

## ADMINISTRATIVE PANEL DECISION

Norman Ortiz v. 童先生, 童先生 (Xian Sheng Tong), Tong Zekun (童泽坤)  
Case No. D2026-1543

### 1. The Parties

The Complainant is Norman Ortiz, United States of America (“United States”), self-represented.

The Respondent is 童先生, 童先生 (Xian Sheng Tong), Tong Zekun (童泽坤), Singapore, self-represented.

### 2. The Domain Name and Registrar

The disputed domain name <com.app> is registered with West263 International Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2026. 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 14, 2026, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 2026, 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 April 21, 2026.

On April 17, 2026, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 21, 2026, the Complainant requested that English 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 Chinese and English of the Complaint, and the proceedings commenced on April 22, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2026. The Response was filed in Chinese with the Center on May 11, 2026. In it, the Respondent objected to the Complainant’s language request and requested that Chinese be the language of the proceeding.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 20, 2026. 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.

On May 25, 2026, the Complainant sent an email communication in English to the Center, requesting leave to make a supplemental filing. On the same day, the Respondent sent an email communication in English and Chinese to the Center, opposing the Complainant's request or, in the alternative, seeking an opportunity to reply to an eventual supplemental filing. On the following day, the Center sent an email communication to the Parties in Chinese and English. On May 27, 2026, the Complainant made an unsolicited supplemental filing in English. On the same day, the Respondent made an unsolicited supplemental filing in reply in Chinese.

#### **4. Factual Background**

The Complainant holds United States trademark registration number 5759025 for COM.APP, registered on May 21, 2019 (application filed on April 14, 2018), specifying application service provider and related technology services in class 42. That trademark registration is current. The registration includes a claim of first use in commerce on August 8, 2018, and the United States Patent and Trademark Office ("USPTO") accepted a statement of use on March 6, 2019.

The Respondent is based in Singapore. His name is "童泽坤" (Tong Zekun) but shown in the Whois database as "童先生" (meaning "Mr. Tong"). His street address is within the engineering faculty of a university campus but shown in the Whois database as the name of the university. His country is shown in the Whois database as Singapore (in English) but also as China (in Chinese). The Registrar has further confirmed by email that the country of the Respondent's address is Singapore. His contact telephone number is a Singapore number but the international dialing code shown in the Whois database is for China. After the commencement of this proceeding, the Respondent contacted the Registrar and asked for his name and contact information to be corrected in the Whois database.

During the ".app" Top-Level Domain ("TLD") Sunrise Period, the Complainant placed a pre-order for the disputed domain name with a digital brand services provider but he was unable to complete the order because his trademark application was merely pending. The ".app" TLD then entered an Early Access Period, during which the disputed domain name was created (on May 2, 2018). On the same day, the Respondent paid SGD 4,245.10 (approximately USD 3,190) to register early for the disputed domain name. The disputed domain name was eventually auctioned on May 9, 2018, receiving over 160 bids. The Respondent presumably made the winning bid as he paid CNY 108,917.20 (approximately USD 17,100) to the former registrar to acquire it on May 10, 2018. The Complainant contacted his digital brand services provider on February 4, 2019, after he received a notice of allowance of his trademark application. He claimed that the disputed domain name had been removed from his account, which led to it being sold to another party during the pendency of his trademark application.

The disputed domain name resolved from as early as July 17, 2019 to a landing page hosted by a domain name broker advertising it for sale and inviting Internet users to make an offer. According to evidence presented by the Respondent, the Complainant contacted him via the broker's platform on August 24, 2019, informing the Respondent that he was the owner of the United States-registered trademark COM.APP and offering USD 5,000 to avoid filing a legal action to obtain it. On the following day, the Respondent replied that he had registered the disputed domain name prior to the Complainant's ownership of the trademark.

