



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401953
Complainant:	OTIS Elevator Company
Respondent:	C/O Private Ranger Limited
Disputed Domain Name:	<xiziotiselevator.me>

1. The Parties and Disputed Domain Name

The Complainant is OTIS Elevator Company, of 10 Farm Springs, Farmington, Connecticut 06032, United States of America.

The Respondent is C/O Private Ranger Limited, of Level 31 Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand.

The Domain Name at issue is <xiziotiselevator.me> (the “**Disputed Domain Name**”), registered by the Respondent with Instra Corporation Pty Ltd, GPO BOX 988, Melbourne, Victoria 3001, Australia.

2. Procedural History

On 30 December 2024, pursuant to the Uniform Domain Name Dispute Resolution Policy (the “**Policy**” or “**UDRP**”), approved by the Internet Corporation for Assigned Names and Numbers (“**ICANN**”) on 24 October 1999, the Rules for the Uniform Domain Name Dispute Resolution Policy (the “**Rules**”) approved by ICANN on 28 September 2013 and the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**”) Supplemental Rules to the UDRP and the Rules (the “**Supplemental Rules**”), effective as of 21 August 2023, the Complainant submitted a Complaint to the Hong Kong Office (“**HK Office**”) of the ADNDRC.

On 31 December 2024, the HK Office sent to the Complainant by email an acknowledgment of the receipt of the Complaint and notified the Registrar of the Complaint by email.

On 9 January 2025, the Registrar replied to the HK Office, providing information regarding the identity of the Registrant of the Disputed Domain Name.

On 10 January 2025, the HK Office notified the Complainant of deficiencies in the Complaint, specially regarding the information about the Registrar and the Registrant

(Respondent), the Registration Agreement, and the format of the Complaint Form. On 14 January 2025, the Complainant submitted an amended Complaint to the HK Office.

On 15 January 2025, the HK Office confirmed the Complaint in administrative compliance with the Policy, the Rules, and the Supplemental Rules and forwarded the amended Complaint to the Respondent.

The administrative proceedings started on 15 January 2025. The due date of the Response was 4 February 2025.

As the Respondent did not file a Response by the due date, the HK Office informed the Respondent of his default and appointed André Pohlmann as the sole panelist in this matter.

On 5 February 2025, i.e. one day after the deadline for filing the Response, the Respondent submitted written comments on the Complaint to the HK Office.

On 6 February 2025, the Complainant replied to the submission of the Respondent, claiming, *inter alia*, that the Respondent's submission was not filed within the stipulated time and should therefore not be taken into consideration.


On 11 February 2025, the Panel issued Administrative Order No 1, requesting the Respondent to explain the reasons why the submission was not filed within the given time limit.

On 15 February 2025, the Respondent filed a submission in reply to Administrative Order No. 1.

3. Factual background

The Complainant, Otis Elevator Company, is the world's largest producer of elevators, lifting equipment, and other horizontal transportation systems. The Complainant was established in the United States in 1898, with its headquarters in Farmington, Connecticut. It has been dedicated to the research, development, manufacturing, installation, maintenance, repair, updating, and transformation of elevators, escalators, moving walkways, and other transportation systems. The founder of the Complainant is the inventor of the modern elevator, having invented the world's first safety elevator in 1853. Nowadays, the Complainant maintains more than 2.3 million customer units worldwide, the industry's largest portfolio. The Complainant has more than 70,000 employees worldwide and its revenues reached US\$12.4 billion in 2011. Its oversea businesses include China, the United Kingdom, Germany, France, Turkey, Australia, Japan, Korea, Canada, Mexico, Brazil, Argentina and many other countries. The Complainant has been active on the Chinese market for more than a century. The Complainant's elevators are installed in many famous buildings around the world, for example, the Eiffel Tower in Paris or the Empire State Building in New York.

The Complainant owns registered trade marks consisting of the word element "OTIS" (the "OTIS trade marks") for various goods and services in Classes 7 and/or 37, including but not limited to the following:

- Montenegro trade mark registration No. 03247 “OTIS” (word), registration date 29 June 1992. The mark is currently valid until 31 October 2030 and covers services in Class 37.
- Chinese trade mark registration No. 772277 “OTIS” (word), registration date 21 November 1994. The mark is currently valid until 20 November 2034 and covers services in Class 37.
- Chinese trade mark registration No. 154609  (fig.), registration date 28 February 1982. The mark is currently valid until 26 February 2032 and covers goods in Class 7.
- Chinese trade mark registration No. 1139171 ‘OTIS’ (word), registration date 28 December 1997. The mark is currently valid until 27 December 2027 and covers goods in Class 7.

