

ADMINISTRATIVE PANEL DECISION

PTC Inc. v. chen xian sheng, shang hai wei dao you xian gong si
Case No. D2024-4551

1. The Parties

The Complainant is PTC Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

The Respondent is chen xian sheng, shang hai wei dao you xian gong si, China.

2. The Domain Name and Registrar

The disputed domain name <ptcshanghai.com> (the “Disputed Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 7, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 on November 8, 2024.

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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on December 6, 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.

On December 16, 2024, the Panel issued a Procedural Order (the "Procedural Order") in the following terms:

"The Panel has reviewed the case file. In accordance with the position noted in section 4.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel has performed limited factual research to assist it in determining whether or not the Respondent's registration of the disputed domain name was made in bad faith. The details and results of that research appear below.

The Complainant contends that there has likely been a change of registrant of the disputed domain name, probably at some time in 2024.

Searches at 'www.archive.org' show that between July 2010 and March 2023, the disputed domain name resolved to a website operated by a company called PTC International Limited. Attention is drawn to the capture dated November 5, 2021 and the PTC logo displayed on the webpage shown.

The Annex 8 (Whois history) to the Complaint shows an email address associated with the disputed domain name which utilises the domain name <ptc.com.hk>. That domain name resolves to an active website operated by a company called PTC International Limited. The website displays the same logo as that referred to above. The Complaint does not provide information about this company, P[T]C International Limited, or explain how the Respondent has targeted the Complainant rather than P[T]C International Limited.

Pursuant to paragraphs 10(a) and 10(b) of the Rules for Uniform Domain Name Dispute Resolution Policy (the 'Rules'), the Panel orders as follows:

The Panel hereby notifies the Complainant of the above research which it intends to reference in the course of its Decision and allows the Complainant until December 23, 2024 to lodge any further submissions it may wish to make in relation to this research or the background identified above, such submissions not to exceed 1,500 words in length. In accordance with the Rules, the Respondent shall have an opportunity to file any submissions it may choose to make regarding these matters until January 3, 2024, such submissions not to exceed 1,500 words in length. The Panel's decision due date is extended until January 10, 2024".

On December 23, 2024, the Complaint lodged a response to the Procedural Order. Nothing further was lodged by the Respondent.

4. Factual Background

The Complainant is a United States corporation. It was founded in 1985. It is a global software and services company that delivers solutions that enable the Complainant's industrial customers' digital transformations, helping such customers to better design, manufacture, operate, and service their products. Since its founding in 1985 in Boston, Massachusetts, the Complainant has expanded globally and today has offices in Canada, Japan, India, Thailand, Viet Nam, Hong Kong, China, Taiwan Province of China, Republic of Korea, Singapore, Germany, France, Hungary, Spain, Belgium, Romania, Denmark, United Kingdom, Ireland, Netherlands (Kingdom of the), Sweden, Türkiye, Italy, Austria, Switzerland, United Arab Emirates, Israel, Australia, and China. It has six offices in China including one in Shanghai.

The Complainant's software products consist of: (i) Internet of Things (IoT) solutions focused on Smart Connected Operations (SCO), Smart Connected Products (SCP), and Smart Connected Systems that enable companies to connect factories and plants, smart products, and enterprise systems, bridging the

physical and digital worlds, to transform their businesses, and (ii) a software solutions portfolio of Computer-Aided Design (CAD) and Product Lifecycle Management (PLM) solutions that enable manufacturers to create, innovate, operate, and service products. The Complainant promotes its business at “www.ptc.com”.

The Complainant has a number of registered trademarks for PTC - for example United States Registration No. 2356250, registered on June 6, 2000; and China Registration No. 1414366, registered on June 28, 2000. These trademarks are referred to as the “PTC trademark” in this decision.

The Disputed Domain Name was originally registered in 2009. The former registrant of the Disputed Domain Name was a bona fide company called PTC International Limited and historically the Disputed Domain Name resolved to that company’s website. At some stage likely in 2024 a change of ownership of the Disputed Domain Name has occurred though in exactly what circumstances is unclear. The result is that the Respondent has become the registrant of the Disputed Domain Name. It has thereafter been used by the Respondent to resolve to a website which contains links to a number of Chinese adult websites and gambling websites.

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.

The Complainant contends that the Disputed Domain Name is similar to the PTC trademark as it simply adds the geographical designation Shanghai to that trademark

The Complainant says that the Respondent has no rights or legitimate interests in the term “ptc” or “ptcshanghai”.