The disputed domain name resolved to a landing page hosted by a domain name broker until at least September 20, 2021. According to evidence presented by the Respondent, the disputed domain name has also been used in four email addresses, including in correspondence with an onchain data platform in 2022 and 2023 and with a web service platform in 2025. At the time when the Complaint was filed, the disputed domain name resolved to a page displaying an error message and a notice advertising a service to build "Solid apps". At the time of this Decision, the disputed domain name no longer resolves to any active website.

## **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 to his COM.APP trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed, authorized, or otherwise permitted the Respondent to use the COM.APP trademark or to register the disputed domain name. None of the safe harbor circumstances in paragraph 4(c) of the Policy applies. Nor can the disputed domain name plausibly be defended as a generic or descriptive term. The string "com" standing alone is not a common English word; in the Internet context its only established meaning is as a generic TLD suffix, which is not used here. Further, if the Respondent had any genuine intention to use the disputed domain name for a commercial or descriptive purpose, he had nearly eight years to do so. The uninterrupted resale posture is inconsistent with any good faith descriptive use.

The disputed domain name has been registered and is being used in bad faith. The registration targeted nascent trademark rights as the disputed domain name was registered just 18 days after the Complainant filed his trademark application and before general availability of the ".app" TLD. The Respondent paid approximately USD 6,000 to register early. Passive holding does not prevent a finding of bad faith use because (i) the disputed domain name is identical to a registered trademark; (ii) there is no evidence of good faith use; (iii) the Respondent's identity was concealed; and (iv) any good faith use is implausible. Throughout the nearly eight years of registration, the disputed domain name has displayed no substantive content other than for-sale landing pages and the current "Not Found" page. Registration through a foreign registrar, combined with identity concealment and continuous non-use, supports an inference of bad faith. The public availability of the Complainant's trademark application is a further circumstance supporting bad faith registration given the identity between the disputed domain name and the applied-for mark. The Respondent's registrant name does not identify any natural person. His contact street address is simply a university name. His declared country of residence is Singapore but the Whois database shows his country as China, with a Chinese contact telephone number. The provision of false or incomplete Whois contact information is itself indicative of bad faith registration and use.

### **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent submits that he acquired the disputed domain name based on the value of the generic terms "app" (an abbreviation for "application" and a key technical term in the digital age) and "com", (an abbreviation for "commercial", a generic TLD identifier, and one of the most well-known strings on the Internet). The combination of these two terms is scarce within the ".app" TLD and unrelated to any specific trademark. At the time of acquisition of the disputed domain name, the Respondent was unaware of the Complainant and had not searched the USPTO database.

The Respondent does not substantially dispute that the Complainant has satisfied the standing requirement but he submits that the Complainant's trademark was not registered or used in commerce at the time when he acquired the disputed domain name, and therefore bad faith registration cannot be established.

The Respondent has rights and legitimate interests in the disputed domain name, which is composed of generic, descriptive terms. The Respondent legally acquired the disputed domain name through an open market auction. The Respondent has not targeted the Complainant, has never contacted him offering to sell the disputed domain name, and has never used any content associated with his trademark. The webpage associated with the disputed domain name is a developer's technical testing page unrelated to the Complainant's trademark. There is no evidence of exploitation of the Complainant's goodwill, nor any evidence that the Complainant has developed any goodwill in his trademark.

The Complainant cannot demonstrate that the disputed domain name was registered in bad faith or that it is being used in bad faith. The disputed domain name was registered before the Complainant's claimed date of first use in commerce of his trademark, and before registration of that trademark. At the time, there was only a searchable pending trademark application without evidence of a product launch, media attention, relationship between the parties, insider information, actual knowledge, or other relevant evidence. The passive holding doctrine does not apply. "Com.app" is a generic term, there was no trademark use or registration at the time when the Respondent acquired the disputed domain name and, in any case, the Respondent made active use of the disputed domain name for email from 2022 to 2026. Errors in the Whois information are more likely due to field processing errors and are insufficient to support a finding of bad faith.

