

Decision for dispute CAC-UDRP-105199

Case number **CAC-UDRP-105199**

Time of filing **2023-02-16 09:26:53**

Domain names **uniflaircn.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **UNIFLAIR SPA**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **yu zhen li**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns the following trademarks:

- International trademark UNIFLAIR® n° 593587 registered since October 15, 1992;
- International trademark UNIFLAIR® n° 679768 registered since August 5, 1997;
- European trademark UNIFLAIR® n° 000470252 registered since February 24, 1997;
- European trademark U UNIFLAIR® n° 001009174 registered since December 7, 1998.

FACTUAL BACKGROUND

The Complainant, UNIFLAIR S.p.A., is a supplier of technologically advanced cooling solutions for critical environments. The Complainant owns trademark rights on the UNIFLAIR sign dating back to 1992. The Complainant supports that it owns, through its parent company SCHNEIDER ELECTRIC the domain name <uniflair.com>.

The Respondent is yu zhen li. The disputed domain name was registered on May 1, 2022 and resolves to a website displaying adult-

oriented images and links.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant supports that the disputed domain name is confusingly similar to its prior trademarks and domain names as the sign UNIFLAIR is entirely comprised in the disputed domain name. The addition of the element "CN" does not exclude the likelihood of confusion as it could be associated to China.

The Complainant denies that the Respondent has any rights on the disputed domain name nor that the use of it amounts to a legitimate non-commercial use or a bona fide offering of goods and services for the purpose of the policy.

The Complainant contends that the disputed domain name was registered in bad faith as at the time of the registration the Respondent was certainly aware of the Complainant exclusive rights on the trademark UNIFLAIR. Furthermore, the use of the disputed domain name is considered in bad faith as it redirects to a website that displays pornographic contents and links. Such links could affect negatively the reputation of the Complainant's trademark.

RESPONDENT:

The Respondent did not file an administrative response.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Complainant agrees that the disputed domain name is confusingly similar to the UNIFLAIR trademarks and domain names. According to a consolidated case law if the trademark is entirely comprised in the disputed domain name, the threshold requested by the First element of the Policy is met.

In the Panel's view the addition of the geographical term "cn" increases rather than excludes the risk of confusion for the public as it could be easily associated to the local branch of the Complainant.

Furthermore, the addition of the ".com" gTLD is generally disregarded for assessing confusing similarity in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, for the

purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a response to the Complaint. Therefore, it has filed no information on possible rights or legitimate interests it might hold on <uniflaircn.com>. On its part, the Complainant has submitted information and arguments which, according to the Panel, are sufficient to conclude that the Respondent has no rights or legitimate interest in the disputed domain name.

According to the information provided by the Complainant, and not contested, the Respondent is not commonly known by the disputed domain name nor he has been authorized to use the Complainant's trademark. The Panel agrees that the Whois information related to the Respondent do not confer to the latter any right or legitimate interest in the disputed domain name.

The Panel agrees that the use of the disputed domain name does not amount to a bona fide offering of goods and services nor to a legitimate non-commercial use for the purpose of the Policy. The Complainant proved that the disputed domain name redirects to a website publishing pornographic contents and links. Previous panels confirmed that such use tarnishes the complainant's trademark and does not prove a non-commercial or fair use of a domain name by the respondent.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

3. The disputed domain name has been registered and is being used in bad faith.

In the Panel's view, the Respondent was clearly aware that the Complainant conducted its business under the MARSHALL trademark as:

i) the disputed domain name was registered well after the Complainant's trademark registrations which are valid and effective also in China where the Respondent is based;

ii) the trademark UNIFLAIR is a made-up word with no dictionary meaning. The Complainant proved that google searches on UNIFLAIR disclose results related to the Complainant;

iii) the combination of UNIFLAIR and CN increases the risk of association with the Complainant as CN could be easily associated to China. As a consequence, the disputed domain name could be perceived as the Complainant's local website.

Thus, the Panel concludes that the disputed domain name was registered in bad faith.

As regards the use in bad faith, the Panel agrees that <uniflaircn.com> is used in a way that could tarnish and, in any case, negatively affect the reputation of the Complainant's business and trademarks. As a matter of fact, pornographic content and links have been considered by previous panels as indexes of use in bad faith.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain name for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **uniflaircn.com**: Transferred

PANELLISTS

Name	Andrea Mascetti
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DATE OF PANEL DECISION 2023-03-20

Publish the Decision
