



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201683
Complainant:	比特大陆科技有限公司 (Bitmain Technologies Limited)
Respondent:	Osiboli Boseme
Disputed Domain Name(s):	<bitmainn.com>

1. The Parties and Contested Domain Name

The Complainant is 比特大陆科技有限公司 (Bitmain Technologies Limited), of 11th Floor, Wheelock House, 20 Pedder Street, Central, Hong Kong.

The Respondent is Osiboli Boseme, of Douala Buea, Douala, Littoral, Cameroon.

The domain name at issue is <bitmainn.com> registered by Respondent with NameCheap, Inc., of 4600 East Washington Street, Suite 305, Phoenix, AZ 85034, USA.

2. Procedural History

On October 31, 2022, the Complainant submitted to the Asian Domain Name Dispute Resolution Center (“Center”) the Complainant’s written complaint in Chinese for the Disputed Domain Name <www.bitmainn.com>, pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”) and the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”).

On November 1 2022, the Hong Kong Secretariat of the Center confirmed the receipt of the complaint letter to the Complainant and issued a complaint confirmation notice. At the same time, the Hong Kong Secretariat of the Center sent a confirmation letter of registration information to the Registrar of the Disputed Domain Name by email, requesting to provide the registration information of the Disputed Domain Name.

On November 1, 2022, the Registrar replied and confirmed that it provided registration services for the Disputed Domain Name, the Respondent was the registrant of the Disputed Domain Name, and the registration language was English. At the same time, the Registrar notified the Respondent that the Disputed Domain Name had been locked.

On November 10, 2022, the Hong Kong Secretariat of the Center sent the notice of the commencement of the procedure to the Respondent, and at the same time forwarded the complaint letter and all attached materials that have passed the review, requiring the

Respondent to submit a response within the prescribed deadline (i.e., on or before November 30, 2022). The Hong Kong Secretariat of the Center also copied the Complainant and the registrar in the notice of the commencement to the Respondent.

On December 1, 2022, the Hong Kong Secretariat of the Center issued a notice of Respondent in Default to the Complainant and the Respondent, informing both parties that since the Respondent did not submit the statement of response within the prescribed time limit, the Hong Kong Secretariat of the Center will appoint a Panelist to hear the case in absentia and make a ruling.







The Complainant chose a one-person expert panel to hear the case. According to the procedural rules, the case should be heard by a panelist appointed by the Hong Kong Secretariat of the Center. On December 1, 2022, the Hong Kong Secretariat of the Center sent an email to Mr. Jonathan Agmon to be listed as a candidate panelist, and asked the candidate panelist to confirm: whether to accept the appointment as a panelist in this case; whether he is in a position to be independent and impartial between the parties. On the same day, Mr. Jonathan Agmon agreed to accept the designation and guaranteed his independence and impartiality. On December 2, 2022, the Hong Kong Secretariat of the Center notified both parties by email that Mr. Jonathan Agmon would be designated as the sole panelist of the case to hear the case. At the same time, the Hong Kong Secretariat of the Center transferred the case file to the Panel.

According to the provisions of the procedural rules, the Panel decided the language of the proceeding to be that of the Registration Agreement of the Disputed Domain Name, that is, English.

3. Factual background

The Complainant is a technology company whose products include computer chips, servers, bitcoin mining technology and cloud solutions.

The Complainant has registered the following marks in the following countries:

- Singapore: registered Trademark No.: 40201504948W , registered on March 24, 2015, in class 9.
- Singapore: registered Trademark No.: 40201504949X , registered on March 24, 2015, in class 36.
- Singapore: registered Trademark No.: 40201504951W , registered on March 24, 2015, for class 42.
- Mainland China: registered Trademark No.: 16620637 , registered on May 21, 2016, in class 36.
- Mainland China: registered Trademark No.: 16620401 , registered on May 21, 2015, in Class 9.
- European Union: registered Trademark No.: 01391521 , registered on August 31, 2015, in classes 9, 36, 42.

The Complainant registered the domain name “bitmain.cn” on November 4, 2013, and continues to operate it.

The Respondent appears to be an individual domiciled in Cameroon who registered the disputed domain name on March 11, 2022.

4. Parties' Contentions

A. Complainant

- i. The Disputed Domain Name is identical and/or confusingly similar to the Complainant's registered "BITMAIN" trade marks.
- ii. The Respondent does not have any connection to the "BITMAIN" trade marks and does not have any prior legal rights or legitimate interests in the Disputed Domain Name.
- iii. The Disputed Domain Name has been registered in bad faith and is being used in bad faith.

B. Respondent

The Respondent did not respond to the Complainant's claims.

5. Findings

Paragraph 4(a) of ICANN's Uniform Domain Name Dispute Resolution Policy provides that each of three elements below must be shown by the Complainant:

- i. The 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. The domain name has been registered and is being used in bad faith.

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.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain name comprises of the Complainant's BITMAIN mark in its entirety in addition to the letter "n". The disputed domain name also comprises the addition of the gTLD ".com". The addition of the letter "n" to the disputed domain name does not prevent a finding of confusing similarity. It is also well established that the addition of a gTLD ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B) Rights and Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns a trademark registration for the BIRMAIN mark long before the disputed domain name was registered. The Complainant is not affiliated with, nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. D2010-0138). There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name (see WIPO Overview 3.0, section 2.3).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name to rebut the Complainant's prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C) Bad Faith

The complainant must show that the respondent registered and is using the domain name in bad faith (Policy, paragraph 4(a)(iii)).

The Complainant has submitted evidence, which shows that the Respondent registered the disputed domain name long after the Complainant registered its BITMAIN trademark. Given that the Complainant's trademarks have been registered for a long time and the notoriety of the Complainant's BITMAIN mark in the field of computer hardware for bitcoin mining technology, it is highly unlikely that the Respondent did not know of the Complainant and its BITMAIN mark prior to the registration of the disputed domain name. The disputed domain name incorporates the Complainant's BITMAIN mark in its entirety with an additional letter "n", which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant and its products. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the

Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. D2006-1095).

Furthermore, the Respondent appears to be using the disputed domain name for a website offering competing products to those of Complainant's under Complainant's BITMAIN mark. The products on what appears to be Respondent's website are also offered under the mark BITMAIN SHOP, which is evidence that the Respondent is attempting to use Complainant's BITMAIN mark to sell products competing with those of Complainant.

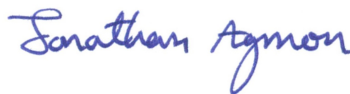
In view of the evidence in this particular case, the Panel draws the conclusion that the Respondent registered the disputed domain name in bad faith. It is the finding of the Panel that the Respondent incorporated Complainant's BITMAIN mark in its entirety within the disputed domain name with the intention of misleading and directing Internet users to its own website in order to increase the number of Internet users to access its website for commercial gain.

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that the disputed domain name is used to direct Internet users to a website which offers competing products to those of the Complainant, the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

6. 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, <bitmainn.com>, be transferred to the Complainant.



Jonathan Agmon
Panelists

Dated: 16 December 2022