

ADMINISTRATIVE PANEL DECISION

Kansas City Steak Company, LLC v. Zhichao Yang (杨智超), Zhi Chao Yang, YangZhiChao, Zhichao, Domain Administrator, Fundacion Privacy Services LTD, zhong jun quan, quan zhong jun, Domain Administrator, Sugarcane Internet Nigeria Limited
Case No. D2023-1600

1. The Parties

The Complainant is Kansas City Steak Company, LLC, United States of America (“United States”), represented by Black IP, PLLC, United States.

The Respondents are Zhichao Yang (杨智超), Zhi Chao Yang, YangZhiChao, Zhichao, China; Domain Administrator, Fundacion Privacy Services LTD, Panama; zhong jun quan, quan zhong jun, China; Domain Administrator, Nigeria; and Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria.

2. The Domain Names and Registrars

The disputed domain names <comkansascitysteaks.com>, <kansascitysteask.com>, <kansasvcitysteaks.com>, and <mykansascitysteaks.com>, are registered with Sav.com, LLC.

The disputed domain name <kansascitysteaks.com> is registered with Dynadot, LLC.

The disputed domain name <kansascitysteaks.com> is registered with 22net, Inc.

The disputed domain name <kansascitysteaka.com> is registered with Media Elite Holdings Limited.

The disputed domain name <kansascitysteakd.com> is registered with Silver Domain Names LLC.

The disputed domain names <kansascitysteake.com> and <kansascitysteaks.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd.

The disputed domain names <kansascitysteakks.com>, <kansascitysteakss.com>, and <kkansascitysteaks.com>, are registered with Alibaba Cloud Computing (Beijing) Co., Ltd.

The disputed domain name <kansascitysteaks.com> is registered with Cosmotown, Inc.

Sav.com, LLC, Dynadot, LLC, 22net, Inc., Media Elite Holdings Limited, Silver Domain Names LLC, Chengdu West Dimension Digital Technology Co., Ltd, Alibaba Cloud Computing (Beijing) Co., Ltd, and Cosmotown, Inc. are collectively and separately referred to below as the “Registrar”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2023. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. From April 13, 2023 to April 20, 2023, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondents (“Unknown Registrant” and various privacy services) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 May 22, 2023.

On May 17, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 22, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondents 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on May 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 14, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on June 15, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on July 11, 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 sells steaks and other gourmet food products. It owns multiple United States trademarks, including the following:

- United States trademark registration number 3,894,581 for KANSASCITYSTEAKS.COM, registered on December 21, 2010, with a claim of first use in commerce on December 8, 2004, specifying services in class 35; and
- United States trademark registration number 4,597,382 for KANSAS CITY STEAK, registered on September 2, 2014, with a claim of first use in commerce on June 1, 2014, specifying goods and services in classes 29 and 35.

The above trademark registrations remain current. The Complainant has also registered various domain names, including <kansascitysteaks.com>, created on May 23, 1996, that it uses in connection with a website where it offers for sale its products.

The Respondents are either identified in the Registrar’s Whois database as individuals or have their identities masked by privacy services.

The disputed domain names were registered on the dates and in the names shown below:

Registration date	Disputed domain name	Registrant name
December 24, 2020	<kansascitysteaka.com>	Domain Administrator, Fundacion Privacy Services LTD
July 12, 2021	<kansascitysteakks.com>	Zhichao Yang (杨智超)
July 12, 2021	<kansascitysteakss.com>	Zhichao Yang (杨智超)
July 12, 2021	<kkansascitysteaks.com>	Zhichao Yang (杨智超)
January 20, 2022	<kansascitysteake.com>	Zhi Chao Yang
January 20, 2022	<lkansascitysteaks.com>	Zhi Chao Yang
February 3, 2022	<kansascitysteaks.com>	Zhichao
March 15, 2022	<kansascitysteakd.com>	Zhong Jun Quan, Quan Zhong Jun
April 1, 2022	<kansascityssteaks.com>	YangZhiChao
July 22, 2022	<kansasvcitysteaks.com>	Domain Administrator
September 26, 2022	<comkansascitysteaks.com>	Zhichao Yang
September 26, 2022	<kansascitysteask.com>	Zhichao Yang
September 26, 2022	<mykansascitysteaks.com>	Zhichao Yang
December 15, 2022	<kansascitytsteaks.com>	Domain Administrator, Sugarcane Internet Nigeria Limited

All 14 disputed domain names resolve to landing pages displaying Pay-Per-Click (“PPC”) links that in most cases include websites related to steaks, including those of competitors of the Complainant. One landing page (associated with the disputed domain name <kansascitysteaka.com>) also offers the corresponding disputed domain name for sale. Another landing page (associated with the disputed domain name <kansascitysteakd.com>) displays PPC links but none relating to steaks or other food.

