

ADMINISTRATIVE PANEL DECISION

Chattem, Inc. v. an shian shi, an shi
Case No. D2023-2645

1. The Parties

The Complainant is Chattem, Inc., United States of America (“United States” or “US”), represented by Dennemeyer & Associates S.A., Luxembourg.

The Respondent is an shian shi, an shi, China.

2. The Domain Name and Registrar

The disputed domain name <sheveu.com> is registered with Dynadot4 LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2023. On June 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 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 on June 21, 2023.

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 of the Complaint, and the proceedings commenced on June 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 24, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on July 27, 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 part of the Sanofi pharmaceutical group. According to the Complainant, it “is in the process of marketing a new product line under the name SHEVEU”.

The Complainant owns the following trade marks for SHEVEU, all filed on April 1, 2022:

- Australian trade mark No. 2260423, registered on November 9, 2022, in classes 3 and 5; and
- Chinese trade mark No. 63719746, registered on September 28, 2022, in classes 3 and 5.

The disputed domain name was registered on July 23, 2022.

According to an Archive.org screenshot, as of January 31, 2023, the disputed domain name formerly resolved to a website in Chinese that purportedly related to a company called “许昌市鑫达电力设备安装有限公司 (Xuchang Xinda Power Equipment Installation Co. Ltd.)”.

More recently, the disputed domain name generated the following browser warning: “Your Connection is not private. Attackers could be trying to steal your information from sheveu.com (e.g., passwords, messages or credit cards).” When disabling the browser security checks in the browser, no website could be located under the corresponding IP address.

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 following factors constitute bad faith: the timing of registration of the disputed domain name, indicating that the Respondent has been monitoring the Chinese trade mark register in order to register domain names reflecting new trade mark applications; that the disputed domain name generates a browser security warning; the lack of any evidence for the existence of “许昌市鑫达电力设备安装有限公司 (Xuchang Xinda Power Equipment Installation Co. Ltd.)”, referred to on the previous website at the disputed domain name; the lack of any connection between the content of the website and the mark SHEVEU; and the Respondent's use of false contact details.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Moreover, the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel considers that, on the balance of probabilities, the following matters taken together constitute registration and use of the disputed domain name in bad faith:

- 1) the Respondent's choice of a domain name being identical to the Complainant's trade mark, which is unusual and distinctive;
- 2) the timing of the registration of the disputed domain name by a Chinese registrant some three months¹ after the Complainant's Chinese trade mark applications;

¹ The Complainant asserts that the disputed domain name post-dates the trade mark applications in China by 10 days, but the Complainant has mistaken the "Updated Date" for the "Creation Date", which is in fact July 23, 2022, and the Complainant has also misread the US formulation of "2022-10-04" as April 10, 2022, instead of October 4, 2022. Nonetheless, the Panel considers that the three-month timeframe is a potential indicator of bad faith when considered in conjunction with the other factors mentioned above.

- 3) the Respondent's use of plainly false contact details including use of the same term "an shi" for the organisation name, address, town and province plus an almost-certainly fake telephone number;
- 4) the lack of any obvious connection between the company named on the archive version of the website and the content of the website at the disputed domain name;
- 5) the fact that the disputed domain name generates browser security warnings; and
- 6) the failure of the Respondent to submit a response seeking to explain or justify any of the above.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <sheveu.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: August 3, 2023