

ADMINISTRATIVE PANEL DECISION

J-B Weld Company, LLC v. 葛荣凯 (Ge Rong Kai)
Case No. D2023-3828

1. The Parties

The Complainant is J-B Weld Company, LLC, United States of America ("United States"), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is 葛荣凯 (Ge Rong Kai), China.

2. The Domain Name and Registrar

The disputed domain name <jbweld.xyz> is registered with Xin Net Technology Corp. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on September 13, 2023. On September 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 15, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing further contact details. The Center sent an email communication to the Complainant on September 18, 2023 providing further registrant 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 September 19, 2023.

On September 18, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On September 19, 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 September 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 20, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on November 9, 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 an international company founded in 1969. It produces epoxy products which are distributed across the United States at more than 50,000 retail locations. The Complainant adopted and first used the J-B WELD trade mark in connection with epoxy products at least since 1969 when the company was founded.

The Complainant is the owner of range of trade marks incorporating the "j-b weld" element in different jurisdictions, including United States Trade Mark Registration No. 4869402 for  registered on December 15, 2015 in classes 1 and 16; United States Trade Mark Registration for J-B WELD No. 1008265 registered on April 8, 1975 in class 1; and China Trade Mark Registration No. 5443081 for J-B WELD registered on September 14, 2009 in class 1.

The Respondent is 葛荣凯 (Ge Rong Kai), China.

The disputed domain name was registered on March 25, 2023, and it currently resolves to a webpage where the disputed domain name is listed for sale for USD 950. At the time of filing of the Complaint, the disputed domain name was also listed for sale but for USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the J-B WELD mark. The disputed domain name incorporates the entirety of the J-B WELD mark with the sole difference between the two being that the disputed domain name omits the hyphen between the letters "j" and "b" in the J-B WELD mark.

The Complainant further alleges that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Complainant has not authorized the Respondent to use the J-B WELD mark. As the Respondent is using the disputed domain name to redirect visitors to a website offering the disputed domain name for sale, the Respondent cannot claim that it is making a legitimate noncommercial use of the disputed domain name, without any intent for commercial gain to misleadingly divert consumers.

The Complainant finally asserts that given the disputed domain name causes a likelihood of confusion with the J-B Weld mark, the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name is being used to attract visitors to a website offering the disputed domain name for sale, the disputed domain name was registered and is being used in bad faith. Further, the Respondent's bad faith can be inferred by the fact that the Respondent appears to be a serial cybersquatter engaged in a pattern of similar behavior.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issue - Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) the disputed domain name is in English;
- (b) the disputed domain name is currently being used to host a website in English offering the disputed domain name for sale and the accepted currency for the purchase of the disputed domain name is United States dollars;
- (c) the IP address associated with the disputed domain name is owned by Amazon Technologies Inc., a United States-based company that uses English as the primary business language; and
- (d) the Complainant is not able to communicate in Chinese and requiring translation of the Complaint and all supporting evidence into Chinese would place an unnecessary burden on the Complainant and unduly delay the proceeding.

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 burdens being placed on the parties and undue delay to the proceeding.

The Panel having considered the circumstances finds that English shall be the language of this proceeding. The reasons are set out below.

- (a) the Complainant is a company based in the United States. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent's choice of Latin characters for the disputed domain name indicates some familiarity with the English language;
- (c) the resolved website of the disputed domain name is in English;
- (d) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request, but the Respondent did not comment on the language of the proceeding and did not protest against the Complainant's request for English to be the language of the proceeding;

(e) the Respondent has failed to participate in the proceeding even though the Center sent the notification of the Complaint in English and Chinese; and

(f) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the J-B WELD mark.

Save for the hyphen in the J-B WELD mark, the Panel notes that the J-B WELD mark is wholly encompassed within the disputed domain name. The positioning of the J-B WELD mark makes it instantly recognizable as the most distinctive element of the disputed domain name. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Lastly, it is permissible for the Panel to disregard the Top-Level Domain (“TLD”) in the disputed domain name, i.e., “.xyz”. It is accepted by UDRP panels that the practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to “new generic TLDs”) and the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment to the first element. See sections 1.11.1 and 1.11.2 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s mark. Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses rights to the J-B WELD mark, whereas the Respondent seems to have no trade mark rights, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain name or reasons to justify the choice of the term “jbweld” in the disputed domain name. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent any license or authorization to use the Complainant’s J-B WELD mark or register the disputed domain name. Moreover, the Panel notes that the Respondent is offering the disputed domain name for sale and that the disputed domain name is confusingly similar to the Complainant’s trade mark, without any other explanation for its registration.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s J-B WELD mark had been registered well before the registration of the disputed domain name. Through use and advertising, the Complainant’s J-B WELD mark is known throughout the world.

Search results using the term “j-b weld” on the Internet direct Internet users to the Complainant and its products, which indicates that an exclusive connection between the J-B WELD mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant’s J-B WELD mark when registering the disputed domain name or has exercised “the kind of willful blindness that numerous panels have held support a finding of bad faith”. See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that the “mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. In this case, the disputed domain name incorporates the Complainant’s widely-known J-B WELD mark, thus creating a presumption of bad faith.

In addition, the disputed domain name is currently being offered for sale for USD 950 on the resolved website (at the time of filing of the Complaint, for USD 1,450), which is in excess of the normal costs for registering and maintaining a domain name. The absence of circumstances indicating that the Respondent has rights or legitimate interests in the disputed domain name leads the Panel to conclude that the Respondent’s intent in registering the disputed domain name was in fact to profit from or otherwise exploit the Complainant’s mark. In this case, the Panel finds the sale of the disputed domain name as evidence of bad faith registration and use. See section 3.1.1 of the [WIPO Overview 3.0](#).

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third party’s trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *UNIQA Insurance Group AG v. 葛荣凯 (ge rong kai)*, WIPO Case No. [D2023-2648](#). Such use constitutes further evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant’s allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent’s lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under 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, <jbweld.xyz>, be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: November 23, 2023