The Respondent requests that the Panel make a finding of Reverse Domain Name Hijacking. The Complainant was aware that he did not yet have trademark rights at the time when the disputed domain name was acquired. The Complainant, on his own initiative, contacted the Respondent in 2019, offering to acquire the disputed domain name for USD 5,000 and mentioning legal action, which he failed to disclose in the Complaint. The Complaint contains errors regarding material facts. The Complaint failed to provide evidence of significant use of his trademark. The Complainant primarily uses the iGenApps brand for business communications.

## **6. Discussion and Findings**

### **6.1 Preliminary Issue**

#### **A. 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 and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, arguing that the (i) disputed domain name operates in an English language namespace (i.e., the ".app" TLD); (ii) the disputed domain name is identical to an English language United States registered trademark; (iii) the Respondent has used an English language domain marketplace, displaying text in English; (iv) the Respondent's contact email address uses a Latin character username on an international webmail; and (v) the Complainant does not speak or read Chinese such that requiring translation would cause undue burden, cost, and delay.

The Respondent requested that the language of the proceeding be Chinese, arguing (i) that the Registration Agreement for the disputed domain name is in Chinese; (ii) the Respondent is a native Chinese speaker and is fully entitled to use Chinese; (iii) requiring the Respondent to use English would create unnecessary translation and advisory costs; (iv) the ".app" TLD is not limited to registrants whose native language is English, the language of the trademark cannot prevail over the language of the Registration Agreement, the domain marketplace that the Respondent uses can support other languages besides English, the Respondent's email username is a transliteration of Chinese, and the Complainant cannot transfer the translation burden to the Respondent. In any event, if the Panel decides to accept the Complaint in English, the Respondent requests to be allowed to submit the Response in Chinese.

The Panel notes that several annexes to the Response are in English, including one that shows the Parties corresponded with each other in English prior to this dispute. The Respondent has also communicated with the Center in Chinese and 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 of WIPO Panel Views on Select UDRP Questions \("WIPO Overview 3.1"\)](#), 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, but that the Panel will accept the Response as filed in Chinese, without translation.

## **B. Unsolicited Supplemental Filings**

The Complainant made an unsolicited supplemental filing after the appointment of the Panel. On the same day, the Respondent objected to admission of the Complainant's supplemental filing arguing that there were no unforeseen or exceptional circumstances, nor any specific new matter that could not reasonably have been addressed in the Complaint. In the alternative, the Respondent sought leave to make his own unsolicited supplemental filing in reply.

Paragraph 10 of the Rules mandates the Panel to determine the admissibility, relevance, materiality and weight of the evidence; to ensure that this proceeding takes place with due expedition; and to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case. Paragraph 12 of the Rules allows the Panel to request, in its sole discretion, further statements or documents from the Parties. In practice, supplemental filings are generally discouraged, unless specifically solicited by a panel. See [WIPO Overview 3.1](#), section 4.6.

In the present case, the Complainant seeks to address matters that he argues could not have been addressed in the amended Complaint "as the Respondent's identity and supporting evidence were shielded behind a privacy service until the Registrar's disclosure". However, the matters that the Complainant seeks to address do not concern the Respondent's identity and, in any case, the Registrar's disclosure occurred prior to the amended Complaint. The Complainant is in effect seeking an opportunity to file a comprehensive rebuttal to the Response. While the Complainant alleges that his supplemental filing "is concise and does not reargue matters already of record", it actually runs to 29 pages, including seven annexes, and reargues the chronology of trademark and disputed domain name registrations, adding details regarding the Complainant's other domain name acquisitions (which are not recent), and reiterating his position that the Respondent targeted nascent trademark rights. Although the supplemental filing also provides evidence of the Complainant's own business, this could have been provided in the original Complaint. In any case, the evidence belatedly offered would not alter the outcome (as discussed in Section 6.2C below). Lastly, the supplemental filing replies to the claim of Reverse Domain Name Hijacking which, based on the chronology of registrations, was reasonably foreseeable. In any case, the new arguments mostly concern issues other than the lack of a plausible legal basis, which would not alter the conclusion reached (as discussed in Section 6.2D below).

