

ADMINISTRATIVE PANEL DECISION

ID Group v. Yi Kai
Case No. D2023-2150

1. The Parties

The Complainant is ID Group, France, represented by CSC Digital Brand Services AB, Sweden.

The Respondent is Yi Kai, China.

2. The Domain Name and Registrar

The disputed domain name <catiminica.com> is registered with Net-Chinese Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2023. On May 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 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.

On May 17, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 19, 2023, the Complainant submitted an amended Complaint in English and 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 and 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 May 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 10, 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

The Complainant is headquartered in France and commercializes ready-to-wear clothes and accessories for children as well as games and toys. The Complainant markets its products using nine separate brands, of which one is the brand CATIMINI, which is relevant to this proceeding. The CATIMINI brand is particularly used for children's specialist clothing stores providing trendy fashion choices for children from newborns to 14 years old. By 2000, CATIMINI had become an international children's clothing brand with its 114 stores worldwide, from Belgium to Australia, Mexico to Tahiti, Saudi Arabia to the United Kingdom. The Complainant has large business operations with 1,386 stores throughout the world, and employs 6,000 employees in 70 countries.

The Complainant provides evidence that it owns, through its subsidiary Kidiliz Group, an international portfolio of trademark registrations for CATIMINI, including, but not limited to, Chinese trademark registration number 31162520 for the word mark CATIMINI, registered on February 28, 2019 and French trademark registration number 449138 for the word mark CATIMINI, registered on December 19, 1979. The Panel notes that the Complainant also has an extensive online presence and that it hosts its main website for the CATIMINI brand under the domain name <catimini.com>, registered on April 3, 1996.

The disputed domain name was registered on July 23, 2022, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Panel notes that on the date of this Decision, the disputed domain name is linked to an active webpage containing gambling and pornographic content and links. The Panel also notes, from the evidence and arguments submitted in the Complaint, that the disputed domain name was previously also linked to a website displaying links to pornographic content and has subsequently also been inactive for some time.

The Panel also notes that the Complainant has attempted to settle this matter amicably by sending a number of cease-and-desist letters to the Respondent in November 2022, but that the Respondent did not reply to these letters.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark for CATIMINI, 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 to divert Internet users to the Respondent's webpage containing pornographic material.

The Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's trademarks as it incorporates the Complainant's CATIMINI trademark in its entirety, with the only differing element being the addition of the geographical term "CA" to the disputed domain name. The Complainant also provides evidence that the disputed domain name was linked to an active webpage containing pornographic content, which, the Complainant argues, confers no legitimate interest in the disputed domain name on the Respondent, and which means that the Respondent is tarnishing the Complainant's trademarks and gaining a commercial benefit through such use of the Complainant's marks. The Complainant also argues that, considering the time the website linked to the disputed domain name was inactive, such use does not confer any rights or legitimate interests on the Respondent and constitutes use in bad faith under the passive holding doctrine. Moreover, the Complainant argues that the Respondent had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain name was registered, since the Complainant registered its trademarks many years prior to the registration of

the disputed domain name and made intensive use of them. The Complainant contends that the use made of the disputed domain name by the Respondent does not confer any rights or legitimate interests in respect of the disputed domain name, and that it constitutes use in bad faith of the disputed domain name.

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 Administrative Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its 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, in particular, the Complainant's request that the language of the administrative proceeding be English; the fact that the Respondent did not comment on the language of the administrative proceeding and did not submit arguments on the merits (the Panel notes that the Respondent had the opportunity, and was duly invited by the Center in English and Chinese, to provide a Response in either English or Chinese, but chose not to do so); the fact that the disputed domain name itself is in Latin characters and contains the Complainant's mark; and, finally, the fact that Chinese as the language of the administrative proceeding could lead to unwarranted costs for the Complainant and delays for the administrative proceeding. In view of all these elements, the Panel grants the Complainant's request and decides that the language of the 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 mark CATIMINI, based on its use and registration of the same as a trademark in multiple jurisdictions.

Moreover, as to whether the disputed domain name is identical or confusingly similar to the Complainant's trademark, in the Panel's view, the disputed domain name consists of two parts, namely the Complainant's

registered trademark for CATIMINI, followed by the suffix “CA”. The Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, which states: “where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. The Panel concludes that, in this case, the disputed domain name incorporates the Complainant’s trademark CATIMINI in its entirety, and remains clearly recognizable in the disputed domain name. The Panel also considers that the generic Top-Level Domain (“gTLD”), which is “.com” in this case, is viewed as a standard registration requirement, and may as such be disregarded by the Panel (see, [WIPO Overview 3.0](#), section 1.11.1).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark for CATIMINI, and concludes that the Complainant has satisfied the requirements of the first element under the Policy.

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 *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial 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, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence, the Panel notes that the disputed domain name directs to an active webpage containing gambling and pornographic content and links. In the Panel’s view, no rights or legitimate interests derive from using a third party trademark to divert Internet users for commercial gain to a pornographic and gambling website, see in this regard also several prior UDRP decisions such as *Kudelski S.A. v. duanbingbing*, WIPO Case No. [D2023-0331](#); *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#) and *Seintec Norte, S.L. v. yu Liu, wangluochuanmei* WIPO Case No. [D2021-1815](#).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the distinctiveness of the Complainant’s trademarks for CATIMINI and their intensive and longstanding prior use and registration (including in the Respondent’s jurisdiction of China), which predate the registration date of the disputed domain name by many years, the Panel considers that the Respondent has intentionally and opportunistically targeted the Complainant’s trademark for CATIMINI. The Panel deducts from these efforts to consciously target the Complainant’s prior registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. The Panel also notes that 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 prior rights in its trademarks for CATIMINI. Further, in addition to the Complainant’s trademark for CATIMINI, the disputed domain name includes the suffix “ca”, which is a frequently used abbreviation for the country Canada, where the Complainant’s products are sold. In the Panel’s view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds 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 gambling and pornographic content and links, which shows that the Respondent is

abusing the Complainant's trademark to mislead and divert Internet users for commercial gain to such website, and thereby also tarnishes the Complainant's marks (see in this regard also previous UDRP decisions such as *Kudelski S.A. v. duanbingbing*, WIPO Case No. [D2023-0331](#); *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#) and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#)). The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel also notes that the Respondent did not reply to the Complainant's cease-and-desist letters and continued its use of the disputed domain name to host a website displaying pornographic and gambling links. On the basis of the foregoing elements, the Panel finds 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 rules 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, <catiminica.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: July 24, 2023