

ADMINISTRATIVE PANEL DECISION

ASM Clermont Auvergne v. 许勋 (xu xun)

Case No. D2026-3569

1. The Parties

Complainant is ASM Clermont Auvergne, France, represented by Tmark Conseils, France.

Respondent is 许勋 (xu xun), China.

2. The Domain Name and Registrar

The disputed domain name <boutiqueasm.com> (the “Domain Name”) is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2026. On August 12, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 13, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Anonymous) and contact information in the Complaint. The Center sent an email communication to Complainant on August 16, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on August 27, 2026.

On August 16, 2026, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the Domain Name is Chinese. On August 27, 2026, Complainant requested English to be the language of the proceeding. Respondent did not submit any comment on 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 Respondent in Chinese and English of the Complaint, and the proceedings commenced on August 28, 2026. In accordance with the

Rules, paragraph 5, the due date for Response was September 17, 2026. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 21, 2026.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on September 23, 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.

4. Factual Background

Complainant is a French company operating a professional rugby club, ASM Clermont Auvergne, which competes in national and international rugby competitions and offers a range of rugby-related products and services, including official clothing, sportswear, accessories and other merchandise bearing the ASM marks. Complainant has used and promoted its trademark ASM for more than a century. Complainant owns numerous trademark registrations for ASM, including in the Europe Union, United Kingdom and France, for example:

- European Union registered trademark number 9209461 for the A S M figurative mark, registered on December 6, 2010;
- French registered trademark number 99807663 for the ASM word mark, registered in March 2000;
- French registered trademark number 3704753 for the ASM word mark, registered on June 18, 2010; and
- United Kingdom registered trademark number UK00909209461 for the A S M figurative mark, registered on December 6, 2010.

Complainant also owns and operates several domain names incorporating the ASM mark, such as, <asm-rugby.com>, registered on May 16, 2000, and sub-domain <boutique.asm-rugby.com>. These domain names are used in promoting Complainant's activities in the field of rugby, including the sale of official clothing, sportswear, accessories and other merchandise through its official online shop.

The Domain Name was registered on March 12, 2026 and resolved to a website that prominently displays a "Clermont" logo, with content that has the look and feel of Complainant's genuine website, including similar photos and images, and which promotes purported ASM products.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that (i) the Domain Name is confusingly similar to Complainant's trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations and rights for ASM and that Respondent registered and is using the Domain Name, with the intention to confuse Internet users looking for bona fide and well-known ASM products.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name which includes Complainant's trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of

Complainant's rights. Specifically, Complainant asserts that Respondent is attempting to create confusion by using Complainant's trademark, to attract users looking for Complainant's products to Respondent's website.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceedings

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceedings shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceedings.

Complainant submitted its original Complaint in English. In its amended Complaint, Complainant submitted its request that the language of the proceedings should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese. Respondent did not submit any comment on Complainant's submission.

Complainant submits that the Domain Name resolves to a website that contains several English words; that Complainant is French and Respondent is Chinese, and as between two parties using different language, it is common that English is used, as English is a primary language of business; and that Complainant has no familiarity with the Chinese language and that it would be burdensome, costly, and result in delay, if Complainant is required to translate the Complaint into Chinese and participate in the current proceedings in Chinese.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, 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.

The Panel accepts Complainant's submissions regarding the language of the proceedings. The Panel also notes that the Domain Name contains Complainant's ASM trademarks in their entirety together with an English term "boutique" and that the Center notified the Parties in Chinese and English of the language of the proceedings as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceedings, nor did Respondent choose to file a Response in Chinese or English, and that under paragraph 11(a) of the Rules, the Panel may determine the language of the proceedings having taken into consideration the totality of the circumstances.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceedings.

6.2. Substantive Issues

WIPO Overview of WIPO Panel Views on Select UDRP Questions (["WIPO Overview 3.1"](#)), section 4.3 states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Complainant has provided evidence of its rights in the ASM trademarks, as noted above. Complainant has therefore proven that it has the requisite rights in the ASM trademarks. Complainant's ASM trademarks will hereinafter be referred to in the singular, as "the ASM trademark".

With Complainant's rights in the ASM trademark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it was registered (in this case, ".com"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's ASM trademark. The ASM trademark is recognizable in the Domain Name.

The addition of the term "boutique" preceding Complainant's trademark in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the ASM trademark. See section 1.9 of the [WIPO Overview 3.1](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. Once a complainant makes such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP. See section 2.1 of the [WIPO Overview 3.1](#).

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its ASM trademark and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the ASM trademark or to seek registration of any domain name incorporating the trademark. Respondent is also not known to be associated with the ASM trademark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. The Panel notes that the Domain Name directs to a website that displays Complainant's trademarks, with content that has the look and feel of Complainant's genuine website, including similar photos and images. Respondent prominently presents itself as an "ASM Clermont Auvergne Shop", offering purported ASM products for sale.

Accordingly, Complainant has provided evidence supporting its prima facie showing that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the ASM trademark predate the registration of the Domain Name. Complainant is also well established and known; indeed, the record shows that Complainant's ASM trademark and related products are known and recognized for purposes of the Policy. Therefore, and also noting the use analysis below, Respondent was clearly aware of the ASM trademark when it registered the Domain Name.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Moreover, the Domain Name's inclusion of Complainant's trademark in its entirety, with the addition of the term “boutique” preceding Complainant's mark in the Domain Name as discussed above, is intended to confuse Internet users into believing that the Domain Name belongs to or is associated with Complainant. Such adoption of Complainant's trademark at the time of registration of the Domain Name serves to pass off a website as being associated with a trademark owner, where individuals seek to pass themselves off as companies or entities in the hopes of seeking an advantage, from current or potential clients of those companies or entities. In the current instance, the term “boutique” infers that the website is associated as a shop for Complainant's products.

In addition, Respondent's use of the Domain Name, as discussed above, is not in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Respondent's website displays Complainant's trademarks, with content that has the look and feel of Complainant's genuine website, offering products with Complainant's ASM mark. On its landing page, the website also prominently displays a banner that states “ASM Clermont Auvergne Shop”, followed by “Rugby jerseys, clothing and equipment for supporters”. Essentially, Respondent presents itself as an ASM shop and infers that is either associated with ASM or is Complainant's boutique and promotes purported ASM products.

UDRP panels have consistently held that a respondent's use of a domain name to trade off goodwill in a complainant's well-known trademark, as here, constitutes bad faith. See *Philip Morris Products S.A. v. homn mohmoodi*, WIPO Case No. [D2022-4158](#). Moreover, such use of the Domain Name may potentially result in tarnishing Complainant's reputation and goodwill.

Finally, the Panel also notes the failure of Respondent to submit a Response and considers such factor further supports Respondent's registration and use constitutes bad faith.

In the present circumstances, considering the reputation of the ASM trademark, and the composition and use of the Domain Name, the Panel finds that Respondent registered and is using the Domain Name in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <boutiqueasm.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: October 5, 2026