



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201700
Complainant:	Bitmain Technologies Limited
Respondent:	Kewing Chang
Disputed Domain Name(s):	<antminner.com>

1. The Parties and Contested Domain Name

The Complainant is Bitmain Technologies Limited, of 11/F, Wheelock House, 20 Pedder Street, Central, Hong Kong. The authorized representative of the Complainant is Han Kun (Shenzhen) Law Offices, of 20/F, Kerry Plaza Tower 3, 1-1 Zhongxinsi Road, Futian District, Shenzhen 518048, Guangdong, China.

The Respondent is Kewing Chang, of CaoYang RD. Putuo Shanghai, China. The authorized representative of the Respondent is Dmitriy Chyrkin.

The domain name at issue is <antminner.com>, registered by Respondent with GoDaddy.com, LLC, of 2155 E. GoDaddy Way, Tempe, AZ 85284 USA.

2. Procedural History

On November 29, 2022, the Complainant submitted the Complaint in Chinese on the domain name <antminner.com> to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”), in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the “Rules”) approved by ICANN on September 28, 2013, and the Asian Domain Name Dispute Resolution Centre Supplemental Rules in effect as of July 31, 2015. The Centre acknowledged receipt of the Complaint and notified the Registrar of the Complaint regarding the disputed domain name on November 29, 2022. The Centre received a reply from the Registrar on November 30, 2022.

On November 30, 2022, the Centre notified the Complainant of the deficiency of the Complaint and requested Complainant to rectify, within 5 calendar days (by December 5, 2022), the deficiency by updating the information of the Respondent in accordance with the WHOIS information provided by the Registrar. On the same day, the Centre reminded the Complainant that according to Article 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the

administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. In this case, the language of the Registration Agreement of the disputed domain name is English, therefore the language of the proceedings of this complaint should be English. The Complainant was requested to respond regarding the language of the proceedings on or before December 5, 2022.

On December 2, 2022, the Complainant informed the Centre that it chose Chinese as the language of proceeding without providing reasons. On December 4, 2022, the Complainant submitted a revised Complaint to the Centre. After reviewing the revised Complaint, the Centre confirmed the complaint is in administrative compliance with the Policy and the Rules on December 6, 2022.

On December 8, 2022, the Centre sent the Complaint and Annexes to the Respondent. The Respondent was then provided with a 20-calendar day period, expiring on December 28, 2022, to file its Response. On the same day, the Respondent was asked to respond to the Centre regarding the language of the proceedings on or before December 13, 2022.

On December 9, 2022, the Respondent sent an e-mail to the Centre and requested that the Complainant refile the Complaint with Annexes in English or translate to English all documents filed in the present case. On the same day, the Centre confirmed receipt of the Respondent's submissions regarding language and responded that the Panel would make the final determination on the language of proceedings once appointed. On December 9, 2022, and December 11, 2022, the Respondent then asked the Centre to decide this question before the deadline to file a Response. On December 9, 2022, and December 12, 2022, the Centre responded that the Centre had no authority to decide the language of proceedings or to order a translation, and that the Panel, once appointed, would make the final determination.

On December 11, 2022, the Respondent requested the provider to apply the rule 4(d) and 2(d) of the Policy and notify the Complainant about deficiencies related to the language of the Complaint and Annexes. On December 12, 2022, the Centre sent an e-mail to the Respondent in which the Centre clarified that the Complaint submitted was in administrative compliance and asked the Respondent to submit a Response on or before December 28, 2022.

On December 16, 2022, the Centre received a Response from the Respondent in respect of the Complaint concerning the domain name <antminner.com> within the required time. On the same day, the Centre listed Mr. Meph Jia Gui as a candidate for the sole panelist. Mr. Meph Jia Gui confirmed his availability and position to act independently and impartially between the parties on December 19, 2022, and was appointed as the sole Panelist for the captioned case. Both parties were informed of the appointment on December 19, 2022.

3. Language of Proceedings

According to Article 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administration proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administration proceeding.

In the present case, the language of the Registration Agreement of the disputed domain name is English. Based on the given evidence, there is no agreement between the Complainant and the Respondent regarding the language of proceedings. The Complainant has submitted its

Complaint in Chinese and chosen Chinese as the language of proceedings without providing any justifiable reasons. Considering all these factors together, the Panel holds that English is a more proper language than Chinese for the present proceedings.

