



Asian Domain Name Dispute Resolution Centre

hong kong



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301853
Complainant:	Huawei Technologies Co., Ltd.
Respondent:	Liao Jie
Disputed Domain Name(s):	<huaweipay.com>

1. The Parties and Contested Domain Name

The Complainant is Huawei Technologies Co., Ltd., of Administration Building Huawei Technologies Co., Ltd. Bantian, Longgang District, Shenzhen.

The Respondent is Liao Jie, of Room 2002, Building D, Yijing Cuiyuan, Guangzhou City, Guangdong Province.

The domain name at issue is huaweipay.com, registered by Respondent with GoDaddy.com, LLC, of 14455 North Hayden Rd.Suite 219 Scottsdale, AZ 85260.

2. Procedural History

The present complaint (the "Complaint") was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre") on 19 December 2023 in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") which was adopted by the ICANN and came into effect on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") which became effective on 28 September 2013 and the ADNDRC Supplemental Rules to ICANN Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules") which came into effect on 21 August 2023.

On 19 December 2023, the Centre transmitted by email to the Registrar, GoDaddy.com, LLC, a request for registrar verification in connection with the domain name at issue. On 20 December 2023, the Registrar confirmed that the Policy applies to the Disputed Domain Name and pointed out that the language used in the Registration Agreement is English.

On 27 December 2023, the Centre communicated by email to the Complainant requesting the Complainant to make corrections to the information about the Respondent, including the name, address and telephone number in accordance with Article 4(d) of the Rules.

On 28 December 2023, the Complainant submitted an amended complaint to the Centre by email. On 2 January 2024, the Centre confirmed to the Complainant that the amended complaint as submitted is in administrative compliance with the Policy and the Rules. On the same day, the Centre sent the formal Complaint Notice to the Respondent and requested the Respondent to reply within 20 days (on or before 22 January 2024) in accordance with the Rules and forwarded the Complaint and all the Annexes thereof.

On 9 January 2024, the Respondent submitted a request to the Centre for changing the language of the proceedings to Chinese. On 10 January 2024, the Centre confirmed that unless otherwise agreed by the Parties or specified otherwise in the Registration Agreement, the language of the proceedings shall be the language of the Registration Agreement, in English. On 10 January 2024, the Complainant informed the Centre that they disagree with the Respondent's request to change the language of the proceedings to Chinese.

On 16 January 2024, the Centre sent a Notice of Panelist Appointment to Ms. Vivien Chan as Panel candidate for the current case, and the Panel candidate considered that it was properly constituted and submitted the acceptance notice as well as a statement of impartiality and independence on 17 January 2024.

On 22 January 2024, the Respondent submitted a formal response in Chinese (the "Respondent's Response") with the Centre by way of an email along with Annexures.

On 23 January 2024, the Centre issued a Notice to both parties by way of an email advising that a Response had been timely received from the Respondent within the required time limit for filing a response. On the same day, the Centre notified both parties and the Panel Ms. Vivien Chan by email that Ms. Vivien Chan be the sole panelist for arbitrating this case. The Centre then formally transferred the case to the Panelist. The Panelist agreed to deliver her decision with respect to the Disputed Domain Name on or prior to 6 February 2024.

On 23 January 2024, the Complainant submitted further statements (the "Complainant's Supplemental Statement") and supporting documents (the "Complainant's Supplemental Attachment") in reply to the Respondent's Response. On 24 January 2024, the Centre notified the Panelist by email that the Complainant has submitted the Complainant's Supplemental Statement and Complainant's Supplemental Attachment and has requested the Panelist to determine the admissibility, relevant, materiality and weight of the same.

On 26 January 2024, the Respondent submitted further statement (the "Respondent's Supplemental Statement") in reply to the Complainant's Supplemental Statement and Complainant's Supplemental Attachment. On the same day, the Centre notified the Panelist by email that the Respondent submitted the Respondent's Supplemental Statement.