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. The Complainant develops its argument in its response to the Procedural Order to say that even if the Respondent was targeting PTC International Limited, it will also have been aware of the Complainant and would also have been targeting the Complainant (see further the discussion below). The Complainant says the linking of the Disputed Domain Name to a website promoting adult and possibly gambling-related content amounts to registration and use in bad faith of the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favour of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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.

A. Identical or Confusingly Similar

The Complainant has rights in the PTC trademark. The Panel finds the Disputed Domain Name is confusingly similar to this trademark. Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy “when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name” (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). It is established that, where a mark is the distinctive part of a disputed domain name, the disputed domain name is considered to be confusingly similar to the registered mark (*DHL Operations B.V. v. DHL Packers*, WIPO Case No. [D2008-1694](#)). Furthermore, mere addition of a geographic term (such as here “shanghai”) does not prevent a finding of confusing similarity under the first element (*PRL USA Holdings, Inc. v. Spiral Matrix*, WIPO Case No. [D2006-0189](#)).

It is also well established that the generic Top-Level Domain (“gTLD”), in this case “.com”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

The Panel finds the PTC trademark is, on the evidence before the Panel, a term in which the Complainant has developed a significant reputation.

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the PTC trademark. The Complainant has prior rights in the PTC trademark which precede the Respondent’s acquisition of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate

interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Name. Accordingly, the Panel finds the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

As appears from the terms of the Procedural Order (above) the issue that needs to be considered in this regard arises from the fact that the Disputed Domain Name was previously registered and used by a legitimate company called PTC International Limited. The registration of the Disputed Domain Name was acquired to the Respondent apparently in 2024, although exactly what happened is unclear. The Respondent's exact motive in acquiring the Disputed Domain Name is not straightforward to discern. The Panel doubts that the Respondent is trying to simply increase its own customer numbers by attracting customers to its website who are actually seeking either the Complainant or PTC International Limited. The Panel cannot deduce any underlying reason why the term "ptcshanghai" has any relevance to the Respondent's adult and gambling related content website – especially given the prior use. Given the Complainant's substantial size, and the fact that the Complainant promotes its business via its website linked to <ptc.com>, and the fact it has significant activity in China, with one of its six Chinese offices being located in Shanghai, the Panel accepts the Complainant's submission that it is more likely than not that the Respondent was aware of the Complainant when it registered the Disputed Domain Name. The Panel also thinks it more likely than not that the Respondent will have been aware of PTC International Limited as the previous registrant of the Disputed Domain Name. It seems to the Panel likely that the Respondent in acquiring the Disputed Domain Name was hoping that it would obtain some form of benefit from traffic that mistakenly arrives at its website because of confusion between the Disputed Domain Name with the trademark of the Complainant or possibly PTC International Limited; and possibly also the previous history of the Disputed Domain Name and its ranking by search engines.

As a general rule, the analysis of the third element under the Policy typically requires that bad faith be directed at the Complainant. See *Neurocog Pty Ltd v. Domain Administrator, CentralNic Ltd*, WIPO Case No. [D2024-1076](#) ("[t]he Policy makes clear that the bad faith must be in relation to 'the complainant' and 'the complainant's mark', not some unrelated third party or some third party's mark.") However, in this case the Complainant's mark and the third party's mark are identical (PTC). In this regard see *Matias Eduardo Araya Varela v. Jason Newby*, WIPO Case No. [D2021-4256](#) where there were multiple unrelated users of the mark REIMEX and the panel by a majority noted that the term "reimex" was a coined term with no meaning in any language and concluded that each of the multiple users was being targeted, leading to a finding that the registration and use of the domain name in that case was in bad faith. The dissenting panelist concluded that this approach was inconsistent with the Policy and its jurisprudence. The Panel does not need to resolve that particular divergence of opinion here, but would note that in the REIMEX case there was a response advancing an explanation for the registration whereas there is no such response or obvious explanation in the case at hand. The Panel considers that the composition of the Disputed Domain Name is such that (given the factual background – see above) the Respondent was targeting both of the Complainant and the prior registrant. The Panel considers this targeting takes unfair advantage of the Complainant's rights in the PTC trademark and amounts to registration and use in bad faith. Whether the same approach would be correct in different circumstances (e.g., the domain name is not a mark plus a geographical term, or is a more generic term, or an argument justifying the registration is plausibly advanced by the respondent), the Panel leaves open for discussion.

In reaching this conclusion, the Panel takes account of the fact that the Respondent has not come forward to offer any explanation for its actions and to seek to rebut the arguments the Complainant has advanced.

Accordingly, 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 <ptcshanghai.com> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: January 10, 2025