

ADMINISTRATIVE PANEL DECISION

Spinrite Inc. v. Guo Xing
Case No. D2025-0120

1. The Parties

The Complainant is Spinrite Inc., Canada, represented by Cozen O'Connor, Canada.

The Respondent is Guo Xing, China.

2. The Domain Name and Registrar

The disputed domain name <bernat-yarn.com> is registered with Shanghai Best Oray Information S&T Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 13, 2025. On January 14, January 17, January 22, February 12, and February 13, 2025, the Center transmitted by email to the Registrar requests for registrar verification in connection with the disputed domain name. On February 14, 2025, 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 Registrant, redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2025, 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 February 15, 2025.

On February 14, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On February 15, 2025, 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 English and Chinese of the Complaint, and the proceedings commenced on February 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 12, 2025.

The Center appointed Douglas Clark as the sole panelist in this matter on March 17, 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 business which the Complainant currently operates was established under the name Spinrite Yarns and Dyers Limited in 1952 and ultimately transferred to the Complainant. The Complainant researches, develops, manufactures, and markets a wide variety of craft knitting yarns which are sold throughout North America. Since its establishment, the Complainant has grown to become the one of the largest marketers of craft yarns and consumer sewing thread in North America.

The Complainant's BERNAT trademark has been used in association with craft yarn since approximately 1925.

The Complainant is the owner of numerous trademark registrations in Canada and the United States of America ("United States"), including but not limited to the following:

Trademark	Jurisdiction	Registration Number	Registration Date	Goods (International Class)
BERNAT	United States	765926	March 3, 1964	Booklets relating to knitting issued from time to time (16)
BERNAT	Canda	TMA502212	October 14, 1998	Yarn, knitting patterns and latch hook rug kits (23, 26)
BERNAT	United States	3147844	September 26, 2006	Yarn (23)

The Respondent is based in China. The Respondent registered the disputed domain name <bernat-yarn.com> on June 3, 2024.

At the time of filing of the Complaint, the disputed domain name resolved to a website with infringing content and scraped images from the Complainant's website, prominently featuring the Complainant's trademarks and purporting to offer yarn goods under the BERNAT brand.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name to the Complainant and 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:

- a) The disputed domain name is confusing similar to the Complainant's trademarks in which the Complainant has rights.

- b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.
- c) The disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

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 because the disputed domain name and the infringing content on the website at the disputed domain name are all exclusively 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.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of the BERNAT mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "-yarn" 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.

The Panel notes that the Respondent is based in China and the Complainant does not produce any evidence to show if it has a registered trademark in China. However, it is also well-established that the jurisdiction where the Complainant's trademark is registered is not relevant consideration in respect of the first element. [WIPO Overview 3.0](#), section 1.1.2.

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 recognised 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.

First, the Complainant’s registrations for the trademark BERNAT across multiple jurisdictions constitute prima facie evidence of its rights to the trademark. Whereas the Respondent is not in any way affiliated with the Complainant.

Second, the Respondent is not commonly known by the name “Bernat”, which suggests a lack of rights and legitimate interests in the disputed domain name.

Third, the Respondent’s registration of the disputed domain name on June 3, 2024, came significantly after the Complainant’s registration of its trademark of BERNAT. Prior to the Respondent’s registration, the Complainant’s trademarks had enjoyed high degree of fame and reputation which the Respondent was not authorised to use.

Panels have held that the use of domain name for impersonation as the case here can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In any event, as the Respondent has failed to 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 is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In the premises, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As stated above, the Panel notes that the disputed domain name was registered decades after the Complainant’s registration of the trademark BERNAT and the Complainant had been selling goods under this trademark well before the registration of the disputed domain name. The Respondent’s registration of the

disputed domain name and the contents on the website which the disputed domain name directs bearing resemblance to the Complainant's trademarks and official website, indicating the Respondent's knowledge of and familiarity with the Complainant's brand and business. As such, the Respondent's use of these trademarks in the disputed domain name cannot be a coincidence.

Panels have held that the use of a domain name for impersonation constitutes bad faith.

[WIPO Overview 3.0](#), section 3.4.

The Respondent is attempting to attract, confuse, and invite Internet users to purchase possibly fake BERNAT branded yarn products for its own commercial gain. Such use of the disputed domain name falls into bad faith under paragraph 4(b)(iv) of the Policy.

For the above reasons, 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 <bernat-yarn.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: March 31, 2025