



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201587
Complainant:	Inner Mongolia Erdos Resources Co., Ltd.
Respondent:	Andreas Sieren
Disputed Domain Name:	<erdosglobal.com>

1. The Parties and Contested Domain Name

The Complainant is Inner Mongolia Erdos Resources Co., Ltd., of No. 1 Qingfang Street, Hantai, Dongsheng District, Ordos City, China.

The Respondent is Andreas Sieren, of Auf der Neusetze 4, 79594 Inzlingen, Germany.

The domain name at issue is <erdosglobal.com>, registered by Respondent with IONOS SE, of 701 Lee Road, Suite 300, Chesterbrook, PA 19087, USA.

2. Procedural History

On January 6th, 2022, the Complainant submitted a Uniform Domain Name Dispute Resolution Policy (“the Policy”) complaint to the Asian Domain Name Dispute Resolution Centre – Hong Kong Office (“ADNDRC”).

On January 7th, 2022, the ADNDRC transmitted by email to the Registrar, IONOS SE, a request for registrar verification in connection with the disputed domain name. On January 12th and 15th, 2022, the Registrar transmitted by email to the ADNDRC its verification response, stating that the Respondent, Andreas Sieren, is the holder of the domain name < erdosglobal.com > and that the language of the registration agreement is German.

On January 16th, 2022, the ADNDRC sent a Notification of Deficiencies of the Complaint to the Complainant and requested the rectification by changing the name of the Respondent. The ADNDRC also sent a notification on the Language of the proceedings informing the Complainant that:

“The language of the Registration Agreement of the disputed domain name <erdosglobal.com> is German.

The complaint and annexes that the Complainant submitted are all in English and Chinese. We ask the Complainant to respond to this e-mail regarding the language of the proceedings on or before 21 January 2022. The Panelist shall make the final determination on the language issue.”

On January 17th, 2022, the Complainant requested that the language of the proceedings shall be English.

On January 20th and 25th, 2022 the Complainant submitted three versions of the amended Complaint to the ADNDRC. On January 25th, 2022, the ADNDRC confirmed the administrative compliance of the Complaint.

On January 25th, 2022, the ADNDRC confirmed by email that the Complaint is in administrative compliance with the Policy and Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”).

On January 25th, 2022, the ADNDRC sent a Written Notice of Complaint to the Respondent, requesting that the Respondent submit its Response within 20 calendar days. The Notice specified the due date for the Response as being on or before January 14th, 2022.

On January 25th, 2022, the ADNDRC transmitted a notice concerning the language of proceedings to the Respondent in English and German, noting the registration agreement was in German but that the Complainant had requested the proceedings be in English. The Respondent was asked to make submission on the language of proceedings by 30 January 2022. The notice stated that the Panelist would make the final determination of the language of proceedings.

On February 15th, 2022, the ADNDRC confirmed in an email to the parties that it had not received a Response from the Respondent within the required period of time.

On February 16th, 2022, the ADNDRC notified the parties of the confirmation of the panelist, Ms Marie-Emmanuelle HAAS.

On February 18th, 2022, the panelist issued Administrative Order No. 1 to request the Complainant to translate certain annexes from Chinese to English by February 26th, 2022.

On February 23rd, 2022, the panelist issued Administrative Order No. 2 to offer the Respondent the possibility to respond to the complaint after the Complainant submits the duly translated annexes. The Order specified the due date for the Response as being on or before March 11st, 2022. The Respondent did not respond.

On March 1st, 2022, the panelist issued Administrative Order No. 3 to postpone the date of the decision to March 18th, 2022.

In its complaint, the Complainant confirmed that no legal proceedings have been commenced or terminated by the parties in connection with or relating to the domain name <erdosglobal.com> (the “Disputed Domain Name”).

3. Factual background

The Complainant, Inner Mongolia Erdos Resources Co., Ltd, was established in 1995. It is a cashmere garment processing and manufacturing company.

The complainant has been expanding its international market and the export volume of cashmere products has been increasing year by year. At present, the annual export capacity of the group

has reached more than 4.5 million pieces, firmly occupying the top position in the cashmere industry in China.

It exports its cashmere product to 41 countries in the world.

The Complainant owns (i) trademarks covering the word “ERDOS” only, (ii) trademark including the word “ERDOS” amongst other elements, and trademark with the word “ERDOS” and its equivalent in Chinese ideograms “鄂尔多斯”, as set out below:

#	Trademark	Trademark number	Class	Registration date	Country/region of registration
1		3199039	24	2005-02-14	China
2		3199045	25	2004-01-07	China
3		3240571	24	2004-10-21	China
4	ERDOS	3267619	25	2004-02-28	China
5	ERDOS	3267620	24	2004-02-28	China
6		5014980	25	2011-04-21	China
7	ERDOS	12894748	24	2014-11-28	China
8		26307015	22	2018-10-14	China
9		26317662	25	2018-10-14	China
10		26322959	24	2018-10-14	China
11	ERDOS	200209499	25	2002-07-24	Hong Kong
12		301718613	25	2011-02-02	Hong Kong
13		303015594	25	2014-11-14	Hong Kong
14	ERDOS	006497499	23,24,25	2009-09-21	European Union

The Respondent registered the Disputed Domain Name on April 9th, 2016.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant has prior rights to the term "ERDOS" due to its numerous trademarks registered prior to the registration of the Disputed Domain Name;
- ii. The Disputed Domain Name is identical or confusingly similar to the Complainant's trademarks, because they have the same core element "ERDOS";
- iii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- iv. The Disputed Domain Name has been registered and is being used in bad faith.
- v. The Complainant requests that the disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent did not file a response within the allotted time.

