

ADMINISTRATIVE PANEL DECISION

Molson Canada 2005, Coors Brewing Company, and Molson Coors Beverage Company v. Ge Yuanbo
Case No. D2023-2066

1. The Parties

The Complainants are Molson Canada 2005, Canada; Coors Brewing Company, United States of America (“United States”); and Molson Coors Beverage Company, United States, represented by Lipkus Law LLP, Canada.

The Respondent is Ge Yuanbo, China.

2. The Domain Name and Registrar

The disputed domain name <molsoncoors.net> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2023. On May 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on May 15, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint in Chinese and English on May 15, 2023.

On May 11, 2023, the Center sent an email communication to the Parties in Chinese and English regarding the language of the proceeding. On May 11, 2023, the Complainants submitted an amended Complaint including a request that English be the language of the proceeding, and also submitted a translation of the Complaint into Chinese. The Respondent did not submit any comment on the Complainants’ submission.

The Center verified that the Complaint together with the amended Complaints 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 Chinese and English of the Complaint, and the proceedings commenced on May 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 9, 2023.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on June 22, 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, paragraph 7.

4. Factual Background

A. Complainants

The Complainants Molson Canada 2005 and Coors Brewing Company are subsidiaries of the Complainant Molson Coors Beverage Company.

The Complainant Molson Canada 2005 has been producing beer in Canada since 1774 under the trade mark MOLSON; and the Complainant Coors Brewing Company has been producing beer in the United States since 1873 under the trade mark COORS. In 2005, the Complainant Coors Brewing Company's holding company, Adolph Coors Company, merged with the Complainant Molson Canada 2005's holding company, Molson Inc., to become the Complainant Molson Coors Beverage Company.

The Complainants are the owners of several registrations for the trade marks COORS and MOLSON in the United States; and the Complainant Coors Brewing Company is the owner of registration No. 8060808 in China for the trade mark MOLSON COORS (the "Trade Mark"), with a registration date of February 14, 2011.

The Complainants promote their business at the website "www.molsoncoors.com".

B. Respondent

The Respondent is located in China.

C. The Disputed Domain Name

The disputed domain name was registered on January 23, 2023.

D. Use of the Disputed Domain Name

The disputed domain name is resolved to a Chinese language website with multiple links to gambling and pornography related websites (the "Website").

5. Parties' Contentions

A. Complainants

The Complainants contend that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the registration agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. However, paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Although the Complainant have provided a translation of the Complaint and amended Complaint into Chinese, the Complainants have also requested that the language of the proceeding be English for several reasons, including the following:

- (i) the disputed domain name contains Latin text, rather than Chinese;
- (ii) the Respondent has been provided with a Chinese language translation of the Complaint;
- (iii) the Respondent has not objected to the language of the proceeding being English; and
- (iv) in the circumstances it would be fair, and not prejudicial to the Respondent, for the language of the proceeding to be English.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response.

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

Although there is insufficient evidence before the Panel to support a conclusion that the Respondent is conversant in English, the Panel notes that the Respondent has been provided with a Chinese language translation of the Complaint and amended Complaint, the Respondent has taken no part in this proceeding, and all of the Center's communications with the Parties have been sent in English and Chinese.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainants have rights in the Trade Mark acquired through use and registration.

Disregarding the generic Top-Level Domain (“gTLD”) “.net”, the disputed domain name is identical to the Trade Mark.

The Panel therefore finds that the disputed domain name is identical to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainants have not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name is resolved, for commercial gain, to the Website, containing links to pornography and gambling related websites.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainants’ *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given the notoriety of the Complainants and of their COORS, MOLSON and MOLSON COORS trade marks in respect of beer; the distinctiveness of the Trade Mark; and the manner of the Respondent’s use of the disputed domain name referred to above; the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out pursuant to paragraph 4(b)(iv) of the Policy.

The evidence suggests that the Respondent has targeted the Complainants in registering and using the disputed domain name; and that there cannot be any actual or contemplated good faith use of the inherently misleading disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

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 <molsoncoors.net> be transferred to the Complainants.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: July 4, 2023