The disputed domain name <xiziotiselevator.me> was registered on 20 February 2024 and resolves to an e-commerce site related to elevators, traction systems and other products. The Complainant’s trade mark “OTIS” is displayed when accessing the internet page. The page also mentions that there existed a joint venture between Xizi and the Complainant in 1997 and that a new “Xizi Otis” factory was opened in 2006. Thus, the Respondent’s internet page seeks to give the impression that its business is related to the Complainant and the Complainant’s products.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The Complainant was founded in the United States in 1898. Its founder is the inventor of the modern elevator, having invented the world’s first safety elevator in 1853. Over 160 years later, the Complainant has become the world’s largest producer of elevators, lifting equipment, and other horizontal transportation systems. The Complainant can be found in many of the world’s most recognizable buildings as well as the busiest transportation hubs and retail centres. The elevator products produced by the Complainant’s subsidiaries in China are also sold to Taiwan, Hong Kong, Germany, Malaysia, Australia, India, the United States, Greece, Italy, Mexico, and other countries and regions.
- ii. The Complainant owns trade mark rights to “OTIS”, for example, in Montenegro and China. “OTIS” is also the trade name of the Complainant. Moreover, the Complainant registered the domain name <otis.com> as early as June 3, 1994, with “otis” as the second-level domain. The second-level domain of the Disputed Domain Name is “xiziotiselevator”, which is a combination of “xizi”, “otis” and “elevator”. The domain name contains the Complainant’s registered trademark “OTIS”. “elevator” is the product sold on the website directed by the Disputed Domain Name, which is the same as the goods and services approved for use with the Complainant’s registered trademarks and also the same as the Complainant’s main business. This is sufficient to cause public confusion,

making the public mistakenly believe that the Disputed Domain Name and the directed website belong to the Complainant.

- iii. The Disputed Domain Name was registered on February 20, 2024, which is much later than the date when the Complainant used "OTIS" and <otis.com> as trademark, trade name and domain name. The Respondent does not have any legitimate rights or interests in the Disputed Domain Name or its main part. The Respondent does not have trademark rights or other rights to "xiziotis" and "xiziotiselevator". The search results for possible "xiziotis" or "xiziotiselevator" trade marks show no results. The Complainant has never authorized the Respondent to register or use the Disputed Domain Name. Simply registering the domain name does not confer any legitimate rights or interests on the Respondent.
- iv. "OTIS" as the Complainant's trademark and trade name is original to the Complainant and has a very high degree of distinctiveness. Since the establishment of the Complainant, "OTIS" has been continuously and widely used as the Complainant's trademark. Therefore, "OTIS" is an original intellectual achievement of the Complainant. The "OTIS" series of trademarks enjoys a high reputation and popularity. Therefore, the Respondent's registration of the disputed domain name <xiziotiselevator.me> which is consistent with the main part of the Complainant's registered trademarks and domain name and the country of the Complainant, is not accidental. The Respondent's registration of the Disputed Domain Name is malicious. The Respondent maliciously uses the Complainant's "OTIS" trademark on the website directed by the Disputed Domain Name to promote its own products. The Respondent stated on its website that its corporate name was "Sino-US Joint Venture Xizi Otis Elevator (Hangzhou) Co., Ltd." and claimed on the webpage, "Xizi Otis Elevator stands out as the top choice for the best elevator company in UAE. We are available in all around the globe. Xizi Otis Elevator ensures seamless vertical transportation solutions for residential, commercial, and industrial spaces. We consistently deliver exceptional products and services tailored to meet diverse needs. We're no longer partners with Otis. We only have our Xio brand now." The Complainant is an American company. The Respondent knew the Complainant and intended to show that it was once a partner of the Complainant and claimed to be a Sino-US joint venture. The Respondent falsely promotes, deliberately confusing with the Complainant. This is likely to cause the public to confuse the source of the service, which is enough to prove that the registration of the Disputed Domain Name is malicious.
- v. The Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent did not file a Response to the Complaint before the end of the time limit (4 February 2025).

5. Findings

A) Preliminary

Before dealing with the requirements of Paragraph 4(a) of the Policy, the Panel first decides whether the Respondent's submission of 5 February 2025 can be accepted.

