

ADMINISTRATIVE PANEL DECISION

Labelium SAS v. 铁 陈, 铜 陈 and Chen You Xuan
Case No. D2023-2227

1. The Parties

The Complainant is Labelium SAS, France, represented by Basdevant Avocats, France.

The Respondents are 铁 陈, China, 铜 陈, China, and Chen You Xuan, China.

2. The Domain Names and Registrar

The disputed domain names <labelium-program.com>, <labelium-scale.com>, <uk-labelium.com>, and <uk-labelium.net> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondents (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 29, 2023 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 on June 3, 2023.

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 Respondents of the Complaint, and the proceedings commenced on June 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on July 7, 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 following facts are undisputed.

The Complainant is a French digital marketing group, headquartered in Paris. The company was founded in 2001 and is currently operating 20 offices in 14 different countries.

The Complainant is the owner of several trademark registrations, including but not limited to, the European Union trademark registration LABELIUM (word mark), with registration no. 013448972 and with registration date of April 13, 2015, for goods and services in classes 9, 35, 42, and the International Registration for LABELIUM (word mark), with registration no. 1255534 and with registration date of February 5, 2015, for goods and services in classes 9, 35, 42, designating, *inter alia*, China and the Russian Federation (hereinafter together in singular referred to as the "Trademark").

The Domain Names were registered between November 2022 and January 2023. The Domain Names redirect to different websites (the "Website") with login portals. Moreover, three out of four Domain Names clearly display the Complainant's Trademark and the same color scheme (and thus look and feel) used by the Complainant.

5. Parties' Contentions

A. Complainant

Insofar as relevant for deciding this matter, the Complainant contends the following.

The Domain Names are confusingly similar to the Trademark. More specifically, the Domain Names all incorporate the Trademark in its entirety. The Respondents only added generic and/or descriptive terms. These terms refer to, *inter alia*, the Complainant's business and/or the location where the Complainant is active.

The Respondents have no prior rights or legitimate interests in respect of the Domain Names. The Respondents have not obtained permission or any authorization from the Complainant to use the Trademark. There is also no proof of an economic or other kind of relationship with the Complainant. Furthermore, the Domain Names are solely being used for impersonation and/or fraudulent activities as the Respondents are claiming to be the Complainant and requires Internet users looking for an opportunity to earn some extra income to pay monetary deposits to the Respondent. Such use cannot constitute a *bona fide* offering of goods and services.

The Domain Names have been registered and used in bad faith. The Respondents have registered the Domain Names with prior knowledge of the Trademark and the Complainant's activities. All the more so, because the Respondents are essentially impersonating the Complainant as part of a (impersonation) scam. Such use of the Domain Names is manifestly considered evidence of bad faith.

B. Respondent

The Respondents did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Matter: Consolidation of Multiple Respondents

The present proceeding involves the Complainant bringing a single Complaint relating to four Domain Names against two Respondents. The Complainant has made a request for consolidation and, in

accordance with section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), thus bears the *onus* of establishing that such a consolidation is justified.

The Panel is satisfied that such consolidation is justified, based on the evidence brought forward by the Complainant. All four Domain Names have been registered with the same Registrar and the same privacy shield. Moreover, all four Domain Names have been registered from the same IP address. In addition to this, all four Domain Names resolve to websites with login portals. Lastly, the Panel also considers that the Respondent has not taken the opportunity to rebut the allegations made by the Complainant.

In light of these considerations, and in particular that the Respondents are most likely the same person, or at least under the common control, the Panel will hereafter refer to them in singular as the "Respondent".

6.2 Substantive Matter

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names have been registered and are being used in bad faith

A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Names all consist of the Trademark in its entirety, to which the Respondent has solely a term, *i.e.*, the terms "uk", "scale", and "program". These terms all refer to either the businesses the Complainant operates and/or the locations where the Complainant is active.

As set out in the [WIPO Overview 3.0](#), section 1.8, the addition of other terms would not prevent a finding that a domain name is confusingly similar to the relevant mark for purposes of the first element.

