

ADMINISTRATIVE PANEL DECISION

Bühler UK Ltd v. Chen Yao
Case No. D2025-0371

1. The Parties

The Complainant is Bühler UK Ltd, United Kingdom, represented by Vossius & Partner, Germany.

The Respondent is Chen Yao, China.

2. The Domain Name and Registrar

The disputed domain name <amdsortex.com> is registered with Bizcn.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2025. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 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 Chinese on February 11, 2025.

On February 6, 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 11, 2025, the Complainant requested 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 English and Chinese of the Complaint, and the proceedings commenced on February 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 6, 2025.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 13, 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 manufactures sorting machines for grains, pulses, seeds, coffee, and other products. The Complainant was founded in 1947 and adopted its current name in 2007. It holds trademark registrations for SORTEX in multiple jurisdictions, including the following:

- United Kingdom trademark registration number 833716, registered on April 25, 1962, specifying goods in class 9;
- European Union trademark number 001406602, registered on January 18, 2001, specifying goods in classes 7 and 9; and
- Chinese trademark registration number 3435421, registered on July 7, 2004, specifying goods in class 7.

The above trademark registrations are current. The Complainant's company group has also registered the domain names <sortex.com> and <sortex.cn> that it uses to redirect to pages dedicated to SORTEX products on its international and Chinese websites, respectively.

The Respondent is a natural person based in Anhui province, China.

The disputed domain name was created on January 20, 2020. At the time of filing the Complaint, it resolved to a website advertising and offering identical goods compared to the machines sold under the Complainant's trademark SORTEX. At the time of this Decision, it redirects to the domain name <amdcolorsorter.com>, which resolves to a website for Anhui Zhongke Optic-electronic Color Sorter Machinery Co., Ltd ("AMD 安美达"). This company is based in Anhui province, China. The website prominently displays the following trademark "AMD ® 安美达" and offers for sale color sorting machines for plastic, minerals, rice, grain, nuts, tea, and other products. The website is available in multiple language versions, including English. According to the website, AMD 安美达 operates accounts on Facebook, Instagram, and LinkedIn, and a channel on YouTube.

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 identical or confusingly similar to its SORTEX mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services: The Respondent is not known by the name “amdsortex”. The Respondent is doing business as “AMD” but SORTEX is the Complainant’s trademark. The Respondent is offering sorting machines but it is not affiliated with the Complainant in any way and is not an authorized dealer in SORTEX-branded machines.

The disputed domain name has been registered and is being used in bad faith. The Respondent uses the disputed domain name with a website to advertise and offer goods identical to the Complainant’s sorting machines. The Respondent intends to unlawfully disrupt the Complainant’s business. The Respondent does not use the disputed domain name for any legitimate purpose. The Respondent, being a direct competitor of the Complainant selling identical products in the highly technical and specialized field of sorting machines was very likely aware of the Complainant’s prior rights in the name SORTEX at the time of registration of the disputed domain name, given the widespread recognition of the SORTEX mark and product family, which the Complainant’s company group advertises in China, and given that the disputed domain name closely mirrors it and offers identical machines. The Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent’s website or other online locations, including its social media accounts, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on it.

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 and the amended Complaint was filed in Chinese. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent can understand English as its website and social media accounts are in English.

Despite the Center having sent an email regarding the language of the proceeding and the notification of the Complaint in both English and Chinese, the Respondent did not make any submission with respect to the language of the proceeding or express any interest in otherwise participating in this 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

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following elements:

- (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.

The burden of proof of each element is borne by the Complainant.

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. See [WIPO Overview 3.0](#), section 1.7.

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

The entirety of the Complainant's SORTEX mark is reproduced within the disputed domain name. Even though the disputed domain name also includes the letters "amd", the mark is recognizable within the disputed domain name. The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

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

In the present case, the disputed domain name used to resolve to a website offering for sale sorting machines, of a type identical to the Complainant's SORTEX brand sorting machines. The disputed domain name combines "amd" and SORTEX with no additional element besides a gTLD extension, which creates a risk that customers will believe that it resolves to a website affiliated with both AMD 安美达 and the Complainant. However, the associated website does not offer the Complainant's products, and the Complainant submits that the Respondent is not affiliated with it in any way. Accordingly, these circumstances indicate that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. Given that the website offers goods for sale, this does not constitute a legitimate noncommercial or fair use of the disputed domain name either.

Further, the Registrar has verified that the Respondent's name is "Chen Yao", not the disputed domain name. Even if the Respondent is associated with the company to whose website the disputed domain name redirects, and that company claimed trademark rights in "AMD", nothing on the record indicates that that company is known as "AMD Sortex", as in the disputed domain name. Accordingly, these circumstances do not indicate that the Respondent has been commonly known by the disputed domain name.

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.

Based on the 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. The fourth of these is as follows:

"(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

In the present case, the disputed domain name was registered in 2020, years after the registration of the Complainant's SORTEX mark, including in China where the Respondent is based. The disputed domain name wholly incorporates the SORTEX mark, and combines it with "amd" and a gTLD extension. SORTEX is not a descriptive word but rather a coined term. Given that the Respondent used the disputed domain name to resolve to a website offering goods of a specialized type identical to those manufactured by the Complainant, the Panel considers it implausible that he did not know of the Complainant and its SORTEX mark when he registered the disputed domain name.

As regards use, the disputed domain name gives the false impression to customers that it will resolve to a website associated with both AMD and the Complainant when in fact it redirects to a website for AMD 安美达 which is not affiliated with the Complainant. This use is intentional and for commercial gain. Accordingly, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website to which the disputed domain name redirects by creating a likelihood of confusion with the Complainant's SORTEX mark as to the source, sponsorship, affiliation, or endorsement of the website or of products on that website, within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, 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 <amdsortex.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: March 27, 2025