Paragraph 5 of the Rules stipulates:

(a) Within twenty (20) days of the date of commencement of the administrative proceeding the Respondent shall submit a response to the Provider.

(b) The Respondent may expressly request an additional four (4) calendar days in which to respond to the complaint, and the Provider shall automatically grant the extension and notify the Parties thereof. This extension does not preclude any additional extensions that may be given further to 5(d) [*sic!*] of the Rules.

[...]

(e) At the request of the Respondent, the Provider may, in exceptional cases, extend the period of time for the filing of the response. The period may also be extended by written stipulation between the Parties, provided the stipulation is approved by the Provider.

Paragraph 12 of the Rules stipulates:

In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties.

Paragraph 14 of the Rules stipulates:

(a) In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint.

(b) If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

The Panel notes that the Respondent's submission of 5 February 2025 was belated and that the Respondent did not request an extension of the time limit before the deadline.

According to Paragraph 14 of the Rules, the Panel may take into account the Respondent's submission only under exceptional circumstances. Exceptional circumstances exist, in particular, if the Respondent failed to meet the time limit in spite of exercising all due care required by the circumstances.

On 11 February 2025, the Panel invited the Respondent to explain the reasons why the submissions were not filed within the response period. In its submission of 15 February 2025, the Respondent replied that they reviewed their website to identify and remove any references to "OTIS", including any misleading words or representations. Due to the meticulous nature of this review process, the Respondent required additional time to complete the necessary actions. For that reason, the submission was sent one day beyond the given deadline.

The explanations given by the Respondent are not sufficient to have their right to submit a Response re-established after the given time limit has expired. The strict application of the

rules on time limits serves the requirements of legal certainty and the need to avoid any discrimination or arbitrary treatment. No derogation from the given deadlines may be made save where the circumstances are exceptional, as explicitly foreseen in Paragraph 14 of the Rules. The Respondent was obliged to monitor the course of the procedure set in motion and to comply with the prescribed period. The circumstances mentioned by the Respondent are not considered unforeseeable and do not amount to *force majeure* or an excusable error.

Consequently, the Respondent's submission of 5 February 2025 will not be taken into account.

B) Substantive

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.

i. Identical or Confusingly Similar

Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("**WIPO Jurisprudential Overview 3.0**"), "[w]here the Complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case." The Complainant has provided evidence of its trademark registrations for, and rights in, the OTIS trade marks.

The Complainant's "OTIS" mark is reproduced entirely in the Disputed Domain Name. The additional term "elevator" of the Disputed Domain Name refers to the products, under which the "OTIS" of the Complainant are known. The term "Xizi" may be seen as referring to a joint venture between a company called "Xizi" and the Complainant. Although the element "Xizi" is not present in the earlier trade mark rights of the Complainant, the trade mark "OTIS" is identically included and plays an independent distinctive role in the Disputed Domain Name. The relevant public will be able to identify the distinctive element "OTIS" in the domain name and assume that "Xizi Otis" is a sub-brand of the Complainant or the result of a joint venture between a company called "Xizi" and the Complainant. The remaining elements "elevator" and ".me" are not distinctive, for the reasons mentioned above, and therefore to be neglected in the assessment of Paragraph 4(a)(i) of the Policy.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (WIPO Jurisprudential Overview 3.0, section 1.8; *See also Nio Holding Co., Ltd. v. Thanh Le Xuan*, ADNDRC Case No. HK-2401939; *KDDI Corporation v. Shu Cai Shu Cai*, ADNDRC Case No. HK-2101574; *Koninklijke Philips N.V. v. Cheryl Wu*, ADNDRC Case No. HK-2101572; *Union Invivo v. Alexander Lambie*, ADNDRC Case No. HK-2401893; *Paul Smith Group Holdings Limited v. Mei Juan Zhang*, ADNDRC Case No. HK-2401858).

The Panel therefore finds that the Disputed Domain Name is confusingly similar to the Complainant's "OTIS" trade marks. The inclusion of the country Top-Level Domain ("ccTLD") for Montenegro ("me") does not remove the degree of similarity with the Complainant's "OTIS" trade mark as the ccTLD is merely a technical requirement for domain name registrations.

