

## ADMINISTRATIVE PANEL DECISION

Loomis Sayles & Company. L. P. v. Hai Qiang Gong (公海强)  
Case No. D2022-2804

### 1. The Parties

The Complainant is Loomis Sayles & Company. L. P., United States of America (“US”), represented by Inlex IP Expertise, France.

The Respondent is Hai Qiang Gong (公海强), China.

### 2. The Domain Name and Registrar

The disputed domain name <lomissayles.com> is registered with Cloud Yuqu LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2022. On July 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 30, 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 August 1, 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 amended Complaint in English on August 1, 2022.

On August 1, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 1, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on 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 English and Chinese of the Complaint, and the proceedings commenced on August 8, 2022. In accordance with the

Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 29, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on September 5, 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 affiliate of the Natixis Investment Managers group of companies and has its headquarters in the US. The Complainant claims to be one of the largest investment managing companies in the world with USD 290.8/ EUR 285 billion in assets under management, across a range of investment vehicles, including notably mutual funds, hedge funds, institutional separate accounts and collective trusts. The Complainant also states that it is serving clients in 51 countries across 6 continents, and has 815 employees and offices all around the world, notably in North America, Europe and Asia.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for LOOMIS SAYLES, including, but not limited to, US trademark registration number 4188902 for the word mark LOOMIS SAYLES, registered on August 14, 2012 and European Union Trade Mark registration number 009792565 for the word mark LOOMIS SAYLES, registered on August 18, 2011. The Panel notes that the Complainant also has an extensive online presence and that it hosts its main website under the domain name <loomissayles.com> registered on March 15, 1996.

The disputed domain name was registered on June 23, 2022, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Panel notes that the disputed domain name is linked to an active webpage in English, containing what are presumed to be pay-per-click hyperlinks to third party providers of a variety of products and services.

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

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

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for LOOMIS SAYLES, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are well-regarded in the investment sector, and provides evidence of its marketing materials and search engine results for the disputed domain name, as well as prior decisions in previous UDRP proceedings. Particularly, the Complainant claims that the disputed domain name was registered by the Respondent with the intentional misspelling of the Complainant's trademarks (also known as "typosquatting"). The Complainant also provides evidence that the disputed domain name is linked to an active website displaying what are presumed to be pay-per-click hyperlinks to third party providers of products and services. The Complainant essentially contends that such registration and use does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes registration and use of the disputed domain name in bad faith.

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

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement. However, the Panel is given the authority to determine a language of the proceeding other than the language of the Registration Agreement, taking into account the circumstances of every individual case.

According to the Registrar's verification response, the language of the Registration Agreements for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comments on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited in a timely manner, in Chinese and English, by the Center to present its comments and response in either English or Chinese, but chose not to do so); the fact that the website hosted at the disputed domain name contains links only in English and that the disputed domain name is written in Latin letters and not in Chinese characters; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this administrative proceeding shall be English.

### 6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

#### A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the sign LOOMIS SAYLES based on its intensive use and registration of the same as a trademark in several jurisdictions.

Moreover, as to confusing similarity, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9, states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element". In this case, the Panel considers that the disputed domain name is clearly selected by intentionally misspelling the Complainant's distinctive trademarks for LOOMIS SAYLES, by the incorporation of such trademark in its entirety into the disputed domain name, except that a single character ("o") of such trademark is omitted. According to the Panel, this is a clear case of intentional misspelling of the Complainant's trademarks, or "typosquatting". The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and the first element required by the Policy is fulfilled.

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

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, the Respondent did not provide any Response or evidence in this proceeding.

Furthermore, upon review of the facts, the Panel notes that the disputed domain name directs to an active website containing what are presumed to be pay-per-click hyperlinks to an array of products and services offered by third parties. The Panel concludes that this shows the Respondent's intention to capitalize on the reputation and goodwill of the Complainant's trademarks for LOOMIS SAYLES (see also [WIPO Overview 3.0](#), section 2.9 and previous UDRP decisions in this sense such as *Maker Studios, Inc. v. ORM LTD / Contact Privacy Inc. Customer 0137258808*, WIPO Case No. [D2014-0918](#) and *Comerica Incorporated v. Balticsea LLC / Contact Privacy Inc. Customer 0131519121*, WIPO Case No. [D2013-0932](#)).

On the basis of the foregoing elements, the Panel finds that the Complainant has satisfied the requirements for the second element under the Policy.

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

The Panel finds that the registration of the disputed domain name, which incorporates the Complainant's trademarks in their entirety, except for the intentional omission of the letter "o", is clearly intended to mislead and divert consumers away from the Complainant's official website, to the Respondent's website linked to the disputed domain name. Given the reputation and fame of the Complainant's trademarks, and the intentional typosquatting, the Panel considers that the registration of the disputed domain name was obtained in bad faith. Moreover, as proven by the Complainant's evidence showing the relevant search engine results, even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned registered trademarks in LOOMIS SAYLES and uses them extensively. In the Panel's view, the preceding elements clearly indicate the bad faith of the Respondent, and the Panel therefore rules that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name currently displays what are presumed to be pay-per-click hyperlinks to the unrelated commercial products of third parties. This shows that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The Panel considers that this constitutes direct evidence of bad faith of the Respondent under section 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 disputed domain name <lomissayles.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: September 19, 2022