On 30 January 2024, the Panelist notified the Centre that it is in receipt of the Complainant's Supplemental Statement, Complainant's Supplemental Attachment and the Respondent's Supplemental Statement and the Panelist agreed to deliver her decision with respect to the Disputed Domain Name on or prior to 6 February 2024.

On 2 February 2024, the Panelist issued an Administrative Order by way of email requesting the Respondent to resubmit the Response and Respondent's Supplemental

Statement accompanied by a translation in whole or in part in English on or before 9 February 2024.

On 8 February 2024, the Respondent resubmitted the Response and Respondent's Supplemental Statement in English. On 15 February 2024, the Panelist notified the Centre that it is in receipt of the Respondent's resubmitted documents and the Panelist agreed to deliver her decision with respect to the Disputed Domain Name on or prior to 16 February 2024.

3. Factual background

Background information of the Complainant

The Complainant is Huawei Technologies Co., Ltd., with an address at Administration Building Huawei Technologies Co., Ltd. Bantian, Longgang District, Shenzhen. The authorized representative of the Complainant is Chofn Intellectual Property.

Background information of the Respondent

The Respondent, Liao Jie, of Room 2002, Building D, Yijing Cuiyuan, Guangzhou City, Guangdong Province, registered the Disputed Domain Name on 14 April 2012. The authorized representative of the Respondent is Qifafa Intellectual Property Services Co., Ltd.

4. Parties' Contentions

A. Complainant

Established in 1987, the Complainant claims that it is a privately-owned enterprise wholly owned by its employees (Refer to Complainant's Annex 4). The complainant contends that it currently has 194,000 employees with more than 170 nationalities, serving more than one-third of the world's population. The Complainant claims that it is the world's leading information and communication technology (ICT) solution provider, focusing on the ICT field, and has built end-to-end solution advantages in the fields of telecom operators, enterprises, terminals and cloud computing.

The Complainant insisted on continuous innovation based on customer needs, increased investment in basic research, accumulated rich resources, promoted world progress, and devoted themselves to the research and development of emerging hotspots such as cloud computing, NFV/SDN, and 5G. From 1987 to the present, it is the Complainant's submissions that their achievements are obvious to all. The Claimant claims to be the world's largest telecom equipment manufacturer and the second largest mobile phone manufacturer, and is well received around the world. Especially in the field of 5G network research and development, the Complainant claims that they have become the pride of the Chinese people and is a veritable "national enterprise" (Refer to Complainant's Annex 6).

With a clear strategic layout, precise market positioning, and strong product strength, the Complainant claiming to be an industry giant, has become an





outstanding representative of the forefront of "Made in China", in which they have won many honors, and has extensive influence on the world stage. The Complainant is ranked in Fortune Magazine's Global 500 2017-2021 as follows (Refer to Complainant's Annex 7):



Year	Huawei ranking	Operating Income (US\$ million)
2017	83	78510.8
2018	72	89311.4
2019	61	109030.4
2020	49	124316.3
2021	44	129183.5


The complainant ranks second in the 2021 EU Industrial R&D Investment Scoreboard (Refer to Complainant's Annex 8).

According to Gartner's report, as of 2018, the Complainant was rated as a market leader for the third consecutive year (Refer to Complainant's Annex 9). The Complainant is still Positive in Gartner's Vendor Rating despite being influenced by the US government (Refer to Complainant's Annex 10).

