

ADMINISTRATIVE PANEL DECISION

Altive Limited v. Privacy Service Provided by Withheld for Privacy ehf / ming wang

Case No. D2022-1139

1. The Parties

The Complainant is Altive Limited, China, internally represented.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / ming wang, China.

2. The Domain Name and Registrar

The disputed domain name <altive.net> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2022. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2022 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 amendment to the Complaint on April 6, 2022.

The Center verified that the Complaint together with the amendment to the 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 of the Complaint, and the proceedings commenced on April 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed Linda Chang as the sole panelist in this matter on May 11, 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 Rules, paragraph 7.

4. Factual Background

The Complainant is an asset management company and has been licensed with the Securities and Futures Commission in Hong Kong, China since May 2020. The Complainant provides asset management services via website “www.altive.com”.

The Complainant and Speechless Financial Technology Company Limited are under the same parent company Apoidea (BVI) Limited. Speechless Financial Technology Company Limited is the proprietor of Hong Kong, China trademark No. 305259583 ALTIVE 安投 registered on April 28, 2020.

The disputed domain name was registered on January 14, 2022 by the Respondent and did not resolve to an active website at the time of drafting this decision. The Complainant however has provided evidence showing that the disputed domain name was once resolved to a website promoting “Altive 安投交易” services in the name of Altive 安投 and it was used in the course of phishing and fraudulently soliciting business.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to the Complainant’s trademark, trade name and domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name by fraudulently using the ALTIVE name and trademark to conduct cryptocurrency trading business and investment courses.

The Complainant finally contends that disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, each of the following must be proven by the Complainant:

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

A. Identical or Confusingly Similar

With respect to the rights under paragraph 4(a)(i) of the Policy, the Complainant relies on rights in the ALTIVE 安投 trademark registered by its affiliated company. Given the Complainant's common interests in the ALTIVE 安投 trademark, the Panel determines that the Complainant has rights in the ALTIVE 安投 trademark within the meaning of paragraph 4(a)(i) of the Policy.

In the evaluation of passing the first element confusing similarity test, it is commonly agreed that the generic Top-Level Domain ".net" as standard registration requirement should be disregarded. The disputed domain name consists of the word "altive", which partly reproduces the Complainant's ALTIVE 安投 trademark and is clearly recognizable in the disputed domain name.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's ALTIVE 安投 trademark and that paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Based on the evidence submitted by the Complainant, the disputed domain name was once used to resolve to a website promoting "Altive 安投交易" services in the name of Altive 安投. According to the consumer complaints received by the Complainant, the website was being used in connection with cryptocurrency trading business and investment courses in the name of Altive.

The Panel determines that no rights nor legitimate interests will be created when the Respondent used the disputed domain name to redirect Internet users to a website providing services in the name of Altive but without authorization from the Complainant. Such use cannot be characterized as *bona fide* nor noncommercial or fair use by the Respondent, and should never confer rights or legitimate interests.

The Panel finds that the Complainant has succeeded in making out a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The burden of production on this element hence shifts to the Respondent to rebut the Complainant's contentions. The Respondent however did not reply to the Complainant's contentions and consequently failed to demonstrate its rights or legitimate interests in the disputed domain name.

The Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Complainant has further presented evidence that the disputed domain name was used in the course of phishing and fraudulently soliciting business.

Clearly, the disputed domain name was registered and has been used with fraudulent intent. The disputed domain name was apparently chosen by the Respondent to take advantage of its confusing similarities to the ALTIVE 安投 trademark and the Complainant's official website "www.altive.com". The Respondent was intentionally attempting to impersonate the Complainant by registering a confusingly similar disputed domain name and displaying "Altive 安投" on the website, which is highly likely to mislead Internet users into believing the disputed domain name is an official website operated by the Complainant.

It is well established that using a domain name for phishing and fraud purposes constitutes bad faith.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <altive.net> be cancelled.

/Linda Chang/

Linda Chang

Sole Panelist

Date: June 1, 2022