

ADMINISTRATIVE PANEL DECISION

Amnack Limited t/a Doncaster Cables v. 刘青云 (liu qing yun), 唐卡斯特 (广东) 电缆科技有限公司 (tang ka si te guang dong dian lan ke ji you xian gong si)

Case No. D2023-4852

1. The Parties

The Complainant is Amnack Limited t/a Doncaster Cables, United Kingdom, represented by Brandsmiths SL Limited, United Kingdom.

The Respondent is 刘青云 (liu qing yun), 唐卡斯特 (广东) 电缆科技有限公司 (tang ka si te guang dong dian lan ke ji you xian gong si), China.

2. The Domain Name and Registrar

The disputed domain name <doncastercable.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

As noted in the Complaint, the Complainant filed a previous complaint against the Respondent under the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), in relation to the disputed domain name on September 12, 2023. A decision of an administrative panel in relation to the previous complaint was made on October 22, 2023. See *EDDIE Whiteley (Amnack LTD (T/A) Doncaster Cables) v. ang ka si te guang dong dian lan ke ji you xian gong si*, CAC-UDRP-105593.¹ The relevance of that decision is discussed in section 6.1 below.

The present Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2023. On November 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (ang ka si te guang dong dian lan ke ji you xian gong si) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 23, 2023 providing the registrant and contact information disclosed by the

¹ In the previous complaint, the same Respondent’s name was transcribed in Latin script only and omitted the initial “t”. The contact person’s name was also omitted.

Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on November 24, 2023.

On November 23, 2023, the Center informed the parties in Chinese and English that the language of the registration agreement for the disputed domain name is Chinese. On the same day, 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 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 Chinese and English of the Complaint, and the proceedings commenced on November 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on December 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 a manufacturer of wiring cables and flexible cords located in the city of Doncaster, United Kingdom, trading as “Doncaster Cables”. The Complainant holds United Kingdom trademark registration number 00002409449 for DONCASTER CABLES, registered on November 21, 2008, specifying electric cables and other goods in class 9. That trademark registration is current. The Complainant has also registered the domain name <doncastercables.com> that it uses in connection with a website in English where it offers its goods for sale. The homepage prominently displays a logo consisting of the letters “dc” in the form of looped cables above the trading name “Doncaster Cables”. According to evidence presented by the Complainant, during the 12 month period ending October 31, 2023, its website received over 98,000 visits, including over 900 from users in China.

The Respondent is a Chinese company that manufactures various types of cables.

The disputed domain name was registered on May 23, 2023. It resolves to a website in Chinese for the Respondent that provides information about the Respondent and its products. The homepage prominently displays a logo consisting of the letter “D” in the form of a looped cable above the name “Doncaster” and the phonetic transcription “唐卡斯特”. The social media icons on the Respondent’s website redirect Internet users to the Complainant’s website at “www.doncastercables.com”.

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 disputed domain name is identical or confusingly similar to its DONCASTER CABLES mark. The Respondent has no rights or legitimate interests in respect of that mark. The c. The disputed domain name was registered and is being used in bad faith. The disputed domain

name is an example of typosquatting. The associated website mimics the Complainant's website and the social media links resolve to the Complainant's website

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issues

A. Refiled Complaint

The Complainant filed its previous complaint regarding the disputed domain name without the benefit of legal representation. The previous panel concluded that the Complainant had not shown, to its satisfaction, that any of the three elements of paragraph 4(a) of the UDRP were fulfilled. However, the previous panel rejected the previous complaint expressly on a "without prejudice" basis as follows:

"Overall, the preparation of the written complaint shows the Complainant's lack of sufficient understanding of burden of proof, presentation of facts, arguments and evidence necessary in order to satisfy paragraph 4(a)(i)-(iii) of the Policy, and therefore this decision is made out of fully considering merits of the case. Nonetheless, it is essential to recognize that UDRP proceedings serve as a neutral, efficient, and effective mechanism for rights holders to safeguard their interests against potential infringements by domain name registrants. These proceedings are not intended to obstruct rights holders' access to competent legal representation aimed at achieving a just outcome. In light of these considerations and in order to preserve the Complainant's option to refile the complaint in the future, the current complaint is rejected without prejudice."²

The previous panel did not consider the merits of the case nor did it set out any conditions that it considered needed to be satisfied in order to justify a refiling. The Complainant submits that this is a case where it can satisfy all the requirements of the Policy upon submission of further arguments and/or evidence. The Panel notes that the Complainant has now engaged legal representation and presented arguments and evidence relevant to each of the three elements of paragraph 4(a) of the Policy.

