

## ADMINISTRATIVE PANEL DECISION

emeis v. 符磊 符磊 (Lei Fu)

Case No. D2025-1702

### 1. The Parties

The Complainant is emeis, France, represented by Triptyque Avocats, France.

The Respondent is 符磊 符磊 (Lei Fu), China, self-represented.

### 2. The Domain Name and Registrar

The disputed domain name <orpea-corp.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in French with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 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 April 30, 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@REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 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 May 9, 2025.

On May 5, 2025, the Center informed the parties in Chinese and French, that the language of the registration agreement for the disputed domain name is Chinese. On May 5 and May 6, 2025, the Respondent sent email communications to the Center in Chinese and English, respectively, regarding the selection of the administrative dispute resolution service provider. On May 9, 2025, the Complainant requested English to be the language of the proceeding.

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 May 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 3, 2025. Besides its email communications of May 5 and May 6, 2025 to the Center, the Respondent did not file any formal Response. Accordingly, the Center notified the commencement of panel appointment process on June 4, 2025.

The Center appointed Matthew Kennedy as the sole panelist in this matter on June 16, 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 French corporation that provides aged care and dependency management services through a network of specialized facilities, including serviced residences for independent seniors, nursing homes, post-acute and rehabilitation care clinics, psychiatric clinics, and home care services. The Complainant operates a total of 950 facilities in various countries, including China. The Complainant holds trademark registrations in multiple jurisdictions, including the following:

- French trademark registration number 4777781 for ORPEA, registered on November 5, 2021;
- European Union trademark registration number 010337558 for ORPEA and device, registered on March 9, 2012;
- European Union trademark registration number 10324622 for ORPEA, LA VIE CONTINUE AVEC NOUS and device, registered on March 9, 2012; and
- Chinese trademark registrations numbers 12370472 and 12370471, both for ORPEA, both registered from September 14, 2014.

The above trademark registrations are current. The Complainant also registered the domain names <orpea.com> and <orpea.fr> on December 4, 1997 and December 4, 2009, respectively, which both now redirect to <emeis.fr>, which is used in connection with a website in French where the Complainant provides information about its services. The Complainant also registered the domain name <orpea-group.com> on June 29, 2016 that now redirects to <emeis.com>, which is used in connection with a website in French and English where the Complainant provides information about itself and its services.

The Respondent is an individual based in China. He acquired the disputed domain name on December 28, 2024.

According to evidence presented by the Complainant, as recently as April 28, 2025, the disputed domain name resolved to a website in French and English for the Orpea Group that prominently displayed the ORPEA, LA VIE CONTINUE AVEC NOUS and device mark. The site provided corporate information regarding the group's profile, press releases, financial statements, and shareholders, along with contact details for analysts, investors, and press. The site reproduced the content of a former corporate website of the Complainant when it was trading under a former name. At the time of this Decision, the disputed domain name resolves to a landing page displaying Pay-Per-Click ("PPC") links related to topics that include aged care and home care services.<sup>1</sup>

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<sup>1</sup>The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has visited the landing page currently associated with the disputed domain name, which is publicly available, to evaluate the Complainant's allegations regarding the use of the disputed domain name. The Panel considers this process of evaluation useful to assessing the case merits and reaching a decision. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

## **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 Complainant's ORPEA mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent holds no relevant prior trademark rights. The Complainant has not authorized the Respondent in any way whatsoever to register the disputed domain name. The disputed domain name is being used with a website in bad faith.

The disputed domain name has been registered and is being used in bad faith. The Respondent is knowingly attempting to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's trademark. The website associated with the disputed domain name reproduces images used on the Complainant's former official website.

### **B. Respondent**

The Respondent requested a transfer of the proceeding to a different dispute resolution service provider and did not address the substance of the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Procedural Issues**

#### **A. Selection of Provider**

The Respondent requests that this proceeding be transferred to a different dispute resolution service provider because the disputed domain name registrant and the Registrar are Chinese. The Complainant did not comment on the Respondent's request.

