



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-1700960
<b>Complainant:</b>	Guangzhou Walkera Technology Co., Ltd
<b>Respondent:</b>	michelle lok
<b>Disputed Domain Name(s):</b>	<walkeraonline.com>

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**1. The Parties and Contested Domain Name**

The Complainant is Guangzhou Walkera Technology Co., Ltd, of Taishi Industrial Park, Dongchong Town, Nansha District, Guangzhou, Guangdong, CHINA.

The Respondent is michelle lok, of 909 BLOCK B, CHUNG MING COURT, TSEUNG KWAN O, HONG KONG.

The domain name at issue is <walkeraonline.com>, registered by Respondent with GoDaddy.com, LLC, of 14455 North Hayden Road Suite 219 Scottsdale, AZ 85260 United States.

**2. Procedural History**

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (ADNDRC) on 3 April 2017, in accordance with the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).

On the same day, the Hong Kong Office confirmed receipt of the Complaint, and then sent an email to GoDaddy.com LLC (the Registrar of the Domain Name) requesting verification in connection with the relevant information of the Domain Name at issue.

On 4 April 2017, the Registrar of the Domain Name confirmed that the Respondent is michelle lok and the Domain Name is registered with GoDaddy.com LLC.

On 12 April 2017, the Hong Kong Office sent the Respondent a written notice of complaint which involved a notification that a complaint concerning the Domain Name <walkeraonline.com> was submitted against the Respondent and a requirement to submit a Response within 20 days from 12 April 2017 (on or before 2 May 2017), and forwarded the Complaint (the Form C and the Annexure to the Complaint) to the Respondent pursuant to the Policy, Article 4 of the Rules and Article 6 of the ADNDRC Supplemental Rules. The formal date of the commencement of the administrative proceeding was 12 April 2017.

On 4 May 2017, the Hong Kong Office confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the Domain Name within the required period of time.

On 5 May 2017, the Hong Kong Office appointed Mr. Jonathan Agmon as the sole Panelist for this Domain Name dispute. And the appointment was accepted by Mr. Jonathan Agmon and the case files were transferred to the Panelist, on the same day.

### **3. Factual background**

The Complainant, Guangzhou Walkera Technology Co., Ltd, was established in July 12, 2001 and has been continuously using the WALKERA name and trademark for its goods and services.

The Complainant's "walkera" products have been sold to many countries worldwide, including but not limited to various countries in Asia, North America, Latin America, Africa, Australia and Europe. The Complainant has also established subsidiaries in Seattle in 2014 and in Chongqing in 2016.

The Complainant was awarded the "China's Top 10 brands of drones" in December 2015, and was also listed as one of the Popular Quadcopter Drone Manufacturers 2016.

The Complainant is the owner of numerous trademark registrations for the mark WALKERA. For example: Chinese trademark registration number 4677392, with the registration date of January 28, 2009; European Union trademark registration number 006599351, with the registration date of January 20, 2009; European Union trademark registration number 013464251, with the registration date of May 30, 2015; and more.

The disputed domain name was registered on June 22, 2012.

Currently, the disputed domain name directs to a website offering for sale products of the Complainant and its competitors.

The Respondent did not submit a response.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. The Complainant argues that it is using the WALKERA trademark in various jurisdictions worldwide, including but not limited to Mainland China, Hong Kong, the EU, France, Germany, Italy, Japan, Spain, UK and USA. The Complainant operates its official website at walkera.com in order to promote and sell its goods to customers in various countries.
- ii. The Complainant further argues that the disputed domain name has incorporated the word “walkera” in its entirety and it is confusingly similar to its WALKERA trademark, and that it is clear that, the word “walkera” is the dominant and distinctive component of the disputed domain name.
- iii. The Complainant further argues that the overall impression conveyed by the disputed domain name is confusingly similar to the Complainant’s WALKERA mark, and that Internet users will be misled to believe that the source and affiliation of the disputed domain name is related to the Complainant and/or its business.
- iv. The Complainant further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the Respondent has created and/or maintained the disputed domain name without the Complainant’s consent, and that the Respondent is not related to the Complainant, nor was he authorized by the Complainant to use the disputed domain name or the WALKERA trademark.
- v. The Complainant further argues that the Respondent has registered and is using the disputed domain name in bad faith, since the Respondent must have known about the Complainant’s rights in the WALKERA trademark and before the registration of the disputed domain name.
- vi. The Complainant argues that the word “walkera” has no meaning other than in relation to the Complainant and its business

**B. Respondent**

The Respondent did not respond to the Complaint.