The Complainant started filing trademark applications for its trademark as early as since 1994 for the purpose of protecting its own brand. Prior to the date of the registration of the Disputed Domain Name, the Complainant has, inter alia, registered the following marks for "HUAWEI" and "HUAWEI PAY" and/or its formative marks in Classes 9, 32, and 38 in various jurisdictions including China, United States, Australia, Germany and France (the "Complainant's Marks") (Refer to Complainant's Annex 5):-

Trademark	Application date	Registration date	Trademark number	Class	Register
HUAWEI	2005-09-30	2008-09-06	4924862	9	CN
 HUAWEI	2005-10-28	2008-10-13	4969112	9	CN
HUAWEI	2005-05-08	2008-02-21	4641004	32	CN
 HUAWEI	2014-03-18	2015-04-27	14195918	38	CN
HUAWEI PAY	2017-1-21	2017-1-21	18571318	36	CN
 HUAWEI	2005-09-30	2007-10-16	78724256	9	US
 HUAWEI	2005-10-04	2005-10-04	1079026	9	AU

 HUAWEI	2005-10-05	2005-12-09	30558982	9	DE
 HUAWEI	2005-10-04	2005-10-04	3383742	9	FR

Through the Complainant's extensive, continuous and extensive publicity and actual use of the Complainant's Marks, it is the Complainant's view that the mark "HUAWEI" is widely known to the relevant public around the world, including China. In 2002, the trademarks "HUAWEI", "华为" and "  " were recognized as well-known trademarks by the Trademark Office of the former China Administration for Industry and Commerce (Refer to Complainant's Annex 11).

The Complainant contends that the mark "HUAWEI", as the Complainant's corporate name and core product trademark, has been in actual use and promotion for many years and has become highly recognisable in the world. By searching the terms "HUAWEI" and "HUAWEI PAY" on Google and Baidu, the Complainant submits that all the results point to the Complainant (Refer to Complainant's Annex 12).

The Complainant's contentions may be summarized as follows:

i. The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Disputed Domain Name is "huaweipay.com", among which ".com" belongs to a generic domain name suffix and plays no role in distinguishing the disputed domain name from the Complainant's Marks. The Complainant holds that the English word "pay" within "huaweipay" in the Disputed Domain Name is a common adjective that lacks significance, which shall not be used for comparison with the Complainant's Marks either. Therefore, it depends on the main identifying part of the Disputed Domain Name, i.e. "huawei", to determine whether the Disputed Domain Name is similar to the Complainant's Marks (Refer to Complainant's Annex 13). The Complainant contends that the main part of the Disputed Domain Name, "huawei", is identical to the Complainant's English mark for "HUAWEI".

The Respondent's use of the generic verb "pay" alludes to the Complainant's business because the Complainant's smartphone product has had this payment feature since its launch. The Complainant holds that a domain name that contains a complainant's trademark along with a generic word that describes its services, sufficiently satisfies the requirement that the Disputed Domain Name is confusingly similar to the Complainant's Marks (Refer to Complainant's Annex 14).

In addition, the words "huaweipay" within the Disputed Domain Name is identical to the Complainant's mark for "HUAWEI PAY". Although the Complainant's mark for "HUAWEI PAY" was granted after the registration of the Disputed Domain Name, the Complainant submits that this shall not affect the Panel's assessment of confusing similarity. At a minimum, the Disputed

Domain Name incorporates at least one of the key features of the Complainant's mark "HUAWEI" or "HUAWEI PAY".

Accordingly, the Complainant submits that the Disputed Domain Name is highly likely to cause confusion of the relevant public.

ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

The Complainant puts forward that the Respondent is not affiliated with, sponsored by, endorsed by, or even known to the Complainant. Further, the Complainant has not licensed or otherwise authorized the Respondent to use the Complainant's Marks. By checking the Chinese Trademark Records, the Respondent does not own any registered trademarks.

The Complainant holds that the above evidence sufficiently constitutes prima facie evidence to prove that the Respondent has no rights or legitimate interests, therefore the burden of proof shifts to the Respondent.

iii. The Disputed Domain Name has been registered and is being used in bad faith:

The Complainant claims that the bad faith can be established based on the following grounds:

- (1) The Complainant had become well-known prior to the registration of the disputed domain name and its reputation has reached around the world.