Paragraph 4 of the Policy provides that this proceeding will be conducted before one of the administrative dispute resolution service providers listed at "[www.icann.org/en/dndr/udrp/approved-providers.htm](http://www.icann.org/en/dndr/udrp/approved-providers.htm)". The Complainant selected the Center from that list as the provider in this proceeding by submitting the Complaint to the Center. The Center accepted the submission of the Complaint. Accordingly, in accordance with paragraph 4(d) of the Policy, the Center as the selected provider will administer the proceeding, except in cases of consolidation as described in paragraph 4(f), which are inapplicable here.

Therefore, the Panel declines the Respondent's request to transfer the proceeding. This ruling does not prevent either Party from submitting this dispute to a court of competent jurisdiction for independent resolution before this mandatory administrative proceeding is commenced or after such proceeding is concluded, in accordance with paragraph 4(k) of the Policy.

#### **B. 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 amended Complaint was filed in English. In it, the Complainant requested that the language of the proceeding be English in the interest of fairness and to avoid unnecessary costs and delays, given that the Complainant is proficient in English and that the Respondent communicated inter alia in English during the course of this proceeding, which indicates that both Parties are capable of understanding and participating in that language.

The Respondent did not make any specific submission with respect to the language of the proceeding but sent one email communication to the Center in Chinese and another in English.

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 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. The Panel would have accepted a Response in Chinese but none was filed.

## **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 ORPEA trademark, among others, for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the ORPEA mark is reproduced within the disputed domain name as its initial element. Despite the addition of a hyphen and "corp" (an abbreviation of "corporation"), the ORPEA trademark remains clearly recognizable in 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. Accordingly, the disputed domain name is confusingly similar to the ORPEA mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 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 Complainant submits that it has not authorized the Respondent to register the disputed domain name. The Respondent has used the disputed domain name to resolve to a website that reproduced the content of a former website of the Complainant, giving the false impression that it was operated by the Complainant under the Complainant’s former name. At the time of this Decision, the disputed domain name resolves to a landing page displaying PPC links related to topics that include the Complainant’s type of services (i.e., aged care and home care services). Neither is a use of the disputed domain name in connection with a bona fide offering of goods or services within the terms of paragraph 4(c)(i) of the Policy. Given that the PPC links presumably operate for the commercial gain of the Respondent (if he is paid to direct traffic) or the commercial gain of the operators of the linked websites, neither is a legitimate noncommercial or fair use of the disputed domain name within the terms of paragraph 4(c)(iii) of the Policy either.

Moreover, the Registrar has verified that the Respondent’s name is “符磊 符磊 (Lei Fu)”, which does not resemble the disputed domain name. Nothing on the record indicates that the Respondent has ever been commonly known by the disputed domain name within the terms of paragraph 4(c)(ii) of the Policy.

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 that, in particular, but without limitation, 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 such circumstance 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] web site or location.”

The disputed domain name was registered in 2024, years after the registration of the Complainant’s trademarks, including in China, where the Respondent is based. The disputed domain name wholly incorporates the ORPEA mark as its initial element, adding only a hyphen and “corp” (an abbreviation of “corporation”) and a gTLD extension. The Respondent formerly used the disputed domain name in

connection with a website that displayed the ORPEA, LA VIE CONTINUE AVEC NOUS and device trademark, including its figurative elements, and presented corporate information regarding the Complainant when it was trading under a former name. In view of these circumstances, the Panel finds that the Respondent had the Complainant's ORPEA mark in mind when he registered the disputed domain name.

As regards use, the disputed domain name formerly resolved to a website that reproduced the content of a former website of the Complainant, giving the false impression that it was operated by the Complainant under its former name. The Panel finds that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitute bad faith under the Policy.

The Panel notes that the use of the disputed domain name has changed and that it now resolves to a landing page displaying PPC links related to the Complainant's type of services (i.e., aged care and home care services). This change in use does not alter the Panel's conclusion; rather, it constitutes a further indication of bad faith.

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 <orpea-corp.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 27, 2025