The Trademark is clearly recognizable in all the Domain Names. The addition of the various terms does not prevent a finding of confusing similarity between the Domain Names and the Complainant's Trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Names, such as:

- (i) use or preparation to use the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Names (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or

- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent in order to demonstrate that it has rights or legitimate interests in the Domain Names. However, the Respondent has not presented evidence of any such rights or legitimate interests it may have in regard to the Domain Names, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

In more detail, the Complainant has asserted that the Respondent is not in any way affiliated with the Complainant. There is also no evidence that the Respondent is, or has ever been authorized or otherwise permitted by the Complainant to register or use the Trademark, or to apply for or use any domain name incorporating the Trademark.

In addition to this, the Respondent is not making use of the Domain Names in connection with a *bona fide* offering of goods and services or for noncommercial or fair use purposes. To the contrary, the Complainant put forward clear evidence that the Respondent is using the Domain Names for a scam, being a remote job offer for which Internet users need to complete tasks through a web-app that include, *inter alia*, the depositing of money.

Moreover, the Complainant has also put forward evidence of different complaints from Internet users who received messages from the phone number that links to the Domain Names or from Internet users who have completed the tasks through a webapp. A few complaints also reported that they have been asked or have already made deposits to an agent who claimed to work for the Complainant. However, the Internet users never received the promised commissions or had their deposits refunded. Certainly lacking a response, the Panel considers that it is more likely than not that the Website is indeed being used for fraudulent activities.

Additionally, the Complainant submitted evidence of an exchange of WhatsApp messages in which the Respondent claims to be the Complainant and/or working for the Complainant. Also in light of the fact that the Website to which the Domain Names resolve clearly display the Complainant's Trademark, the Panel finds that the Respondent is clearly trying to impersonate the Complainant.

In accordance with section 2.13.1 of the [WIPO Overview 3.0](#), the use of a domain name for illegitimate activity, such as fraud or the impersonation of a complainant, can never confer rights or legitimate interests on a respondent.

Hence, the Respondent's use cannot be considered a legitimate noncommercial or fair use of the Domain Names either.

The Panel, therefore, finds that the second element has been satisfied.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Names were registered and are being used in bad faith.

The Panel refers to its considerations under section 6.B and adds the following.

In light of the evidence filed by the Complainant, the Panel finds that the Respondent must have been aware of the existence of the Complainant's activities and rights at the time that the Respondent registered the Domain Names. This is supported by the fact that the Website to which the Domain Names resolve clearly displays the Complainant's trademarks and logos even using the same look and feel as the Complainant.

As such, the Respondent has registered and is using the Domain Names to intentionally attract Internet users for commercial gain to its website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Website.

In the present case, the Panel notes once again that the Respondent is using the Domain Names as part of a (impersonation) scam. The Complainant submitted extensive evidence of such fact, whereas it provided various screenshots of, *inter alia*, a conversation with the Respondent, various complaints from Internet users, and screenshots of the Website to which the Domain Names resolve. This is strong evidence that the Domain Names are being used for fraudulent activities. Considering the fact that impersonation and/or fraud is considered a *per se* illegitimate activity such behavior is, in accordance with section 3.1.4 of the [WIPO Overview 3.0](#), manifestly considered evidence of bad faith.

Lastly, the Panel considers the fact that the Respondent has been hiding behind a privacy shield. In accordance with section 3.6 of the [WIPO Overview 3.0](#), this further supports a finding of bad faith.

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, the cumulative circumstances as outlined in the Decision are sufficient for the Panel to find that the registration and use of the Domain Names by the Respondent is in bad faith.

In light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Names have been registered and 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 Domain Names, <labelium-program.com>, <labelium-scale.com>, <uk-labelium.com>, and <uk-labelium.net>, be transferred to the Complainant.

/Willem J.H. Leppink/
Willem J. H. Leppink
Sole Panelist
Date: July 7, 2023