

## **PANEL DECISION**

### **Suzhou Brightway Intelligent Technology Co. Ltd. v. Fei Cheng Case No. DEU2022-0031**

#### **1. The Parties**

Complainant is Suzhou Brightway Intelligent Technology Co. Ltd. of China, represented by Michaela S. Paul, LL.M., Germany.

Respondent is Fei Cheng of Poland.

#### **2. The Domain Name, Registry and Registrar**

The Registry of the disputed domain name <navee.eu> (the “Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Domain Name is GoDaddy.com, LLC.

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2022. On October 11, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the Domain Name. On October 12, 2022, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on October 13, 2022 providing the registrant and contact information disclosed by the Registry. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed an amended Complaint on October 17, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 19, 2022. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was November 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 1, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on December 14, 2022. 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 ADR Rules, Paragraph B(5).

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

Complainant was established in China in 2020 and manufactures and distributes electronic vehicles, especially e-scooters and e-bikes. In late 2021, Complainant joined the Xiaomi chain and undertook 75% of the Xiaomi electric scooter project, becoming one of the main suppliers of Xiaomi electric scooters. Complainant mainly offers its products online through retailers and through local shops.

Complainant is the owner of trademarks for NAVEE in numerous countries including the International trademark registration No. 1616057 NAVEE (word), designating the European Union, registered on July 15, 2021, with priority from April 22, 2021, for goods in international class 12.

The Domain Name was registered on October 13, 2021 and led to a website mimicking that of Complainant (the "Website"). According to the evidence provided by Complainant, in the "About Us" section of the Website Respondent tells the brand story of Complainant. In the section "Terms of service", Respondent presents itself as Complainant. On the Website there are three email contact addresses all formed by the Domain Name. The Website prominently features the trademark and logo NAVEE, as used by Complainant on its website "www.naveetech.com". Internet users cannot order the product under "www.navee.eu". They are redirected from the Website's page "where to buy" to other platforms, such as Geekbuy and Amazon, where products are offered by unknown third persons outside of the European Union. The Website cannot provide timely after-sales service and Complainant has received respective complaints by consumers. Furthermore, the selling price of the products on the Website is inconsistent with Complainant's official website.

The Domain Name currently leads to purportedly a Shopify page.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant asserts that it has established all elements required under Paragraph B(11)(d)(1) of the ADR Rules for a revocation of the Domain Name.

##### **B. Respondent**

The Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Under Paragraph B(11)(d)(1) of the ADR Rules, in order for the Complaint to succeed, it is for Complainant to establish:

- (i) that the Domain Name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and;
- (ii) that the Domain Name has been registered by the Respondent without rights or legitimate interests in the name; or
- (iii) that the Domain Name has been registered or is being used in bad faith.

### **A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

Complainant has demonstrated rights through registration and use on the NAVEE mark.

The Domain Name incorporates the trademark of Complainant in its entirety.

The country code Top-Level Domain ("ccTLD") ".eu" is disregarded, as ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only.

The Panel finds that the Domain Name is identical to the NAVEE mark of Complainant.

Complainant has established Paragraph B(11)(d)(1)(i) of the ADR Rules.

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

Under Paragraph B(11)(e) of the ADR Rules, a respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph B(11)(d)(1)(ii) by showing any of the following circumstances, in particular but without limitation:

- (1) prior to any notice of the dispute, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;
- (2) the respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;
- (3) the Respondent is making legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national law and/or European Union law.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Complainant has established that it has no relation with Respondent and has never authorized Respondent to use the NAVEE trademark in any way and that Respondent is not commonly known by the Domain Name.

Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website mimicking that of Complainant and using Complainant's trademarks without authorization, namely to impersonate Complainant and attempt to mislead Internet users into thinking that the goods purportedly offered through the Website originate from Complainant. Such use demonstrates neither a *bona fide* offering of goods or services nor a legitimate interest of Respondent.

In addition, the nature of the Domain Name, comprising Complainant's trademark in its entirety carries a high risk of implied affiliation (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 2.5.1.)<sup>1</sup>.

These circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Paragraph B(11)(d)(1)(ii) of the ADR Rules.

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

There is no need to separately address bad faith registration or use, in view of Panel's finding that Respondent has no rights or legitimate interests in the Domain Name. However, in this case the Panel briefly considers that the Domain Name has also been registered and used in bad faith.

Because the NAVEE mark had been used and registered by Complainant at the time of the Domain Name registration, noting the composition of the Domain Name, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering this Domain Name.

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search due to Complainant's use of NAVEE mark on the Internet.

Furthermore, Respondent could have conducted a trademark search and would have found Complainant's prior registrations in respect of NAVEE.

Lastly, the content of the Website gave the impression that it originated from Complainant, eminently displaying its trademarks. This further supports registration in bad faith reinforcing the likelihood of confusion with Complainant's trademark and business, as Internet users are likely to consider the Domain Name as in some way endorsed by or connected with Complainant ([WIPO Overview 3.0](#), section 3.1.4 and 3.2.1).

The above further removes any doubt that Respondent knew of Complainant and chose the Domain Name with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc.*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to host a Website, which appeared falsely to be that of Complainant.

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

---

<sup>1</sup> Given the similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), the Panel will refer to cases decided under both the ADR Rules and the UDRP and notably the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) if relevant to this proceeding.

Complainant has established Paragraph B(11)(d)(1)(iii) of the ADR Rules.

## 7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the Domain Name <navee.eu> be revoked<sup>2</sup>.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: December 22, 2022

---

<sup>2</sup> The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.