According to the results of a bulk domain name search provided by the Complainant, 10 disputed domain names (*i.e.*, <comkansascitysteaks.com>, <kansascityssteaks.com>, <kansascitysteaka.com>, <kansascitysteake.com>, <kansascitysteakks.com>, <kansascitysteakss.com>, <kansascitysteask.com>, <kkansascitysteaks.com>, <lkansascitysteaks.com>, and <mykansascitysteaks.com>) are offered for sale. The lowest price is USD 1,299 (for <kansascitysteaka.com>) while the other prices are either USD 3,950 or USD 7,950 per disputed domain name.

5. Parties' Contentions

A. Complainant

Each of the disputed domain names is confusingly similar to the Complainant's KANSASCITYSTEAKS.COM mark.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. None of the Respondents is sponsored by, or affiliated with, the Complainant. None of the Respondents uses the disputed domain names in connection with a *bona fide* offering of goods or services. None of the Respondents is commonly known by the corresponding disputed domain name. None of the Respondents is making a legitimate noncommercial or fair use of a disputed domain name. The disputed domain names merely host parked webpages that display PPC links that resolve to websites that directly compete with the Complainant's business.

The disputed domain names were registered and are being used in bad faith. All the disputed domain names are examples of typosquatting, which constitutes evidence of bad faith registration of a domain name. Further, at least 10 disputed domain names are offered for sale.

B. Respondents

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

6. Discussion and Findings

6.1 Preliminary Issues

A. Consolidation: Multiple Domain Name Registrants

The amended Complaint initiates disputes in relation to several nominally different domain name registrants regarding 14 disputed domain names. The Complainant alleges that the domain name registrants are under common control. It submits that all the disputed domain names contain the same mark or a typosquatting variant of that mark, all resolve to similar or identical parked webpages and all were created within the last 28 months. It also argues that the claims regarding all disputed domain names involve the same questions of law and fact.

The Complainant requests consolidation of the disputes against the nominally different domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) was intended to enable a single person or entity to put a complainant to the unnecessary time, expense, and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues, as in the present case. In addressing the Complainant's request, the Panel will consider (i) whether the disputed domain names or associated websites are subject to common control; and, if so, (ii) whether the consolidation would be fair and equitable to all Parties. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#) and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the registrant names for 10 disputed domain names are wholly or partially the same, *i.e.*, Zhichao Yang, written in different formats and scripts, or simply "Zhichao" with the same contact email address. In these circumstances, the Panel is persuaded that the registrants of these 10 disputed domain names are not only under common control but are in fact the same person.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding these 10 disputed domain names would be unfair or inequitable to any Party.

However, the Panel does not find a sufficient basis in the record to infer that the other four disputed domain names are under common control with the 10 disputed domain names considered above. Although all 14 disputed domain names follow the same naming pattern, some may be independent opportunistic registrations. Whereas the 10 disputed domain names considered above are all hosted on the same nameservers and all but one (<kansasccitysteaks.com>) are offered for sale online, the other four disputed domain names are hosted on different nameservers, all resolve to different landing pages, and three of them are not offered for sale while the fourth (<kansascitysteaka.com>) is offered for sale on the corresponding landing page itself. Further, while each of Fundacion Privacy Services LTD, Quan Zhong Jun, and Sugarcane Internet Nigeria Limited¹ has been respondent in many prior proceedings under the Policy, none of them has ever been co-respondent with Zhichao Yang, as far as the Panel is aware. In these circumstances, the Panel is not satisfied that, on the balance of probabilities, these other four disputed domain names are under common control with the 10 disputed domain names considered above.

Accordingly, the Panel will decide the complaint regarding the disputed domain names <comkansascitysteaks.com>, <kansasccitysteaks.com>, <kansascityssteaks.com>, <kansascitysteake.com>, <kansascitysteakks.com>, <kansascitysteakss.com>, <kansascitysteask.com>,

¹ The contact details for "Domain Administrator", registrant of the disputed domain name <kansasvcitysteaks.com>, are those of "Domain Administrator, Sugarcane Internet Nigeria Limited", registrant of the disputed domain name <kansascitytsteaks.com>.

<kkansascitysteaks.com>, <lkansascitysteaks.com>, and <mykansascitysteaks.com> (referred to below as the “disputed domain names”) registered in the names of Zhichao Yang, Zhi Chao Yang, Zhichao Yang (杨智超), YangZhiChao, and Zhichao (all referred to below as the “Respondent”).

On the other hand, the Panel declines to consolidate the disputes regarding the domain names <kansascitysteaka.com>, <kansascitysteakd.com>, <kansascitysteaks.com> and <kansasvcitysteaks.com>. This decision is made without prejudice to the possibility of refile complaints regarding these four domain names.

B. 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 Registration Agreements for six disputed domain names registered with Alibaba Cloud Computing (Beijing) Co., Ltd, Chengdu West Dimension Digital Technology Co., Ltd, and 22net, Inc. are in Chinese whereas the Registration Agreements for the other four disputed domain names (<comkansascitysteaks.com>, <kansascitysteask.com>, <mykansascitysteaks.com>, and <kansascitysteaks.com>) are in English.