In view of the above circumstances, and noting that the prior case was decided on a "without prejudice" basis, the Panel has decided to accept the refiled complaint. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.18.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name 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.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English; its main reasons were that the Respondent did not object to the decision on the previous complaint being rendered in English; the disputed domain name is composed of English terms; and translation of the Complaint would incur substantial costs and delay the proceeding.

The Respondent did not make any submission with respect to the language of the proceeding. Moreover, the Respondent has not indicated any wish to participate in this proceeding.

² See *EDDIE Whiteley (Amnack LTD (T/A) Doncaster Cables) v ang ka si te guang dong dian lan ke ji you xian gong si*, *supra*.

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. See [WIPO Overview 3.0](#), section 4.5.1.

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. 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 a complainant must prove the following elements:

- (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.

The burden of proof of each element is borne by 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. See [WIPO Overview 3.0](#), section 1.7.

The Panel finds the Complainant has shown rights in respect of the DONCASTER CABLES trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates almost the entirety of the DONCASTER CABLES mark, omitting only the plural "s". The Panel finds that sufficient elements of the mark are recognizable within the disputed domain name for the latter to be considered confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

For the above reasons, 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. See [WIPO Overview 3.0](#), section 2.1.

The disputed domain name resolves to a website that prominently displays a logo incorporating the name "Doncaster", which is the initial element of the Complainant's DONCASTER CABLES mark, and provides information about the Respondent's cables, which is the same type of product that the Complainant manufactures. The Complainant submits that it has never authorized any third party to use its name or its

mark. In the Panel's view, this evidence indicates that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods and services, nor is it making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent's company name is “唐卡斯特（广东）电缆科技有限公司”，which may be transliterated as “tang ka si te guang dong dian lan ke ji you xian gong si”. No part of that transliteration appears in the disputed domain name. The Panel takes note that the first four characters of the company name (唐卡斯特, tang ka si te) are a phonetic transcription of “Doncaster” and that the Respondent identifies itself as “Doncaster” several times on its website, while “cable” is an English word that describes the Respondent's products. However, although the Respondent claims on its website to be an internationally renowned electrical wire manufacturer, there is no evidence on the record that the Respondent is commonly known as “Doncaster”. Furthermore, the Panel notes, when accessing the website of the disputed domain name and clicking the icons of social media on the website, the Internet users will be redirected to the Complainant's website at “www.doncastercables.com”, which shows that the Respondent intentionally attempted to confuse the Internet users regarding the lack of relationship between the Parties. Such use cannot confer any rights or legitimate interests on the Respondent.

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.

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 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. The fourth of these is as follows:

“(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] website or location”.

The disputed domain name was registered in 2023, years after the registration of the Complainant's DONCASTER CABLES mark. The disputed domain name incorporates almost the entirety of that mark, omitting only the plural “s”. The disputed domain name is also almost identical to the Complainant's domain name, omitting only the plural “s”. While the mark combines a city name (Doncaster) with a descriptive term (cables), there does not appear to be any reason for the Respondent to incorporate the same combination in the disputed domain name (substituting the mass noun “cable” for the plural noun “cables”) besides an attempt to approximate the Complainant's trading name, mark, and domain name. Given that the Respondent is a manufacturer of the same type of product as the Complainant, this increases the likelihood that it was aware of the Complainant when it registered the disputed domain name. Further, there are certain similarities between the Parties' respective websites, notably the presentation of the letter or letters in their respective logos in the form of looped cables, and the format of pages that list reasons to choose their respective products. In view of all these circumstances, the Panel finds it that the Respondent registered the disputed domain name with the Complainant and its mark in mind. Such finding is confirmed by the redirection settings of the social media icons on the Respondent's website to the Complainant's website at “www.doncastercables.com”.

As regards use, the disputed domain name resolves to a website for the Respondent, where it provides information about itself and its cable products. The Respondent's incorporation in the disputed domain name of almost the entirety of the Complainant's mark and domain name, omitting only the plural “s”, to offer

the same type of products as the Complainant, indicates that the disputed domain name operates by attracting Internet users searching for the Complainant and diverting them to the Respondent's website. The Panel further notes the social media icons on the Respondent's website redirect the Internet users to the Complainant's website at "www.doncastercables.com". The Respondent offers no explanation for its use of the disputed domain name. In view of these circumstances, the Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product on its website within the terms of paragraph 4(b)(iv) of 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 <doncastercable.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: January 10, 2024