

ADMINISTRATIVE PANEL DECISION

Easyparapharmacie v. 刘岩

Case No. DCN2023-0036

1. The Parties

The Complainant is Easyparapharmacie, France, represented by IP Twins, France.

The Respondent is 刘岩, China.

2. The Domain Name and Registrar

The disputed domain name <easypara.cn> is registered with 浙江贰贰网络科技有限公司 (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2023. On May 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the China ccTLD Dispute Resolution Policy (the “Policy”), the China ccTLD Dispute Resolution Policy Rules (the “Rules”), and the WIPO Supplemental Rules for China ccTLD Dispute Resolution Policy and China ccTLD Dispute Resolution Policy Rules (the “WIPO Supplemental Rules”).

In accordance with the Rules, Articles 5 and 6, and Articles 14 to 16, and the WIPO Supplemental Rules, Paragraph 4(d), the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceedings commenced on June 6, 2023. In accordance with the Rules, Article 17 and 49, the due date for Response was June 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 27, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on July 4, 2023. 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, Article 29.

4. Factual Background

The Complainant is a French company founded in 2007 and focusing on the online sale and distribution of parapharmaceutical products, along with cosmetics and veterinarian goods. Until 2022, the Complainant traded under the brand EASYPARAPHARMACIE, in 2022 it rebranded to EASYPARA. The Complainant is also the owner and operator of the domain names <easypara.fr>, <easypara.com> and <easyparapharmacie.com>.

The Complainant is the owner of the following trade mark registrations for EASYPARAPHARMACIE and EASYPARA, including the following:

Trade Mark	Application Number	Registration Date	Classes	Jurisdiction
EASYPARAPHARMACIE	1215294	May 5, 2014	3, 5, 35, 44	International designating United Kingdom, Spain, Benelux, and Italy
EASYPARAPHARMACIE	3536953	November 9, 2007	3, 5	France
EASYPARA	018498726	January 18, 2022	3, 5, 35, 39, 44	European Union

The disputed domain name <easypara.cn> was registered on July 1, 2022. At the date of this Complaint, the disputed domain name resolves to a website written mostly in English offering the domain name for sale.

The Respondent is an individual based in China. The Respondent was also the registrant of many “.cn” and “.com.cn” domain names, many of which incorporate the trade marks of others, for example <anthonygarcon.cn>, <backmarket.cn>, <cuissedegrenouille.cn>, <maisonstandards.cn>. The Respondent has been involved in a prior .CN case *Laure de Sagazan v. 刘岩*, WIPO Case No. [DCN2019-0010](#), where the domain name was ordered to be transferred to the complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- (a) The disputed domain name is confusingly similar to its trade mark. The disputed domain name wholly incorporates the Complainant's EASYPARA trade mark and is highly similar to its trade mark EASYPARAPHARMACY.
- (b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorisation or license to use the Complainant's trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The website under the disputed domain name is offering the domain name for sale which is not *bona fide* use; and
- (c) The disputed domain name was registered and is being used in bad faith. The Respondent must have known of the Complainant when registered the disputed domain name. The Complainant was already operating its websites when the disputed domain name was registered. An Internet search would have revealed the Complainant's use. The Respondent chose the disputed domain name in an attempt to divert consumers to websites under the disputed domain name. It appears that the Respondent is targeting foreign brands with limited international exposure by registering domain names incorporating those brands. The Complainant identified other domain names, such as

<anthonygarcon.cn>, <backmarket.cn>, <cuissedegrenouille.cn>, <maisonstandards.cn>, all of which are French brands with limited international exposure.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue – Language of the Proceeding

According to Article 8 of the Rules, unless otherwise agreed by the Parties, or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese.

Based on the given evidence, there is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond to the Complaint. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- a) the website of the disputed domain name is in English;
- b) the Respondent is or was the owner of numerous domain names containing English words;
- c) in order to proceed in Chinese, the Complainant would have had to retain specialised translation services that would cause an unnecessary burden to the Complainant and delay the proceeding.

In accordance with Article 8 of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding;
- the website under the disputed domain name is wholly in English; and
- an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceeding.

6.2 Substantive Issues

The Complainant must satisfy all three elements of Article 8 of the Policy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name or a major part of the domain name; and
- (iii) the disputed domain name has been registered or has been used in bad faith.

A. Identical or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests

Before considering the similarity with the Complainant's mark, the Panel needs to consider if the Complainant has civil rights or interests under the Policy. The Complainant solely relies on trade marks registered in the European Union (or its constituent countries) and the United Kingdom. It does not allege that it has any business interests in China.

The Panel notes that the Policy does not require the relevant trade mark to be registered in a particular jurisdiction for the Policy to be applied. As set out above, Article 8(a) of the Policy provides that the disputed domain name should be identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests. Article 8(a) does not limit the mark relied upon to be a mark registered in China.

This Panel in *Vente-privee.com v. 郑碧莲 (Zheng Bi Lian)*, WIPO Case No. [DCN2021-0004](#) held after considering other cases and the international nature of the Internet that the complainant in that case could rely on its European trade marks. In that case, the disputed domain name redirected to a ".com" domain name where it was offered for sale making it clear the domain name was being targeted outside China.

