

ADMINISTRATIVE PANEL DECISION

The Chemical Daily Co. Ltd. v. Nibras Suad, Incarez
Case No. D2023-4744

1. The Parties

The Complainant is The Chemical Daily Co. Ltd., Japan, represented by KUBOTA, Japan.

The Respondent is Nibras Suad, Incarez, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <japanchemicaldaily.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 on November 20, 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 November 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 15, 2023.

The Center appointed John Swinson as the sole panelist in this matter on December 19, 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 Japanese newspaper company specializing in the chemical industry. The Complainant was established in 1936, and since 1937 has published a daily newspaper in Japan which is currently called “Kagaku Kogyo Nippo” which is known in English as “The Chemical Daily”. In 1960, the Complainant published an English daily newspaper called “Japan Chemical Week”. In 2016, the Complainant launched an online English edition of “Kagaku Kogyo Nippo” at the disputed domain name.

The disputed domain name was registered on June 16, 2016, by the Complainant. The Complainant decided to cease the online English edition in June 2022, and accordingly did not renew the registration of the disputed domain name in June 2023.

The Complainant owns Japanese trademark registrations for JAPAN CHEMICAL DAILY including Registration No. 5936722 with a registration date of March 31, 2017.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent has an address in Indonesia.

It appears that the Respondent registered the disputed domain name in about late July or August 2023.

The website at the disputed domain name is a copy of the Complainant’s previous website for the online English edition of “Kagaku Kogyo Nippo”. It includes the Complainant’s name and logos, and the “About Us” section of the website is information about the Complainant, not about the Respondent. The “Contact Us” page states: “Error: Contact form not found.” The “Privacy” section of the website includes “Suggested text”. The website terms and conditions appears to be an incomplete template and includes statements such as “These Terms and Conditions are governed by the laws of [Your Jurisdiction], and any disputes will be resolved in the appropriate courts of that jurisdiction” and “Please remember that this is a general outline and not a substitute for professional legal advice. It’s important to consult with a legal professional to draft Terms and Conditions that are specific to your website and comply with the applicable laws in your jurisdiction.”

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 Respondent is using the disputed domain name to impersonate the Complainant and commenced doing so shortly after the Complainant closed its website at the disputed domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

The *onus* of proving these elements is on the Complainant.

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 trademark 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 trademark 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here, impersonation of the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Respondent registered the disputed domain name shortly after the Complainant purposely let the disputed domain name lapse, and then established a website using the Complainant's content and impersonating the Complainant. The exact reason that the Respondent did this is unknown. It is clear, however, that the Respondent was aware of the Complainant at the time that the Respondent registered the disputed domain name.

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.

The Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, contrary to paragraph 4(b)(iv) of the Policy.

Moreover, panels have held that the use of a domain name for illegal activity, here impersonation of the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <japanchemicaldaily.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: January 2, 2024