The first element of paragraph 4(a) of the Policy has been satisfied.

ii. Rights and Legitimate Interests

The Panel finds that the Complainant has demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name. There is no evidence that the Respondent is commonly known by the Disputed Domain Name. The Respondent does not appear to use the Disputed Domain Name for a legitimate noncommercial or fair use, without intent for commercial gain. The Respondent's conduct of:

(i) use of the Complainant's "OTIS" trade marks on the website as well as attempt to pass off the website as the official website of a business partner of the Complainant; and

(ii) purporting to offer and sell elevators under the Complainant's registered "OTIS" trade marks despite not being licensed or authorized by, or being affiliated to, the Complainant, are all evidence of the Respondent's lack of rights and legitimate interests in the Disputed Domain Name. Such use of the Disputed Domain Name cannot confer rights or legitimate interests on the Respondent (*Compare to* WIPO Jurisprudential Overview 3.0, section 2.13).

Once a Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name, the burden of proof shifts to the Respondent to show that it has rights or legitimate interests in respect of the Disputed Domain Name (*See* WIPO Jurisprudential Overview 3.0, section 2.1). The Respondent did not provide any evidence to show that he has rights or legitimate interests in the Disputed Domain Name. The Respondent has therefore failed to rebut the Complainant's *prima facie* case.

Accordingly, 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) of the Policy has been satisfied.

iii. Bad Faith

A Complainant has the burden of proving that the Respondent registered and is using the Disputed Domain Name in bad faith. Paragraph 4(b) of the Policy states that:

"For the purposes of paragraph 4(a)(iii), 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 [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 [its] 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 [its] 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."

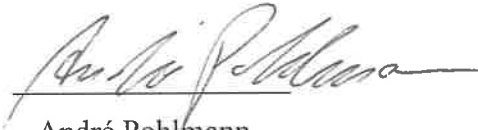
The Complainant's "OTIS" brand is present throughout the world including countries like Australia, China, Japan, Mexico, Turkey, the United Kingdom, and the United States of America. The evidence submitted by the Complainant confirms that the Complainant is a market leader in the field of elevators and that its brand "OTIS" enjoys a reputation for those goods. For example, the trade mark has gained a considerable goodwill in China, a market on which the Complainant has been active for more than a century. According to the non-contested information provided by the Complainant, the Complainant installed the first elevator in China at the Hong Kong Hotel in 1888. Eight years later, the Complainant obtained its first elevator contract in China to provide two elevators for the Peace Hotel in Shanghai. This was the first elevator in Chinese history. In the 1920s and 1930s, many famous buildings in China used the Complainant's elevators, such as the Broadway Mansions in Shanghai and the Aiqun Mansion in Guangzhou. The 'OTIS' elevator at the Astor Hotel in Tianjin was installed in 1924. The presidential office building in the Presidential Palace in Nanjing, Jiangsu Province, also used the "OTIS" elevator manufactured by the Complainant, installed around 1936. Among them, the "OTIS" elevator at the Astor Hotel in Tianjin was recognized by the China Elevator Association on August 30, 2005, as the oldest existing and still normally operating elevator in China. The Astor Hotel, founded in 1863, installed the first-generation product of the American Otis Elevator Company during its expansion in 1924. The data provided by the Complainant confirms that "OTIS" is perceived as a traditional brand in China, well-known for the production of elevators. Given the extensive use of the Complainant's "OTIS" brand throughout the world, the appearance of the Respondent's website, and how the Disputed Domain Name is being used by the Respondent, it is evident that the Respondent was well aware of the Complainant and its "OTIS" trade marks. The word "OTIS" is inherently distinctive for elevators. It cannot be any coincidence that the word "OTIS" included in the Disputed Domain Name and mentioned on the website is identical to the "OTIS" trade mark registered and used by the Complainant for more than a century. There are no indications that the Respondent collaborated

with the Complainant or was authorised to use the “OTIS” brand. The Respondent’s attempt to benefit from the reputation and goodwill of the Complainant has not been disputed by the Respondent. The Disputed Domain Name is confusingly similar to the Complainant’s “OTIS” trade marks, which the Panel finds demonstrates an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. For all those reasons, the Panel takes the view that bad faith under paragraph 4(b)(iv) of the Policy was sufficiently demonstrated.

The third element of paragraph 4(a) of the Policy has been satisfied.

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 <xiziotiselevator.me> be transferred to the Complainant.



André Pohlmann
Sole Panelist

Dated: 20 February 2025