From the history of development of the Complainant as stipulated above, it can be seen that after its establishment in 1987, the Complainant claims that it has registered marks for "HUAWEI" and/or "HUAWEI PAY" worldwide way earlier than the Respondent's registration of the Disputed Domain Name on 14 April 2012. The Complainant and its marks have gained sufficient visibility and fame around the world throughout the years (Refer to Complainant's Annex 6 to 12).

In particular, the Complainant's HUAWEI mobile phones have a very high sales and usage rate, and the mobile payment function is included in the mobile phones, and the Disputed Domain Name itself corresponds to the Complainant's activity area or natural extension of the same.

In addition, the Complainant has obtained trademark registrations for "HUAWEI" in Classes 24, 25 and 26 (Refer to the Complainant's Supplemental Attachments), and the designated goods include clothing etc.

Therefore, the Complainant contends that the Complainant's Marks are well known before the Respondent registered the Disputed Domain Name.

- (2) The Respondent shall have already known about the Complainant before registering the Disputed Domain Name.

Firstly, as stated above, the Complainant has become well-known worldwide and the Respondent shall have actual knowledge of the Complainant's brand and Complainant's Marks.

Secondly, the Complainant's Marks are highly distinctive and well-known. Given the fact that the Respondent's name is "Liao Jie" which is not relevant to "huawei"/"huaweipay" at all, the Complainant contends that the Respondent's application for a domain name that is identical and/or highly similar to the Complainant's Marks is not a mere coincidence, and that the Respondent has specifically registered the Disputed Domain Name in bad faith for the purpose of commercial gain by freeriding the Complainant's goodwill and reputation.

Thirdly, the Complainant contends that the Registrant's deliberate choice of its brand name "花卫帕" as shown on the webpage under the Disputed Domain Name (Refer to Complainant's Annex 16) is not a mere coincidence, and that the Respondent has specifically chosen a brand name that is aurally similar to the transliteration of the Complainant's English mark "HUAWEI PAY" in bad faith.

(3) The Respondent has used the Disputed Domain Name in bad faith.

Upon checking the Wayback Machine database, the Respondent's webpage under the Disputed Domain Name directed to a for-sales page in 2019 (Refer to Complainant's Annex 15) which means that the Respondent has registered the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the rightful owner of the trademark.

Based on the Registrant's most recent use of the Disputed Domain Name, the Respondent's current webpage under the Disputed Domain Name points to a static page which appears to be the official website of a suit customizer under the brand "花卫帕设计" at the first glance. However, the webpage does not have any links to the actual merchandise, does not have any case studies on display and only showcases a contact number on the bottom of the webpage (Refer to Complainant's Annex 16). Upon conducting internet searches on Google and Baidu for the keyword "花卫帕" as shown on the current webpage under the Disputed Domain Name, there are no relevant results for the brand "花卫帕" other than the webpage under the Disputed Domain Name (Refer to Complainant's Annex 17). This shows that the webpage under the Disputed Domain Name is not in actual use or operation and that the brand "花卫帕" is not widely known to the public.

In addition, the Respondent's brand "花卫帕" is highly similar to the Complainant's Marks specifically "HUAWEI" and "HUAWEI PAY" in terms of pronunciation.

Given the abovesaid, the Respondent takes advantage of the Complainant's reputation to boost the page views and to attract internet users to the

Respondent's website for commercial gain by creating confusion between the Respondent and the Complainant.

From the above, the Complainant asserts that it can be seen that the Respondent intended to cause confusion and deception amongst members of the public, using the Complainant's trade name and the Complainant's Marks with a view of taking unfair advantage of the power of attraction, reputation and prestige of the Complainant's Marks. As such, the Complainant submits that the Respondent has registered/used the Disputed Domain Name in bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent's contentions may be summarized as follows:

(i) The Disputed Domain Name is neither identical nor confusingly similar to a trademark or service mark in which the Complainant has rights:

The Respondent submits that the Complainant's Marks (other than "HUAWEI PAY" under registration no. 18571318) are neither identical nor confusingly similar to the main part of the Disputed Domain Name "huaweipay". In particular, the

Respondent argues that the Complainant's trademarks " **HUAWEI** " and




" **HUAWEI** " are insufficient to cover the entirety of the Disputed Domain Name. The Respondent argues that the Complainant's Marks specifically "HUAWEI" is only well-known in the field of mobile communication equipment and does not relate to apparel, and therefore the Disputed Domain Name and the Complainant's Marks are not confusingly similar.