Other panels have dismissed cases where the complainant only has rights outside China. The decision in *COMUTO v. 林清茂*, HKIAC DCN-1400593 (regarding the domain name <blabarcar.cn>) is an example. In that case, the panel found against the complainant under the first element on the basis that it had no registered trade marks in China and did not have any business in China. The panel in that case relied on the decision in *GEA Group AG and GEA Messo GmbH v. Shenzhen Melingda Industry Co.*, CIETAC CND-2007000187 which had held:

"[C]onsidering that the protection of trademarks is subject to geographic restrictions, a mark registered in a foreign jurisdiction cannot receive protection in China ... and cannot function as the basis for opposing a domain name registration."

It should be noted that in a parallel case *COMUTO v. 林智茂*, HKIAC DCN-1400594 (regarding the domain name <blabarcar.com.cn>), a different panel to the panel in HKIAC DCN-1400593 did not give any consideration to the place of registration of the trade mark and held the disputed domain name was similar and, after considering the other elements, ordered a transfer.

Additionally, in *章节四公司 (CHAPTER 4 CORP.) 诉 北京世纪汇达科技有限公司*, HKIAC DCN-1900891, the panel relied on section 1.1.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and referenced the international nature of domain names.

Section 1.1.2 of the [WIPO Overview 3.0](#) when dealing with the definition of "trademark or service mark in which the complainant has rights" provides:

"Noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element. [...]. [This factor] may however bear on a panel's further substantive determination under the second and third elements."

The Panel notes that decisions under the UDRP and the [WIPO Overview 3.0](#) can only be of referential guidance when deciding country code Top-Level Domain ("ccTLD") cases and the provisions of the actual policy in issue must be the main basis for the decision. However, section 1.1.2 does note the global nature of the internet and domain name system which is relevant.

In this case, the use complained of is of EASYPARA has no meaning in Chinese and the disputed domain name resolves to a website offering the disputed domain name for sale in English. Moreover, based on the available record, the Panel is satisfied that the Respondent is targeting foreign brands as part of his business model to offer domain names incorporating those brands for sale.

In the circumstances of this case, the Panel considers the Complainant can rely on its non-Chinese trade marks under Article 8 of the Policy.

Turning to the question of similarity, the Panel finds that the disputed domain name <easypara.cn> is confusingly similar to the Complainant's trade marks. The disputed domain name incorporates the EASYPARA trade mark in full followed by the ccTLD ".cn". It also incorporates the EASYPARAPHARMACIE trade mark in part followed by the ccTLD ".cn"

The Complainant has therefore satisfied the first element under Article 8(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not asserted any rights or legitimate interests in relation to the disputed domain name.

The Complainant states that the Respondent does not have the trade mark rights to the disputed domain name. The Complainant has not licensed the Respondent in any form to use its trade mark or to register and use a domain name containing its trade mark, and there is no evidence that the Respondent is widely known under the disputed domain name.

Based on the evidence and reasons submitted by the Complainant, the Panel finds that the Complainant has provided *prima facie* evidence that the Respondent has no rights or legal rights to the disputed domain name, thus shifting the burden of rebutting the proof to the Respondent, who has not provided any evidence that he or she has a right or legitimate interest in the disputed domain name. Moreover, the composition of the disputed domain name carries a high risk of implied affiliation.

The second element of Article 8(b) of the Policy is therefore satisfied.

C. Registered or Used in Bad Faith

Based on the given evidence, the disputed domain name was registered in bad faith. It is also being used in bad faith.

The disputed domain name was registered after the Complainant has registered the EASYPARAPHARMACIE and EASYPARA trade marks and the use of the Complainant's trade marks by the Respondent is clearly not a coincidence. The Complainant only recently rebranded from trading under the EASYPARAPHARMACIE mark to the EASYPARA mark, which was just months before the Respondent's registration of the disputed domain name. Moreover, the Panel is satisfied that the Respondent is targeting foreign brands, including French brands, as part of the Respondent's business model to offer domain names incorporating those brands for sale. The Panel is satisfied that the Respondent was aware of the Complainant and its EASYPARAPHARMACIE and EASYPARA trade marks when the Respondent registered the disputed domain name.

The Respondent has registered the disputed domain name to attract Internet users to the website for commercial gain in accordance with Article 8(c) of the Policy. The disputed domain name directs Internet users to a website offering the disputed domain name for sale. This is evidence of bad faith under Article 9(a) of the Policy in that the Respondent's purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the Complainant who is the owner of the name or mark or to a competitor of that Complainant.

The Respondent is intentionally attracting Internet users to the inherently misleading disputed domain name creating confusion with the Complainant's mark in breach of Article 9(c) of the Policy.

As mentioned above, the Respondent is also a serial cybersquatter engaged in a series of trade mark infringing domain name registrations which are other circumstances which can prove bad faith under Article 9(d) of the Policy.

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith. The Panel also considers the disputed domain name is being used in bad faith.

The Complainant has therefore satisfied the third element under Article 8(c) of the Policy.

7. Decision

For the foregoing reasons, in accordance with Articles 14 of the Policy and 40 of the Rules, the Panel orders that the disputed domain name <easypara.cn> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: July 19, 2023