

ADMINISTRATIVE PANEL DECISION

Skandia Brands Ab v. 葛荣凯 (Ge Rong Kai)

Case No. D2023-3982

1. The Parties

The Complainant is Skandia Brands Ab, Sweden, represented by Ports Group AB, Sweden.

The Respondent is 葛荣凯 (Ge Rong Kai), China.

2. The Domain Name and Registrar

The disputed domain name <skandia.xyz> is registered with Xin Net Technology Corp. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 22, 2023. On September 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 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 (Not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 27, 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 amendment to the Complaint in English on September 27, 2023.

On September 27, 2023, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On September 27, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2023.

The Center appointed Sok Ling MOI as the sole panelist in this matter on November 21, 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, incorporated in Stockholm, Sweden, operates within the industry of insurance and banking. The Complainant uses its trade mark SKANDIA to identify its goods and services in its business operations.

The Complainant is the proprietary owner of numerous trade mark registrations for SKANDIA in various jurisdictions, with registration date as early as 1987, including the following:

- United States of America ("USA") Trade Mark No. 6039240, SKANDIA (word mark) in Class 36 (registered on April 28, 2020)
- International Trade Mark No. 938685 (designating Australia, China, Japan, Singapore, USA, etc.), SKANDIA (stylised mark) in Class 36 (registered on September 24, 2007), designating Norway and USA.

The Complainant also owns and operates its official website through the following domain name to promote its business activities:

- <skandia.se> (registered on October 13, 1994)

The disputed domain name was registered on April 21, 2023, long after the Complainant has used and registered its trade mark SKANDIA.

According to the evidence submitted by the Complainant (Annex 7 - print screens), as of September 22, 2023, the disputed domain name was not linked to an actual website, however, it was offered for sale for a cost of USD950 via Dan.com.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name is identical to its trade mark, as it incorporates SKANDIA in its entirety;
- 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 Complainant's contentions.

6. Discussion and Findings

6.1 Procedural Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), 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.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons. The Respondent did not make any specific submissions on the issue of the language of the proceeding.

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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Although the Respondent appears to be a Chinese individual, the Panel finds *prima facie* evidence in the present proceeding to suggest that the Respondent has sufficient knowledge of English. In particular, the Panel notes that the disputed domain name comprises only Latin characters rather than Chinese characters; and that it redirected to an English language website offering it for sale.

Additionally, the Panel notes that:

- the Center has notified the Respondent of the Complaint and of the language of the proceeding in both Chinese and English; and
- the Center has informed the Respondent that it would accept a Response in either English or Chinese.

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. The Panel has taken into consideration the fact that to require the Complaint and all supporting documents to be re-filed in Chinese would, in the circumstances of this case, cause an unnecessary cost burden to the Complainant and would unnecessarily delay 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 Issue - Findings

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be transferred:

- (i) the disputed domain name registered by the respondent is identical or confusingly similar to a trade mark 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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the generic Top-Level Domain (“gTLD”) “.xyz” is a standard registration requirement and does not impact on the analysis of whether the disputed domain name is identical or confusingly similar to the Complainant’s trade mark in this case.

Accordingly, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the SKANDIA trade mark or to seek registration of any domain name incorporating the SKANDIA trade mark. There is also no evidence suggesting that the Respondent is commonly known by the disputed domain name or that the Respondent has any rights in the term “skandia”.

As the disputed domain name redirects to a page offering it for sale, there is no evidence to suggest that the Respondent is using or has made any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial purpose. In fact, the disputed domain name previously did not resolve to any active website and such passive holding also does not represent any *bona fide* offering either. Further, the disputed domain name being identical to the Complainant’s trade mark carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

The Panel accepts that the Complainant's trade mark SKANDIA is distinctive. A cursory Internet search would have disclosed the SKANDIA trade mark and its extensive use by the Complainant. A strong presumption therefore arises that the Respondent was aware of the Complainant and its trade mark when it registered the disputed domain name. Registration of a domain name that incorporates a complainant's well-known trade mark by someone with no connection with the trade mark suggests opportunistic bad faith.

In the present case, the Panel notes that the disputed domain name does not resolve to any active website in connection with a *bona fide* offering of goods or services, but is instead offered for sale for USD950. The Panel accepts that the Respondent is highly likely to have registered the disputed domain name for the purpose of selling or otherwise transferring the same to the Complainant or one of its competitors for valuable consideration likely in excess of its out-of-pocket expenses. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

Accordingly, the Panel finds that the Complainant has established the third element of 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 <skandia.xyz> be transferred to the Complainant.

/Sok Ling MOI/

Sok Ling MOI

Sole Panelist

Date: December 9, 2023