The Respondent did not directly rebut the Complainant's claims that the Complainant has rights in the Complainant's Marks.

(ii) The Respondent has rights or legitimate interests in respect of the Disputed Domain Name:

The Respondent contends that as the Complainant's trademark for "HUAWEI PAY" under registration no. 18571318 was registered in China on 21st January 2017, which is later than the registration of the Disputed Domain Name on 14th April 2012 (Refer to Respondent's Annex 1), the Respondent thus has rights or legitimate interests in respect of the Disputed Domain Name.

The Respondent further submits that the Respondent is the legal representative of a company named Shenzhen Yuexiu Technology Co., Ltd. (the "Respondent's Company"), which was established on 31st May 2016 (Refer to Respondent's Annex 2). The Respondent submits that the trademark "花卫帕" was registered in China in the name of the Respondent's Company and the same mark has been used in the

official website operated under the Disputed Domain Name and/or on sewn on clothing collar label in the combination format of “” (“registered trademark + domain name”), which constitutes the Disputed Domain Name “huaweipay” and the same is used for branding purposes in the Respondent’s Company’s production of ready-made garments. (Refer to Respondent’s Annex 4). The Respondent claims that the Respondent and the Respondent’s Company have engaged in the wholesale and retail sales of raw garment fabrics and ready-made garments since the 1990s (Refer to Respondent’s Annex 7), and the Respondent has numerous personal tailor customers in the industry due to his goodwill and integrity (Refer to Respondent’s Annex 10).

Given the abovesaid, the Respondent argues that the Respondent’s behavior satisfies Paragraph 4(c)(i) of the Policy as the Respondent has used the Disputed Domain Name and/or a name corresponding to the Disputed Domain Name with a bona fide offering of goods and services before any notice of dispute was issued to the Respondent.

(iii) The Disputed Domain Name has not been registered and is being used in bad faith:


1. In response to the Complainant’s claims that the Respondent has actual knowledge of the Complainant before registering the Disputed Domain Name

The Respondent did not directly rebut the Complainant’s claims that the Respondent has actual knowledge of the Complainant and the Complainant’s Marks before registering the Disputed Domain Name.

2. In response to the Complainant’s claim that the Respondent has used the Disputed Domain Name in bad faith

The Respondent claims that the Disputed Domain Name was not filed in bad faith as it was created as an official website for promotion of the garment production and related sales of the clothing brand “花卫帕” by the Respondent’s Company. The Respondent submits that the main part of the Disputed Domain Name “huaweipay” corresponds to the Respondent’s trademark “花卫帕”, and the Respondent explained that the choice of the word “花卫帕” was because the phrase means “beautiful and fashionable clothing products”.

In rebuttal of the Complainant’s submission that the webpage under the Disputed Domain Name is not in actual use or operation and that the brand “花卫帕” is not widely known to the public, the Respondent claims to have a physical store at Dongyuegong Market in Xingning City, Meizhou City where

the Respondent offers customized clothing under the brand “” where customers will self-pick up the transaction orders (Refer to the Respondent’s Supplemental Statement).

On the other hand, the Respondent rebuts the Complainant’s claim that the Respondent’s webpage under the Disputed Domain Name directs to a for-sales

page in 2019. The Respondent clarifies that he purchased the Disputed Domain Name from the previous domain name holder for a reasonable consideration in 2021 (Refer to Respondent's Annexes 11 and 12) and thus the aforesaid sales page operated by the previous domain name holder in 2019 shall not be attributed to the Respondent.