5. Findings

5.1 Preliminary Issue – Language of Proceedings

According to paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceedings shall be the language of the Registration Agreement, subject to Panel's authority to determine otherwise. According to the Registrar's reply, the language of the Registration Agreement of the disputed domain name is German.

The Complainant submitted the Complaint in English, and requested that the proceedings be conducted in English mainly for the following grounds:

- English is the international language
- According to the Complainant's past experiences, the complainant may request to change the language of the proceeding in similar cases involving parties from different countries..

After being notified of the Complaint and the language issue, the Respondent did not file any submissions on this issue. Hence, there is no agreement between the parties with respect to the language of the present proceedings.

According to Paragraph 11(a) of the Rules, the panel may determine the language of the proceeding having regard to all the circumstances. The Panel considers that the submissions put forward by the Complainant support the possibility that the Respondent is conversant in English.

Further, the Panel relies on *Zappo.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. D2008-1191. It decided that a respondent's failure to respond to a preliminary determination by the

Center as to the language of the proceeding “*should, in general, be a strong factor to allow the Panel to decide to proceed in favor of the language of the Complainant*”.

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

5.2 Substantial Issues

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent’s domain name has been registered and is being used in bad faith.

Taking into account the fact that the Respondent has not submitted any response, the panel shall render a decision that is based only upon the information and materials submitted by the Complainant

A) Identical / Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has submitted evidence of its prior registered ERDOS trademarks, valid in China and in Hong Kong, as well of its prior EU trademark ERDOS No. 006497499 filed on November 28, 2007 in classes 23, 24 and 25 and renewed.

The Complainant owns numerous trademarks in China, Hong Kong and the European Union containing, solely or among others words, the word “ERDOS”.

The core and recurring element of the Complainant’s trademarks is the word “ERDOS”.

The Complainant has provided enough evidence supporting its claim of high reputation and influence.

The Disputed Domain Name incorporates the word “ERDOS” in its entirety.

The word “global” is a common adjective used in international marketing and commercialization. It does not contribute any distinctiveness and, thus, lacks significance.

The word “ERDOS” is the dominant and distinctive component of the Disputed Domain Name.

Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s registered trademarks listed above.

The first element of Paragraph 4(a)(i) of the Policy is therefore satisfied.

B) Rights and Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the Respondent is making a 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 Respondent did not respond to the Complaint to rebut the Complainant's prima facie case. Consequently, it did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the Disputed Domain Names.

The Complainant contends that the Respondent has no business or any kind of relationships, as a licensor, distributor or partner, with the Complainant. It has never directly or indirectly authorized the Respondent to use its ERDOS trademarks and the corresponding domain name in any form.

The Respondent's name is "Andreas Sieren", who is domiciled in Germany, where the ERDOS trademark is protected.

In the absence of any response, no evidence was submitted establishing the he was commonly known by the domain name or a name corresponding to the domain name.

The Disputed Domain Name includes the word "ERDOS", core word of the Complainant's trademarks. The website accessible at www.erdosglobal.com is presented as the merchant site of the ERDOS company and sells cashmere sweaters.

The Respondent makes a commercial and unfair use of the domain name, with intent for commercial gain.

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The second element of Paragraph 4(a)(ii) of the Policy is therefore satisfied.

C) Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainants to demonstrate that the Domain Name was registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that may indicate bad faith, including but not limited to:

(i) circumstances indicating that the Respondent has registered or the Respondent has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Complainant uses the ERDOS trademarks to designate mainly cashmere products.

Given the reputation of the Complainant in the cashmere market and the distinctiveness of the ERDOS trademarks, the Respondent knew or should have known that the registration of the Disputed Domain Name would be confusingly similar to the Complainant's trademarks.

The Disputed Domain Name points to a website selling cashmere products under the name "ERDOS GLOBAL"

The website does not attempt to distinguish itself from the Complainant and its trademarks.

By using the Disputed Domain Name, the Respondent has 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 of the website and the products sold, in the meaning of Paragraph 4(b) (iv) of the Policy.

Thus, the Panel finds that the Respondent has registered and used the Disputed Domain Name in bad faith.


The third element of Paragraph 4(a)(iii) of the Policy is therefore satisfied.

6. Decision

For all of the foregoing reasons, the Panel decides that the Disputed Domain Name registered by the Respondent is confusingly similar to the trademarks in which the Complainant has rights,

that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent's domain name has been registered and is being used in bad faith.

Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel orders that the registration of domain name <erdosglobal.com> be transferred to the Complainant.



Marie-Emmanuelle HAAS
Sole Panelist

Dated: March 16, 2022