

ADMINISTRATIVE PANEL DECISION

uBreakiFix, Co. v. 杨智超 (Zhichao Yang)

Case No. D2024-4594

1. The Parties

The Complainant is uBreakiFix, Co., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is 杨智超 (Zhichao Yang), China.

2. The Domain Name and Registrar

The disputed domain name <wwwubreakifix.com> is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2024. On November 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 12, 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 (Anhui) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 12, 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 November 13, 2024.

On November 12, 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 November 13, 2024, the Complainant confirmed its request that English 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 November 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 9, 2024.

The Center appointed James Wang as the sole panelist in this matter on December 12, 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 offers technology and repair services and related products and services for various devices, such as computers, laptops, tablets, and phones. The Complainant claims that it has served customers at over seven hundred retail stores throughout the United States, Canada, and the Caribbean.

The Complainant is the registrant of the following UBREAKIFIX trademark registrations:

- United States trademark Reg. No. 3855288, registered on October 5, 2010;
- United States trademark Reg. No. 4364495, registered on July 9, 2013; and
- China trademark Reg. No. 51353085, registered on July 21, 2021.

The Complainant claims that the UBREAKIFIX mark has been in use since 2009 and that the Complainant and its licensees own various domain names incorporating the UBREAKIFIX mark.

The disputed domain name was registered on November 10, 2020 and resolved to a website which displayed pay-per-click links and which prompted phishing warning on some devices.

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 confusingly similar to the UBREAKIFIX trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 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.

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.

Considering the Center has already sent Chinese-English dual language case-related communications to the Parties, including communications regarding the language of the proceeding, and thereby given the Respondent an opportunity to comment on or to oppose the Complainant's request and arguments, and considering the Respondent's default and lack of reaction after having been given a fair chance to comment or oppose, together with the fact that the disputed domain name consists of only Latin letters instead of Chinese characters, the Panel finds it would not be unfair to proceed in English as requested by the Complainant.

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 Elements

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the registrant of numerous UBREAKIFIX trademark registrations across different jurisdictions.

The disputed domain name incorporates the entirety of the Complainant's UBREAKIFIX trademark. As the UBREAKIFIX trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's trademark. Particularly considering the fact that "www" is commonly used for world wide web sites, the addition of "www" into the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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. See [WIPO Overview 3.0](#), section 2.1.

According to the Complainant, the Respondent has never been a licensee or franchisee of the Complainant. Furthermore, the Respondent has never been authorized by the Complainant to register or use the Complainant's UBREAKIFIX trademark or to apply for or use any domain name incorporating the mark. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or in a legitimate non-commercial or fair manner.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant.

The Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Given the fact that UBREAKIFIX is a coined and distinctive mark associated with the Complainant, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's UBREAKIFIX trademark at the time of the registration. The Panel therefore agrees with the Complainant's contention that the disputed domain name was registered in bad faith.

The Panel noticed that the disputed domain name resolved to a website which displayed pay-per-click links and which prompted phishing warning on some devices.

Particularly with respect to "automatically" generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.5.

Also, panels have held that the use of a domain name for illegal activity (here, claimed phishing) constitutes bad faith. See [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.

The Panel therefore 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 <wwwubreakifix.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: December 26, 2024