complainant, and the disputed domain name is composed of Latin characters, from which it assumes that the Respondent has knowledge of English.

Paragraph 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint in this proceeding were filed in English. The webpage to which the disputed domain name resolves is in English, at least from certain geographic locations. In any case, despite the Center having sent emails regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the amended Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a Response in Chinese, but none was filed.

### 6.2 Analysis and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (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.

## A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the ACCOR mark.

The disputed domain name wholly incorporates the ACCOR mark. Its only additional element is a generic Top-Level Domain (“gTLD”) extension, *i.e.*, “.group”. As a standard requirement of domain name registration, this element may be disregarded in the comparison between the disputed domain name and the Complainant’s trademark for the purposes of the first element of paragraph 4(a) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

Therefore, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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.

The Complainant submits that the Respondent is neither affiliated with the Complainant in any way nor authorized by the Complainant to use and register the Complainant’s trademark, or to seek registration of any domain name incorporating that trademark. However, as the disputed domain name is identical to the Complainant’s trademark, it carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

With respect to the first and third circumstances set out above, the disputed domain name resolves to a webpage that merely offers it for sale. This does not constitute a use of the disputed domain name in connection with a *bona fide* offering of goods or services for the purposes of the Policy. Nor it is a legitimate noncommercial or fair use.

With respect to the second circumstance set out above, the Respondent’s name is “胡雪 (Ni Cary)” not the disputed domain name. There is no evidence indicating that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent did not rebut that case because she did not respond to the Complainant’s contentions.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith. The first of these is as follows:

(i) circumstances indicating that [the respondent has] registered or [the respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name.

With respect to registration, the disputed domain name was registered in 2021, decades after the Complainant's registration of its ACCOR trademark, including in China, where the Respondent is resident. As far as the Panel is aware, "Accor" has no meaning other than as the Complainant's trademark. The disputed domain name combines that mark with the gTLD extension ".group" and, taken as a whole, it is identical to the name of the Complainant's corporate group name, the "Accor Group". The disputed domain name also reverses the operative element of the Complainant's domain name <groupaccor.com>, which it uses to redirect to the domain name <group.accor.com> that it uses in connection with its official website. These circumstances do not appear to be a coincidence. Rather, the Panel finds it more likely than not that the Respondent was aware of the Complainant and its mark at the time that she registered the disputed domain name.

With respect to use, the disputed domain name resolves to a webpage that merely advertises it for sale. The asking price is USD 2,000 but the webpage invites offers of at least USD 1,000. There is no evidence that the disputed domain name has ever been used in any other way. In these circumstances, the Panel considers it more likely than not that the Respondent registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant or to a competitor of the Complainant, for valuable consideration likely in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name. Consequently, the Panel finds that the facts of this case fall within the circumstances set out in paragraph 4(b)(i) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <accor.group> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: March 17, 2023