The Complainant requests that the language of the proceeding be English. Its main arguments are that all the disputed domain names are in English, and they all resolve to landing pages displaying links to websites in English, which suggests that the Respondent understands English, whereas the Complainant does not understand Chinese and translation of the Complaint into Chinese would create great expense and unnecessary delay.

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](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that in this proceeding the Complaint and the amendment to the Complaint were filed in English. The disputed domain names contain English words and the Registration Agreements for four of them are in English, from which it is reasonable to infer that the Respondent understands that language. Further, despite the Center having sent the notification of the Complaint and an email regarding the language of the proceeding in both Chinese and English, the Respondent has not commented on the issue of language nor expressed any interest in otherwise participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint, as amended, would create an undue burden and delay, whereas accepting it as filed without translation will not cause unfairness 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 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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 submitted, the Panel finds that the Complainant has rights in the KANSASCITYSTEAKS.COM mark.

Two disputed domain names (<comkansascitysteaks.com> and <mykansascitysteaks.com>) wholly incorporate the KANSASCITYSTEAKS.COM mark. They add either the abbreviation “com” or the word “my” as their respective initial element. However, neither of these additions prevents a finding of confusing similarity because the mark remains clearly recognizable within both disputed domain names. See [WIPO Overview 3.0](#), section 1.8.

The other eight disputed domain names contain an obvious misspelling of the KANSASCITYSTEAKS.COM mark. They variously add a letter, substitute a letter, or invert two letters in that mark. However, these differences are minor and the mark remains clearly recognizable, although misspelt, in each of these disputed domain names. See [WIPO Overview 3.0](#), section 1.7.

Therefore, the Panel finds that each of the 10 disputed domain names is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element of 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.

As regards the first and third circumstances set out above, the disputed domain names resolve to landing pages displaying PPC links to websites related to steaks, including those of the Complainant’s competitors. This use is for the commercial gain of the Respondent, if he is paid to direct traffic to the linked sites, or for the commercial gain of the operators of the linked sites, or both. These circumstances indicate that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services, nor is he making a legitimate noncommercial or fair use of the disputed domain names.

As regards the second circumstance set out above, the Registrar has verified that the Complainant’s name is Zhichao Yang, Zhi Chao Yang, Zhichao Yang (杨智超), YangZhiChao, or Zhichao. Nothing indicates that the Respondent has been commonly known by any of the disputed domain names.

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

Therefore, based on the record of this proceeding, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names. 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, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The first and fourth circumstances are 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 [disputed] domain name;
- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] web site or location.

All 10 disputed domain names were registered in 2021 or 2022, years after the registration of the Complainant's KANSASCITYSTEAKS.COM mark. The disputed domain names wholly incorporate that mark with minor additions, or contain misspelt versions of that mark. There appears to be no other reason to register the disputed domain names than to approximate the Complainant's mark, which is also the domain name associated with the Complainant's official website. In view of these circumstances, the Panel finds that the Respondent had the Complainant and its mark in mind when he registered the disputed domain names.

The Respondent uses all 10 disputed domain names in connection with landing pages displaying PPC links to websites relating to steaks, including those of the Complainant's competitors. The disputed domain names all operate by attracting Internet users searching for the Complainant and its website and redirecting them to the Respondent's landing pages, in most cases by attracting specifically those who accidentally mistype the Complainant's mark or domain name in a browser. The PPC links operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or for the commercial gain of the operators of the linked websites, or both. In view of these circumstances, the Panel considers that the disputed domain names are intended to attract Internet users by creating a likelihood of confusion with the Complainant's KANSASCITYSTEAKS.COM trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's landing pages within the terms of paragraph 4(b)(iv) of the Policy.

Further, the Respondent offers nine of the disputed domain names (all except <kansasccitysteaks.com>) for sale online at prices of either USD 3,950 or USD 7,950. In the Panel's view, these prices are more likely than not in excess of the Respondent's documented out-of-pocket costs directly related to these disputed domain names. Besides offering them for sale, the disputed domain names are only used to resolve to landing pages displaying PPC links. The Panel considers that these circumstances indicate that the Respondent has registered these nine domain names primarily for the purpose of selling the registrations to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to these nine disputed domain names within the terms of paragraph 4(b)(i) of the Policy as well.

Therefore, the Panel finds that all 10 disputed domain names have been registered and are 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:

- (i) in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <comkansascitysteaks.com>, <kansascitysteaks.com>, <kansascityssteaks.com>, <kansascitysteake.com>, <kansascitysteakks.com>, <kansascitysteakss.com>, <kansascitysteask.com>, <kkansascitysteaks.com>, <lkansascitysteaks.com>, and <mykansascitysteaks.com> be transferred to the Complainant; and
- (ii) the Complaint is denied with respect to the domain names <kansascitysteaka.com>, <kansascitysteakd.com>, <kansascitytsteaks.com> and <kansasvcitysteaks.com> without prejudice to the possibility of refiling complaints regarding these four domain names.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: July 25, 2023