

ADMINISTRATIVE PANEL DECISION

The Prudential Insurance Company of America v. Zhang Lei (张磊)
Case No. D2023-3205

1. The Parties

The Complainant is The Prudential Insurance Company of America, United States of America (“United States”), represented by Culhane Meadows PLLC, United States.

The Respondent is Zhang Lei (张磊), China.

2. The Domain Names and Registrar

The disputed domain names <prudenaq.com>, <prudenf.com>, <prudenp.com>, <prudenw.com>, <prudqz.com>, <prupf.com>, <pruqs.com> and <pruwwk.com> are registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) in English on July 25, 2023. On July 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 27, 2023, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 27, 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 amendment to the Complaint in English on July 29, 2023.

On July 27, 2022, the Center transmitted an email communication to the Parties in Chinese and English regarding the language of the proceeding. On July 28, 2022, the Complainant confirmed its request that the language of the proceeding be English. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to the 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 proceeding commenced on August 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 1, 2023.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 13, 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

A. Complainant

The Complainant is a company incorporated in the United States and a provider for over 145 years of insurance and financial products in jurisdictions worldwide under the trade marks PRUDENTIAL, and PRU (the "Trade Mark(s)").

The Complainant is the owner of numerous registrations for the Trade Marks, including United States registration No. 2,654,445 for the PRU Trade Mark, registered on November 26, 2002; and United States registration No. 72,074,686 for the PRUDENTIAL Trade Mark, registered on February 23, 1960.

The Complainant is also the owner of the United States registration No. 1576352, registered on January 9, 1990 (which the Complainant refers to as the "Rock of Gibraltar device Mark"):



B. Respondent

The Respondent is located in China.

C. The Disputed Domain Name

The disputed domain name <prudenaq.com> was registered on February 27, 2023.

The disputed domain name <prudenf.com> was registered on December 6, 2022.

The disputed domain names <prudenp.com> and <prudenw.com> were registered on January 2, 2023.

The disputed domain names <prudqz.com>, <prupf.com>, <pruqs.com> and <pruwwk.com> were registered on February 28, 2023.

D. Use of the Disputed Domain Names

The disputed domain name <prudenw.com> previously resolved to a Chinese language website impersonating the Complainant's website, under the English language name "PR PLAY Insurance", featuring prominently the Rock of Gibraltar device Mark, using the address of the Complainant's subsidiary in Hong Kong, China, and apparently offering various insurance and financial products (the "Website").

As at the date of this Decision, the disputed domain name <prudenw.com> no longer resolves to an active website.

None of the remaining disputed domain names has been used.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the PRU Trade Mark and the PRUDENTIAL Trade Mark; The Respondent has no rights or legitimate interests in respect of the disputed domain names; and the disputed domain names have been registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or unless specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burden being placed on the parties and undue delay to the proceeding (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Complainant has requested that the language of the proceeding be English, for the following reasons:

- (i) as the Complaint was submitted in English, it would be an undue burden and cause delay if the proceeding were conducted in Chinese;
- (ii) selecting English as the language of the proceeding will not unfairly prejudice either the Complainant or the Respondent; and
- (iii) the Respondent has been a respondent in a previous proceeding in which it was decided that the proceeding would be conducted in English.

The Respondent did not make any submissions regarding the language of the proceeding, and has taken no part in this proceeding.

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.

Although there is insufficient evidence to support the conclusion that the Respondent is conversant in English, the Panel is mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Marks.

The disputed domain names <prudenaq.com>, <prudenf.com>, <prudenp.com> and <prudenw.com> consist of the first six letters of the PRUDENTIAL Trade Mark (see [WIPO Overview 3.0](#), section 1.7) – namely, “pruden” – followed by the letters “aq”, “f”, “p” and “w”, respectively.

Each of the disputed domain names incorporates the entirety of the PRU Trade Mark (see [WIPO Overview 3.0](#), section 1.7), followed by the letters “denaq”, “denf”, “denp”, “denw”, “dqz”, “pf”, “qs” and “wwk”, respectively.

The Panel therefore finds that the disputed domain names are confusingly similar to the PRU Trade Mark, in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (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 trade mark 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 trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain names or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and the burden of production is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain names or that the disputed domain names have been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name <prudenw.com> has previously been used in respect of the Website, to impersonate the Complainant, and it is not currently being used; and none of the other disputed domain names has been used in respect of an active website.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

In light of the manner of use of the disputed domain name <prudenw.com> highlighted in sections 4.D and 6.2.B above, the Panel concludes that the disputed domain name has been registered and used in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that the fact the Website has been taken down at some stage following the filing of the Complaint in this proceeding provides further support for a finding of bad faith under the Policy.

Moreover, the present passive holding of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding ([WIPO Overview 3.0](#), section 3.3).

The Panel further finds that, in light of the worldwide reputes of the Trade Marks and the content of the Website, it is inconceivable that the Respondent was not aware of the Complainant and of its rights in the Trade Marks at the time of registration of the disputed domain names.

The Panel also finds that, in light of the reputes of the Trade Marks, and on the evidence herein, there cannot be any actual or contemplated good faith use of the disputed domain names by the Respondent.

The Panel therefore finds that the disputed domain names were registered and are 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 disputed domain name <prudenaq.com>, <prudenf.com>, <prudenp.com>, <prudenw.com>, <prudqz.com>, <prupf.com>, <pruqs.com> and <pruwwk.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: September 27, 2023