However, the Panel decides not to order the Complainant to translate the Complaint into English because there might be unwarranted delay in doing so, and such delay contradicts the fast-track nature of UDRP proceedings by imposing extra costs and time on the Parties.

4. Factual background

A. Complainant

The Complainant, Bitmain Technologies Limited was incorporated on January 10, 2014. The Complainant and its affiliated company are technology firms with international reputation, offering products including chips, servers and cloud solutions applied in the areas of blockchain and artificial intelligence, and have subsidiaries in China, the United States, Singapore, and other locations in the world. The international reputation of the Complainant and its affiliates has been illustrated by the fact that they have been listed in the Hurun Global Unicorn Index 2020, Hurun China 500 Most Valuable Private Companies 2019, Hurun China Most Valuable Chip Design Companies 2020, the Silicon 100, etc. The Complainant's Antminer products are the industry-leading products that hold a majority share of the global market and have been rated as top mining products by several domestic and foreign media.

The Complainant owns a series of valid trademark registrations incorporating the word "ANTMINER" in classes 9, 35, 36 or 42 in multiple jurisdictions including Singapore, the European Union, the United States, Switzerland and China (hereinafter collectively referred to as "the ANTMINER marks"). The Complainant has adduced evidence to show that its ANTMINER marks have been extensively used in its business activities and promotional materials since 2014.

B. Respondent

The domain name in dispute was registered by the Respondent on September 17, 2021.

On December 16, 2022, the Respondent filed a Response in respect of the Complaint concerning the domain name <antminner.com> within the required time.

5. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The domain name in dispute is identical or confusingly similar to the Complainant's registered trademarks

The Complainant's registered trademark "Antminer" is completely incorporated in the disputed domain name <antminner.com>. The additional part "n" in the disputed domain name is less distinctive and cannot distinguish the disputed domain name from the Complainant's registered trademark.

- ii. The Respondent has no rights or legitimate interests in the registration of the domain name in dispute

The Complainant contends that there is no evidence indicating that the Respondent enjoys any prior rights or legitimate interests in respect of the disputed domain name. Firstly, the domain name in dispute was registered on September 17, 2021, which is much later than the time of the Complainant's and its affiliated companies' use and registration of the ANTMINER marks. Secondly, there is no relationship between the Complainant and the Respondent. The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to the ANTMINER marks.

- iii. The Respondent has registered and used the domain name in bad faith

The Complainant contends that the Respondent has registered and is now using the disputed domain name in bad faith.

Firstly, the Complainant has prior right in the ANTMINER marks. The mark "Antminer" is a word with high distinctiveness and has acquired international reputation through the Complainant's continuous use. Considering that the registration date of the disputed domain name is much later than the registration and use of the Complainant's prior trademarks, the Complainant contends that the Respondent was or at least should be aware of the Complainant's prior marks when registering the disputed domain name. Therefore, the registration of the disputed domain name, which completely incorporates the Complainant's prior marks and could easily cause confusion among the public, is in bad faith.

Secondly, the Respondent has been using the disputed domain name in a confusing manner with an intention to mislead the public into believing that the Respondent or the disputed domain name is related to the Complainant. Considering that the disputed domain name directs to a webpage offering Antminer products identical to the Complainant's own Antminer products and identifying Bitmain as the source, the Complainant contends that the Respondent intentionally attempts to attract, for illegal commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark, and thus the use of the disputed domain name is in bad faith.

C. Respondent

The Respondent's contentions may be summarized as follows:

- i. The Respondent does not accept the allegations set out in the Complaint.
- ii. The Respondent indicates that he is ready and willing to transfer the domain name to the Complainant and requests that the panel forego the traditional UDRP analysis and ordering an immediate transfer of the <antminner.com> domain name in the interests of judicial expedience.

6. Findings

As mentioned above, the Respondent consents to transfer the disputed domain name to the Complainant and requests that this be ordered without any other findings or conclusions as to paragraph 4(a) of the Policy.