In addition, the Complainant's unsolicited supplemental filing was made over two weeks after the Response was filed, and five days after the appointment of the Panel.

In view of the above, the Panel declines to accept the Complainant's unsolicited supplemental filing as part of the record. Having declined to accept that filing, there is no reason to accept the Respondent's unsolicited supplemental filing in reply.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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 3.1](#), section 1.7.

The Complainant has shown rights in respect of a COM.APP trademark for the purposes of the Policy. See [WIPO Overview 3.1](#), section 1.2.1.

Given that the combination of the disputed domain name's second-level portion ("com") and its TLD extension (".app") contains the Complainant's trademark (including the dot), the Panel will consider the disputed domain name in its entirety for the purposes of assessing identity. The disputed domain name contains no additional component. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.1](#), sections 1.7 and 1.11.3.

Therefore, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Given the Panel's findings regarding the third element of paragraph 4(a) of the Policy, it is unnecessary to consider the second element.

## **C. Registered and Used in Bad Faith**

The Panel notes that the third element of paragraph 4(a) of the Policy contains two requirements that apply conjunctively. A complainant must show both that the disputed domain name has been registered in bad faith and also that it is being used in bad faith. The former requires a demonstration that the respondent knew, or should have known, of the complainant and/or the complainant's trademark at the time when he registered or acquired the disputed domain name and that he registered the disputed domain name with a bad faith intention targeting the complainant and/or its mark.

In the present case, the disputed domain name was acquired by the Respondent on May 10, 2018, one year before the Complainant obtained registration of his COM.APP trademark. The Panel recalls that where a respondent registers a domain name before a complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. See [WIPO Overview 3.1](#), section 3.8.1.

The Panel sees no exceptional circumstances that might establish that the Respondent's intent in registering the disputed domain name was to unfairly capitalize on the Complainant's nascent, as yet unregistered, trademark rights. See [WIPO Overview 3.1](#), section 3.8.2. The Complainant submits that he first used his trademark in commerce in August 2018, which was three months after the registration of the disputed domain name. The Complainant argues that the disputed domain name was registered "just 18 days" after he filed his trademark application. However, the Panel does not deem the Respondent to have constructive notice of the contents of the United States trademark register. Even though the disputed domain name is identical to the trademark and was registered soon after the trademark application was filed, the Panel does not infer that the Respondent was aware of the Complainant or his pending trademark application in 2018. The Respondent provides a plausible alternative explanation for his choice to register the disputed domain name based on the value of the terms "app" and "com" as very common abbreviations for the English dictionary words "application" and "commercial", respectively. Moreover, "com" is a highly recognizable three-letter string on the Internet and the potential to create subdomains ending in ".com.app" is apparent from the composition of the disputed domain name itself. The Respondent states that he was unaware of the Complainant at the time when he registered the disputed domain name and the Panel sees no reason to doubt that statement.

The Complainant also notes that the disputed domain name was registered "within days" of his pre-order during the ".app" TLD Sunrise Period but the timing is not surprising as domain names first became available for registration in that TLD during the eight-day Early Access Period, which immediately followed the Sunrise Period. The Complainant's pre-order failed for lack of trademark rights at the relevant time and his Complaint in this proceeding fails for the same reason.

The Panel has taken note that the Respondent paid over USD 20,000 to acquire the disputed domain name and that it was formerly advertised for sale. However, nothing on the record gives rise to the inference that the price paid indicated any awareness of the Complainant. The Respondent notes that the disputed domain name is a desirable (three-letter) domain name within the “.app” TLD. Moreover, generally speaking, prior UDRP panels have found that the practice as such of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling to a trademark owner (or its competitor). See [WIPO Overview 3.1](#), section 3.1.1.

