

ADMINISTRATIVE PANEL DECISION

Hill's Pet Nutrition, Inc. v. 鲁旺龙 (wanglong lu)
Case No. D2024-4865

1. The Parties

The Complainant is Hill's Pet Nutrition, Inc., United States of America ("United State" or "US"), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is 鲁旺龙 (wanglong lu), China.

2. The Domain Name and Registrar

The disputed domain name <hillspethealthfood.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on November 25, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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 27, 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 27, 2024.

On November 27, 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 27, 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 December 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 26, 2024.

The Center appointed Tao Sun as the sole panelist in this matter on January 3, 2025. 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 located in the United State, which can be traced back to late 1930s. It provides pet foods formulated for many life stages and special needs in healthy pets.

The Complainant owns, among others, the following registered trademarks:

- (i) The Canadian registration No. TMA470501 HILL'S in class 31, registered on February 5, 1997;
- (ii) The Germany registration No. 1073621 HILL'S in classes 5 and 31, registered on February 11, 1985; and
- (iii) The Switzerland registration No. 328214 HILL'S in class 5 and 31, registered on February 13, 1984.

The Complainant, either on its own or through affiliated companies, owns and operates the domain names and associated websites, "www.hillspet.com" and "www.hillspet.fr".

The disputed domain name was registered on September 11, 2024. According to the evidence submitted by the Complainant, the disputed domain name is being used in connection with a website that purports to offer pet foods with Hill's brand. It also contains the "Brand History" describing the history of the Complainant. The counsel of the Complainant put an order through the website on October 15, 2024 but received none of the products that were ordered.

The Respondent is reportedly a Chinese individual.

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:

- (i) The disputed domain name incorporates the Complainant's HILL'S mark in its entirety and thus is confusingly similar to the Complainant's HILL'S mark for purposes of the Policy. The Respondent cannot avoid an adverse finding simply because it added terms like "pet," "health," and "food" to the Complainant's well-known registered HILL'S mark.
- (ii) No relationship exists between the Respondent and the Complainant or any of the Complainant's licensees, agents or affiliated companies that would give rise to any license, permission, or authorization by which the Respondent could own or use the disputed domain name. The Respondent's websites unquestionably trade on the fame of the HILL'S mark and as such could not constitute a bona fide use.

(iii) The disputed domain name was registered and is being used in bad faith. The Respondent's adoption and use of the HILL'S mark in the disputed domain name and in connection with the website that so obviously traded on the goodwill of the Complainant's HILL'S brand shows both the Respondent's familiarity with the Complainant's HILL'S mark and the Respondent's recognition of the fame of the mark. The disputed domain name is being used in connection with a website that mimics the Complainant's own and used the Complainant's own product images without authorization, which have repeatedly been found to constitute bad faith use. Orders placed via the website have gone unfulfilled, which is further evidence of the Respondent's bad faith use and registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issues: 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 fact that there is plenty of evidence showing that the Respondent is capable of communicating in English in this case, including the disputed domain name is in Latin scripts, and the website under the disputed domain name is 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, and although the Center sent the emails in Chinese and English regarding the notification of the Complaint which includes information on the language of the proceeding, the Respondent did not make any comments on the language of the proceeding, and did not file any response, 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.

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 disputed domain name is consisted of “hills”, “pet”, “health” and “food”. The Complainant’s HILL’S trademark can be easily recognized in the disputed domain name. Therefore, it should be considered confusingly similar with the Complainant’s trademark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms “pet”, “health” and “food” may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

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. [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.

The Complainant has asserted that it has no relationship with the Respondent that would give rise to any license, permission, or authorization by which the Respondent could own or use the disputed domain name. The disputed domain name is resolved to a website purportedly offering for sale pet food products with HILL’S trademarks. It also contains the “Brand History” describing the history of the Complainant. As such, no matter the HILL’S products offered for sale on the Respondent’s website are genuine HILL’S products or not, such use fails to pass the Oki Data test as the site does not accurately and prominently disclose the Respondent’s relationship with the Complainant. [WIPO Overview 3.0](#), section 2.8. Moreover, the disputed domain name itself carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore 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 Complainant’s HILL’S trademark is inherently distinctive and has acquired certain reputation through use. The disputed domain name almost contains the entirety of the Complainant’s HILL’S trademark with the addition of “pet”, “health”, and “food”, which can easily be understood to represent the Hill’s branded pet health foods. Therefore, the composition of the disputed domain name may mislead Internet users into thinking it relates to the Complainant. In addition, considering the Hill’s branded products

are widely sold and the history of the Complainant is described on the website at the disputed domain name, the Panel finds that the Respondent knew of the Complainant and registered the disputed domain name in bad faith.

Furthermore, the fact that the disputed domain name is resolved to a website in English where the Hill's branded products are offered for sale and the history of the Complainant is described may mislead consumers into believing that the website is the official website of the Complainant. Also, the counsel of the Complainant put an order through the website of the disputed domain name but received none of the products that were ordered, which suggests that the website may be operated in fraud. Considering all these facts, the Panel is convinced that the Respondent was aware of the Complainant's HILL'S trademark and intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and therefore is using the disputed domain name in bad faith.

The Respondent's failure to file any formal response also supports a finding of bad faith.

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 <hillspethealthfood.com> be transferred to the Complainant.

/Tao Sun/

Tao Sun

Sole Panelist

Date: January 16, 2025