Section 4.10 of the *WIPO Overview of WIPO Panel Views on Selected UDRP Questions* (Third Edition) states that “In some cases, despite such respondent consent, a panel may in its discretion still find it appropriate to proceed to a substantive decision on the merits. Scenarios in which a panel may find it appropriate to do so include (i) where the panel finds a broader interest in recording a substantive decision on the merits-notably recalling UDRP paragraph 4(b)(ii) discussing a pattern of bad faith conduct, (ii) where while consenting to the requested remedy the respondent has expressly disclaimed any bad faith, (iii) where the complainant has not agreed to accept such consent and has expressed a preference for a recorded decision, (iv) where there is ambiguity as to the scope of the respondent’s consent, or (v) where the panel wishes to be certain that the complainant has shown that it possesses relevant trademark rights.”

The Panel has decided to proceed to a substantive determination because the Respondent has not conceded that the three elements of paragraph 4(a) have been satisfied. On the contrary, the Respondent specifically denies fault or liability. The Panel is also persuaded that there is a broader interest in reaching and recording a substantive determination so that the conduct of the Respondent in this case, if found to have registered and used the disputed domain name in bad faith, can be taken into account by other future UDRP panels, *e.g.*, in connection with assessment of patterns of conduct under paragraph 4(b) of the Policy.

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.

A) Identical / Confusingly Similar

In this case, the main part of the disputed domain name <antminner.com> is “antminner”, which has minimal visual difference from the Complainant’s prior trademark “Antminer”. Although the disputed domain name adds the letter “n” to the middle of “Antminer”, the addition does not distinguish the main part of the disputed domain name from the Complainant’s prior trademark and does not distinguish the disputed domain name <antminner.com> from the Complainant’s prior trademark. The disputed domain name <antminner.com> cannot be effectively distinguished from the ANTMINER marks. In addition, the top-level domain name “.com” does not preclude the possibility of confusion between the disputed domain name and the Complainant’s prior trademarks, trade names and domain names of the Complainant’s affiliated companies.

Therefore, the Panel finds that the disputed domain name <antminner.com> is, for all practical purposes, identical to the ANTMINER marks, so as to cause confusion. Therefore, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant has declared in its Complaint that the Respondent is not in any form associated with the Complainant or its subsidiary, nor is the Respondent's registration and use of the disputed domain name authorized by the Complainant. The Respondent did not adduce evidence to prove it has any right or legitimate interest in the disputed domain name in the Response with the Centre. Therefore, it is inferred that the Respondent in this case does not have any right or legitimate interest in the disputed domain name as stipulated by Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Paragraph 4(b) of the Policy specifies four types of circumstances that could be evidence of the registration and use of a domain name in bad faith. They include: (i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or (ii) you have 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 you have engaged in a pattern of such conduct; or (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your web site or location.

The Complainant has submitted evidence, including screenshots of the disputed website, to show that the Respondent had been engaged in the same business as the Complainant had, such as sales of mining machines, by using the disputed domain name. Moreover, the Respondent offered products named "Antminer", which was identical to Complainant's prior trademarks, on the disputed website, and the models of the above products were completely identical to the product models sold by the Complainant itself. The Complainant alleges that it has never authorized the Respondent to sell its products. This indicates that the Respondent was aware of the Complainant and its services when the disputed domain name was registered and had nevertheless registered the disputed domain name with the intention to free ride on the Complainant's reputation to attract Internet users to the infringing website instead of the Complainant's own homepage.

Considering the confusing similarity between the disputed domain name and the Complainant's trademarks, and the fact that the Respondent had been aware of the Complainant and its ANTMINER series products and trademarks (for the reasons stated above), it is inconceivable that the Respondent registered the disputed domain name for any reason other than in bad faith. Therefore, the Respondent is intentionally attempting to attract, for commercial gains, Internet users to the infringing website by creating a likelihood of confusion with the Complainant's mark. As such, the Panel finds that the disputed domain name has been registered and used in bad faith as stipulated by Paragraph 4(a)(iii) of the Policy.

7. Decision

Having established all three elements required under the Policy in respect of the disputed domain name <antminner.com>, the Panel concludes that relief shall be granted in favour of the Complainant. Accordingly, the Panel decides and orders that the disputed domain name <antminner.com> shall be transferred from the Respondent to the Complainant.



Meph Jia Gui
Panelist

Dated: 2 January 2023