5. Findings

In accordance with Rules 5(b) and (d) of the Rules, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case. The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

The Panel, in its discretion, considered the Complainant's Supplemental Statement, Complainant's Supplemental Attachment and Respondent's Supplemental Statement and admits all these documents into evidence.

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

Pursuant to Paragraph 4(a)(i) of the Policy, the complainant must prove that a disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

In view of the trademark registrations and certificates and records from various jurisdictions submitted by the Complainant (Refer to Complainant's Annex 5), including but not limited to People's Republic of China and the United States, the official certificate of the Complainant's well-known trademarks issued as early as in 2002 (Refer to Complainant's Annex 11), and taking into account the long-standing history of the Complainant since 1987 (Refer to Complainant's Annex 6) and its efforts in promoting its goods and services around the world throughout the years (Refer to Complainant's Annexes 7-10), the Panel accepts that the Complainant enjoys trademark rights in respect of its "HUAWEI" and its formative marks well before the Respondent registered the Disputed Domain Name on 14th April 2012, except for the Complainant's trademark for "HUAWEI PAY" which was registered on 21st January 2017. In any event, the Panel accepts that a clear and exclusive relationship has been formed between the Complainant and the Complainant's Marks.

The Disputed Domain Name is <huaweipay.com>, the main distinctive element being "huawei" in the frontal position. Comparing the Complainant's Marks and the distinctive element of the Disputed Domain Name, the distinctive element is identical to the Complainant's "HUAWEI" mark, while "huaweipay" in the Disputed Domain Name is identical to the Complainant's "HUAWEI PAY" mark. The additional term "pay" and the

suffix “.com” in the Disputed Domain Name do not confer a new meaning to the Disputed Domain Name as a whole.

Based on the above, the Panel finds that the Disputed Domain Name is identical or confusingly similar to the Complainant’s Marks. Accordingly, the Complainant has satisfied the element required by Paragraph 4(a)(i).

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 *Edgwell Personal Care Brands LLC v. jifeifeil*, Case No. HK-1600855)

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the Respondent’s rights or legitimate interests in the disputed domain name. These circumstances are:

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

(ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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. As mentioned in the above section in relation to the similarity between the Complainant’s Marks and the Disputed Domain Name, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s Marks, including but not limited to the “HUAWEI” mark. As such, even though the Disputed Domain Name is indeed registered in 2012 which is earlier than the Complainant’s registration for the “HUAWEI PAY” mark in 2017, the Respondent has still failed to assert any such rights or legitimate interests in the Disputed Domain Name in view of the Complainant’s other marks of “HUAWEI” registered as early as in 2005.

The Panel notes that the Complainant, as the legitimate right holder, indicated that the Complainant has not licensed or otherwise permitted the Respondent to use the Complainant’s trademarks or a variation thereof.

The Panel cannot accept the Respondent’s rebuttal that it has rights or legitimate interests in respect of the Disputed Domain Name merely because of its creation of the “花卫帕” brand and the registered mark for “花卫帕” in the name of the Respondent’s Company, as well as the use of the Disputed Domain Name in the combination format of “花卫帕 + huaweipay.com” on the official website operated under the Disputed Domain Name and other promotion and/or sale of the products under the Respondent’s “花卫帕” brand. Based

on the Response and evidence provided by the Respondent (Refer to Respondent's Annex 3), it is clearly shown that the Respondent and/or the Respondent's Company do not own any trademark registrations for the marks "HUAWEI" or "HUAWEI PAY". The Panel considers the Respondent's argument that the Disputed Domain Name corresponds with the Respondent's brand "花卫帕" to be unacceptable, as the direct transliteration of the brand "花卫帕" should read as "Huaweipa" instead of "Huaweipay". The Respondent has failed to explain the reason behind adopting "-pay" instead of the direct transliteration of "-pa".

