

ADMINISTRATIVE PANEL DECISION

Grundfos Holding A/S v. 乔前成 (QiaoQianCheng), 隆瑞环保科技（苏州）有限公司 (Longrui Environmental Protection Technology (Suzhou) Co., LTD)
Case No. D2024-2496

1. The Parties

The Complainant is Grundfos Holding A/S, Denmark, represented by Patrade Legal ApS, Denmark.

The Respondent is 乔前成 (QiaoQianCheng), 隆瑞环保科技（苏州）有限公司 (Longrui Environmental Protection Technology (Suzhou) Co., LTD), China.

2. The Domain Name and Registrar

The disputed domain name <ks-grundfos.com> is registered with Xin Net Technology Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2024. On June 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 9, 2024.

On July 8, 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 July 9, 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 in Chinese and English of the Complaint, and the proceedings commenced on July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 5, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on September 2, 2024. 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 company incorporated in Denmark. It is a company specializing in pumps and water pumps, operating under its trademark GRUNDFOS.

The Complainant provides evidence that it owns an international trademark portfolio for the word mark GRUNDFOS, including, but not limited to, European Trademark Registration Number 006654339 registered on December 17, 2008 and Chinese Trademark registration number 13760797 registered on August 21, 2015. The Complainant also provides evidence that it owns trademark registrations for its Chinese character trademark and logo trademark, including in the Respondent's jurisdiction, China.

The disputed domain name was registered on August 3, 2020 and is therefore of a later date than the Complainant's abovementioned trademark registrations. The Complainant provides evidence that the disputed domain name directed to a website purportedly to be the official website of the Respondent, and displaying the Complainant's trademarks as well as the trademarks of other third-party pump manufacturers and that such website was offering for sale pump products. However, the Panel notes that on the date of this Decision, the disputed domain name points to an inactive website.

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 it is the owner of registered trademarks consisting of GRUNDFOS and that this trademark is a well-known trademark. The Complainant asserts that the disputed domain name is confusingly similar to the abovementioned trademarks since it incorporates such mark in its entirety. The Complainant essentially contends that the Respondent is not affiliated with nor authorized by the Complainant in any way and that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant also contends that the Respondent uses the disputed domain name to attract Internet users by impersonating the Complainant, particularly by falsely and illegitimately claiming to be the Complainant or at the very least associated with the Complainant. The Complainant alleges that the Respondent is selling identical goods for money through the disputed domain name, and there is no legitimate noncommercial reason for using the trademark GRUNDFOS in the disputed domain name. The Complainant essentially argues that such use made of the disputed domain name does not confer any rights or legitimate interests and proves that the Respondent has registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: 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 several reasons, including the allegation that the disputed domain name constitutes a clear infringement of the Complainant's trademark rights, and that the Respondent is in obvious bad faith and that it would be unreasonable if the infringed party in such an obvious infringement case should be prevented from enforcing their rights against an obvious infringer due to, as stated by the Complainant, a meaningless formality. The Complainant also argued that both Parties are perfectly able to navigate in English, when only one party is able to navigate in Chinese and that it would be a waste of time and resources to translate the entire Complaint and further correspondence to Chinese, when the Respondent and the Registrar are perfectly capable of conducting the proceedings in English.

The Respondent did not make any specific submissions with respect to the language of the 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 (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 under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 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 that the Complainant's mark GRUNDFOS is clearly recognizable within the disputed domain name since the disputed domain name fully incorporates such mark. Accordingly, the disputed domain name is confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here the prefix "ks-", 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 domain names 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.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directed to an active website purportedly to be the Respondent’s official website, and promoting pump products, which showed a clear intent on the part of the Respondent to create a false impression of connection with the Complainant, for commercial gain. In fact, on said website, the Respondent particularly displayed the Complainant’s GRUNDFOS mark and logo (as well as apparently a number of other third-party marks) on the home page and banner section (where the Chinese character version of such mark was used) of the website and offered for sale competing water pump products, without displaying any clear and prominent disclaimer. The Panel notes that this suggests that the Respondent is using the disputed domain name to mislead Internet users by creating a misleading affiliation or appearance of a business connection with the Complainant. Moreover, even if some of the products purportedly offered on such website were legitimate products originating from the Complainant or other third parties, the website at the disputed domain name did not display any accurate and prominent disclaimer regarding the absence of relationship between the Parties. The Panel is of the view that the foregoing elements illustrate that the Respondent is not a good faith provider of goods or services under the disputed domain name, see also *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Furthermore, noting the fact that the disputed domain name incorporates the Complainant’s GRUNDFOS trademark in its entirety, the use of the disputed domain name purportedly offering the third parties’ products for sale is not “offering the goods or services at issue”. [WIPO Overview 3.0](#), section 2.8. Given the abovementioned elements, the Panel concludes that the Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

However, the Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent in this case (see in this regard earlier UDRP decisions such as *Bollere SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

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 Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant's well-known trademarks, see in this regard also previous decisions under the Policy which have recognized the fact that the Complainant's GRUNDFOS marks are well-known trademarks, such as *Grundfos Holding A/S v. Farzin Karimpour*, WIPO Case No. [D2016-1178](#). The Panel deduces from this fact that by registering the disputed domain name, the Respondent deliberately and consciously targeted the Complainant's prior well-known trademarks for GRUNDFOS. The Panel finds that this creates a presumption of bad faith. The Panel also notes that the Complainant's trademarks in this case predate the registration date of the disputed domain name by several years, and that the Respondent could not have been reasonably unaware of them. This finding is confirmed by the fact that the Respondent attempted to create an impression of connection or affiliation with the Complainant on the website which was previously linked to the disputed domain name. Furthermore, the Panel notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for GRUNDFOS. In the Panel's view, the above elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directed to an active website promoting pump products and which showed a clear intent on the part of the Respondent to create a false impression of a commercial connection with the Complainant, for commercial gain. In fact, on said website, the Respondent particularly displayed the Complainant's GRUNDFOS mark and logo on the home page and banner section (where the Chinese character version of such mark was used) of the website and offered for sale competing water pump products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

The Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank website. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel notes the well-known nature of the Complainant's marks and their longstanding use by the Complainant, the composition of the disputed domain name, the previous bad faith use of the website linked to the disputed domain name, the fact that the Respondent has not replied or cooperated in this procedure and the unlikelihood of any good faith use of the disputed domain name by the Respondent and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <ks-grundfos.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: September 9, 2024