**5. Findings**

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 the Policy, paragraph 4(a)(i), a 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 line with such requirement, a complainant must prove its trademark or service mark right and the similarity between the disputed domain name and its trademark or service mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant is the owner of numerous trademark registrations for the mark WALKERA. For example: Chinese trademark registration number 4677392, with the registration date of January 28, 2009; European Union trademark registration number 006599351, with the registration date of January 20, 2009; European Union trademark registration number 013464251, with the registration date of May 30, 2015; and more.

The disputed domain name <walkeraonline.com> reproduces entirely the Complainant's WALKERA trademark with the addition of the term "online" and the gTLD suffix ".com".

The addition of the term "online" and the gTLD suffix ".com" does not have the capacity to distinguish the disputed domain name from the Complainant's WALKERA registered trademark and is disregarded when comparing the disputed domain names with the Complainant's trademark. See Volkswagen AG v. Todd Garber, WIPO Case No. D2015-2175; Dassault (Groupe Industriel Marcel Dassault) v. Ma Xiaojuan, WIPO Case No. D2015-1733; Lego Juris A/S v. Chen Yong, WIPO Case No. D2009-1611; Dr. Ing. H.c. F. Porsche AG v. zhanglei, WIPO Case No. D2014-0080.

The Panel therefore finds that the disputed domain name <walkeraonline.com> is confusingly similar to the Complainant's registered marks. Accordingly, the Complainant has proven the element required by the Policy, 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 names, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 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 Panel finds that the Complainant has established a *prima facie* case in this regard, *inter alia*, due to the fact that the Complainant has not licensed or otherwise permitted the Respondent to use the Complainant's trademarks or a variation thereof and the evidence presented indicates that the Respondent is not engaged in a *bona fide* offering of goods or services.

The Respondent has not submitted any substantive Response to the Complaint and did not provide any explanation or evidence to show any rights or legitimate interests in the disputed domain name sufficient 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.

### **C) Bad Faith**

The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that shows that the Respondent registered the disputed domain name long after the Complainant registered its trademark. According to the evidence filed by the Complainant, the Complainant has owned a registration for the WALKERA trademark since at least the year 2009. It is suggestive of the Respondent's bad faith in these particular circumstances that the trademark, owned by the Complainant, was registered long before the registration of the disputed domain name (*Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

Also, the website under the disputed domain name redirects Internet users to a website offering for sale products of the Complainant and the Complainant's competitors. Previous UDRP panels have found that "[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" (*Edmunds.com, Inc. v. Triple E Holdings Limited*, WIPO Case No. D2006-1095). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the Policy.

Having regard to the evidence, the Panel finds that the disputed domain name was registered and is being used by the Respondent with knowledge of the Complainant and in bad faith with the intent to create an impression of an association with the Complainant and profit therefrom. The Respondent's actions therefore constitute bad faith. See *Herbalife International, Inc. v. Surinder S. Farmaha*, WIPO Case No. D2005-0765, stating that "the registration of a domain name with the knowledge of the complainant's trademark registration amounts to bad faith".

Based on the evidence that was presented to the Panel, including the Complainant's registered trademark, the use of the Complainant's trademark in the disputed domain name, the website operated under the disputed domain name, the use of the disputed domain name and the Respondent's failure to answer the Complaint, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

## **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 <walkeraonline.com> be transferred to the Complainant.

*Jonathan Agmon*

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Jonathan Agmon  
Panelists

Dated: May 19, 2017