The Panel has also taken note of the incomplete registrant’s name and contact information in the Whois database, and an error in one language version regarding the Respondent’s country (summarized in Section 4 above). The Panel finds the more plausible interpretation of the omissions to be that they are the result of field processing errors. The location of the Registrar in another jurisdiction is not an indication of bad faith.

Consideration of the evidence belatedly offered in the Complainant’s unsolicited supplemental filing regarding his own business would not alter the outcome. The Complainant acquired three other domain names in the “.app” TLD on May 8, 2018 (<igen.app>, <com-get.app>, and <com-in.app>) but nothing indicates that these acquisitions would have alerted someone bidding for the disputed domain name in the auction held the following day that there existed any nascent trademark rights in COM.APP. The other evidence of the Complainant’s subdomain business (including the variants <cöm.app>, <côm.app>, and <cõm.app>) post-dates the Respondent’s acquisition of the disputed domain name, or concerns different intellectual property, or both.

In view of the above circumstances, the Panel finds that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its trademark rights because the Complainant had no trademark rights at the time when the Respondent registered the disputed domain name.

Therefore, the Panel finds the third element of the Policy has not been established.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. See [WIPO Overview 3.1](#), section 4.16.

The Respondent requests that the Panel make a finding of Reverse Domain Name Hijacking.

The Panel notes that the Complainant is self-represented but the content of the Complaint shows that he is sufficiently familiar with the Policy to know that his case cannot succeed on one of the essential elements. He is aware that he had no trademark rights at the time when the disputed domain name was registered, that he did not begin using the mark in commerce until later, that the Respondent is not deemed to have constructive notice of his trademark application, and that there is no evidence of targeting. The Complainant was on notice of the Respondent’s defense since prior to this dispute, i.e., that the Respondent had registered the disputed domain name prior to the Complainant’s ownership of the trademark. Nevertheless, he brought the Complaint, putting the Respondent to the inconvenience of defending himself.

The Complainant also failed to disclose that he had approached the Respondent and offered USD 5,000 to purchase the disputed domain name. In his unsolicited supplemental filing, he seeks to minimize that approach as “an attempt, through the marketplace, to resolve the matter by acquiring the domain, in the course of which [he] identified himself as the owner of the COM.APP trademark”, disputing that it was a “serious acquisition negotiation” initiated by him. Yet he clearly made a substantial offer to purchase the disputed domain name. Even though the offer was made seven years ago, there is no satisfactory explanation for his failure to volunteer that information.

The above circumstances give the Panel reason to find that the Complaint was brought in bad faith. Consideration of evidence belatedly offered in the Complainant's unsolicited supplemental filing regarding prior legal advice would not lead to a different conclusion; rather, it would confirm his bad faith. The Complainant received advice that a UDRP complaint against a parked, passively held domain name was unlikely to succeed absent evidence of active confusing commercial use. This advice was first given by his digital services provider in 2019 and corroborated informally by an attorney friend who declares that he told the Complainant that "while the disputed domain name remained merely parked and offered for sale, and was not being used in a manner that created confusion with, or otherwise infringed, his COM.APP mark, the practical case for pursuing a dispute proceeding was limited; and that any such proceeding would rest on a materially stronger footing if and when the domain name came to be used in a manner adverse to his trademark rights". Yet the Complaint was brought without any evidence that the disputed domain name was being used in a manner that created confusion with, or otherwise infringed, the Complainant's mark. The Complainant claims to have decided proceedings were now appropriate because there had been a transition from purely passive for-sale parking to active configuration for web use, and an absence of any substantive commercial use under the COM.APP mark. However, that is difficult to reconcile with the terms of the Complaint, which emphasized passive holding and continuous offering for sale.

According to a statement of use filed with the USPTO citing to "Domain registry operator services", the Complainant invited pre-registration online for ".com.app" subdomains from as early as March 6, 2019, even though he did not control the disputed domain name. Clearly, the Complainant feels that he would make better use of the disputed domain name than the Respondent is making, but that is no basis for a UDRP complaint.

Therefore, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 3, 2026