

## ADMINISTRATIVE PANEL DECISION

Uline, Inc. v. 潘中士 (pan zhong shi), 杭州爱美森科技有限公司 (hang zhou ai mei sen ke ji you xian gong si)

Case No. D2024-2026

### 1. The Parties

The Complainant is Uline, Inc., United States of America ("United States"), internally represented.

The Respondent is 潘中士 (pan zhong shi), 杭州爱美森科技有限公司 (hang zhou ai mei sen ke ji you xian gong si), China.

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on May 7, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 20, 2024, 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 (Hangzhou Aimeisen Technology Co Ltd) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 2024, 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 in English on August 23, 2024 still naming Hangzhou Aimeisen Technology Co Ltd as the named respondent and 潘中士 (pan zhong shi), 杭州爱美森科技有限公司 (hang zhou ai mei sen ke ji you xian gong si) as the named registrar instead of as the Respondent. The correct Registrar information was in the original Complaint.

On May 21, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On August 23, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 as well as Hangzhou Aimeisen Technology Co Ltd in English and Chinese of the Complaint, and the proceedings commenced on August 26, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2024.

The Center appointed Karen Fong, Christopher K. Larus, and Jacob Changjie Chen as panelists in this matter on October 2, 2024. The Panel finds that it was properly constituted. Each member of 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 supplier of shipping, industrial and packaging materials to businesses in the United States and has operated under the brand ULINE for more than 25 years. Its website is found at “www.uline.com”.

The Complainant owns the following United States federal trade mark registrations for the ULINE brand:

- United States Registration No. 4034337 for ULINE.COM since October 4, 2011; and
- United States Registration No. 2165496 for ULINE since June 16, 1998.

(Together, individually, and collectively, the “Trade Mark”).

The Respondent appears to be based in China and registered the disputed domain name on December 26, 2022. The disputed domain name resolves to a website in English which offers professional packaging materials under the brand ULINEPAK (the “Website”). The ULINEPAK name is represented in a stylized form (“the Logo”) in various sections of the Website.

Sometime in 2021, the Complainant became aware through a watch service that the Trade Mark was cited as a ground for rejection of a trade mark application for the Logo filed with the United States Patent and Trade Mark Office (“USPTO”) as Application No. 90467475 filed on January 14, 2021 (“the Application”) in the name of Hangzhou Aimeisen Technology Co Ltd (the “Applicant”). The Applicant failed to respond to the USPTO’s refusal to grant the Application and the Application was abandoned. On October 15, 2021, the legal representatives of the Complainant wrote a cease-and-desist letter to the Applicant’s attorney of record (based in the United States) asserting that the use of the Logo in connection with products appearing on the Alibaba.com website constituted infringement of the Trade Mark. No response was received by the Complainant.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical and/or confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain

name, and that the disputed domain name was registered and is being used in bad faith. The Complainant requests transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Preliminary Procedural Point**

The Panel notes that the named respondent in the Amended Complaint filed by the Complainant after disclosure of the contact information of the registrant by the Center was not amended with the Respondent's information. Instead, the named registrar was amended and replaced with the Respondent's details. The Panel is of the view that this error was an administrative and/or typographical error and therefore the Panel is proceeding on the basis that the Respondent in this proceeding is 潘中士 (pan zhong shi), 杭州爱美森科技有限公司 (hang zhou ai mei sen ke ji you xian gong si). In any event, the original named respondent, Hangzhou Aimeisen Technology Co Ltd appears to be the anglicized version of the organisation name of the Respondent, and both entities are more likely than not to be one and the same.

### **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 was filed in English. The Complainant requested that the language of the proceeding be English for the following main reasons:

- the Website is entirely in English demonstrating the Respondent's ability to communicate and conduct business in English;
- the Complainant's legal department is unable to communicate in Chinese; and
- in the "Contact Us" section of the Website, the telephone field for customer contact information has as its default a United States phone number which is an indicia of English fluency.

The Respondent has not challenged the Complainant's language request and in fact has failed to file a response in either English or Chinese.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

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

### **C. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for identity or confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's Trade Mark and the disputed domain name. [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 Trade Mark is reproduced within the disputed domain name. Accordingly, based on its review of the specific Trade Mark and domain name at issue in this matter, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other term “pack” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8.

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

#### **D. 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 such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

#### **E. 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 Panel notes that the disputed domain name fully incorporates the Trade Mark with the additional term “pack” which appears to be a reference to the Complainant’s business and the products supplied by it, indicating that the Respondent had actual knowledge of and was targeting the Complainant and the Trade Mark when registering the disputed domain name. The Panel also notes that the Website features the Logo which was the subject of the abandoned Application. The Trade Mark was cited by the USPTO against the Application on July 27, 2021 which indicates that the Respondent had actual knowledge of the Trade Mark before registering the disputed domain name in December 2022. The Panel therefore finds that the registration is in bad faith.

The Panel further finds that the disputed domain name is also being used in bad faith. The Website offers for sale products which compete with the Complainant's products. It is highly likely that Internet users when typing the disputed domain name into their browser or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Such confusion will likely result due to the fact that the disputed domain name comprises the Trade Mark in its entirety. After considering the Complainant's submissions, the Panel finds that Respondent employs the fame of the Trade Mark to mislead Internet users into visiting the Website instead of the Complainant's authorized sales channels. From the above, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, by misleading Internet users into believing that the Website and the products purportedly offered for sale and sold on them are those of or authorised or endorsed by the Complainant.

The Panel therefore also concludes that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) 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 <ulinepack.com> be transferred to the Complainant.

*/Karen Fong/*

**Karen Fong**

Presiding Panelist

*/Christopher K. Larus/*

**Christopher K. Larus**

Panelist

*/Jacob Changjie Chen/*

**Jacob Changjie Chen**

Panelist

Date: October 11, 2024