Further, the Panel notes that the Respondent's name "Liao Jie" and the Respondent's Company "Shenzhen Yuexiu Technology Co., Ltd." have no relationship with "Huawei" or "Huawei pay".


Given the abovesaid, while the Panel notes that the Respondent claims to have numerous customers ordering tailormade clothing from their physical stores, the Panel cannot accept the Respondent's argument that they have used the Disputed Domain Name in connection with a bona fide offering of goods. The Panel considers that the Respondent's use of the Disputed Domain Name (which does not correspond with its "花卫帕" brand as alleged by the Respondent) do not represent a bona fide offering since such use will create a likelihood of confusion with the Complainant and/or the Complainant's Marks, and would otherwise mislead the internet users. As such, the Panel considers that the Respondent has failed to satisfy Paragraph 4(c)(i) of the Policy.

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

C) Bad Faith

The Complainant must show that the Respondent registered and is using the Disputed Domain Name in bad faith (Paragraph 4(a)(iii) of the Policy). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy: "the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or acquired the Disputed 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 Disputed Domain Name; or
- (ii) the Respondent has registered the Disputed 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 Disputed 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 web site 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 the Respondent's web site or location or of a product or service on the Respondent's web site or location."

The Complainant has evidenced that its company and its Marks have acquired high fame and reputation through the extensive promotion of the goods and services. The Complainant's submissions are supported by various worldwide rankings such as Fortune Magazine Global 500 Rankings (Refer to Complainant's Annex 7), the 2021 EU Industrial R&D Investment Scoreboard (Refer to Complainant's Annex 8), the Gartner Market Share Analysis for CSP Operational Technology report (Refer to Complainant's Annex 9), and the Gartner' Vendor Rating (Refer to Complainant's Annex 10) all evidencing the reputation and market position of the Complainant. The Panel further notes that the Complainant's trademarks "HUAWEI", "华为" and " " were recognized as well-known trademarks by the Trademark Office of the former China Administration for Industry and Commerce in 2002 (Refer to Complainant's Annex 11).

The Complainant has submitted evidence, which shows that the Respondent registered the Disputed Domain Name long after the Complainant registered its trademarks (Refer to Complainant's Annex 3).

Considering the goodwill of the Complainant's brand, the Respondent is clearly aware of the Complainant before the date of registration of the Disputed Domain Name, and would have known that registering a domain name that is confusingly similar or identical to the Complainant's trademark may be beneficial to its operation.

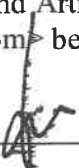
The Respondent claims that the word "huaweipay" used in the Disputed Domain Name is chosen to correspond with the Chinese pinyin of the Respondent's "花卫帕" mark. However, the Panel considers the Respondent's submissions and evidence to be insufficient as there is no explanation as to why the Respondent has changed the Chinese pinyin of "pa" ("帕") to "pay" and has adopted "huaweipay" as the Disputed Domain Name.

Given the fact that "HUAWEI" is the English transliteration of the Complainant's company name (Refer to Complainant's Annex 4), and the fact that the Respondent name "Liao Jie" has no relevance to the Disputed Domain Name at all, the Panel finds that the Respondent's application for the Disputed Domain Name which is identical/highly similar to the Complainant's Marks and its brand, which have acquired a certain level of reputation, is not a mere coincidence. The Panel finds that the Respondent has specifically registered the Disputed Domain Name in bad faith with the purpose of freeriding on the Complainant's goodwill and reputation for obtaining commercial gains.

In light of the above, the Panel finds the evidence filed by then Complainant to be sufficient to show bad faith of the Respondent. Accordingly, the Complainant has met its burden to establish the element under Paragraph 4(a)(iii) of the Policy.

6. Decision

Pursuant to Paragraph 4 of the Policy and Article 15 of the Rules, the Panel orders that the Disputed Domain Name <huaweipay.com> be transferred to the Complainant.



Vivien Chan
Panelist

Dated: 16 February 2024