

## Decision for dispute CAC-UDRP-105508

Case number CAC-UDRP-105508

Time of filing 2023-06-12 11:24:57

Domain names liverpoolfc.top

### Case administrator

Name Olga Dvořáková (Case admin)

### Complainant

Organization The Liverpool Football Club and Athletics Grounds Limited

### Complainant representative

Organization Stobbs IP

### Respondent

Name Wei Jin

#### 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 several registered trademarks for LIVERPOOL FC, including European Union trademark registration 007024565 of May 22, 2009 and United Kingdom trademark registration UK00907024565 of May 22, 2009, as well as many trademark registrations for LIVERPOOL FOOTBALL CLUB.

#### FACTUAL BACKGROUND

Facts asserted by the Complainant and not contested by the Respondent:

The Complainant is a professional football club based in Liverpool, United Kingdom. To date, the Complainant (the Panel assumes the Complainant's men's first team) has won nineteen League titles, seven FA Cups, and fifteen FA Community Shields. In international club competitions, the Complainant ('s men's first team) has secured six European Cups, three UEFA Cups, four UEFA Super Cups and one FIFA Club World Cup.

The Complainant used the domain name <liverpoolfc.tv> to resolve to Complainant's official website as of 2000, and in 2002 the Complainant began to utilize the domain name <liverpoolfc.com> as its primary website, initially as a redirect to "www.liverpoolfc.tv", and then as a website in its own right. The Complainant also owns various other domain names comprising of the LIVERPOOL FC trademark, such as <liverpoolfc.co.uk> <liverpoolfc.net>, <liverpoolfc.com.au> and <liverpoolfc.eu>, all registered

well before the registration of the disputed domain name.

The disputed domain name was registered on April 10, 2019, and the Complainant alleged that it never resolved to an active website. However, the Panel established through the Internet Archive that the disputed domain name actually did resolve to a website on, at least, March 13, 2022, which appears to be the Registrant's resume.

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#### PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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#### 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).

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#### 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).

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#### 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).

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#### PROCEDURAL FACTORS

Language of the proceeding

1. The Rules, paragraph 11, state: "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."
2. According to the registrar the language of the Registration Agreement is Chinese. The Complainant requests that the English language should be the language of the proceeding rather than the Chinese language for the following reasons:
  - the language of the Registration Agreement is not in fact only in Chinese, because it is also made available to internet users via the Registrar's universal ".com" domain name in English;
  - the disputed domain name includes Latin characters as opposed to Chinese characters which supports the fact that the Respondent understands, or at the very least, is competent in the English language and that they would not be put at a disadvantage if the Complaint is to be conducted in English;
  - the Complainant is unable to communicate in Chinese and translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings. Such additional delay, considering the abusive nature of the disputed domain name, poses continuing risk to the Complainant and unsuspecting consumers seeking the Complainant or their products;
  - translating the Complaint into Chinese will lead to undue delay and substantial expenses incurred by the Complainant, who already bear the burden for filing the Complaint and any further costs incurred, would go against the spirit of the policy.
3. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, par. 4.5.1 "(..) paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case", and against this background the Panel needs to decide if the Respondent likely understood the Complaint and was able to file a Response. Although many circumstances may assist the Panel in finding the answer, in this case the mere fact that the disputed domain name consisting of Latin and not Chinese characters is insufficient to establish that the Respondent must therefore also have a basic understanding of the English language. The other circumstances put forward do not change this, more particularly as the Complainant acknowledges that the language of the Registration

Agreement is Chinese and not also English, and the Complainant alleges that the disputed domain name "has failed to resolve to any relevant content since its registration in 2019" on the one hand, and would have an abusive nature which "poses continuing risk to the Complainant and unsuspecting consumers seeking the Complainant or their products" on the other hand.

4. However, the Panel used the Internet Archive and easily found that the disputed domain name did resolve to a website existing of a web page with a resume of a person with the Respondent's name (for which reason the Panel considers it likely that it actually concerns the Respondent's resume). The web page is in English, and provides, inter alia, the Respondent's name with the text "I'm a Software developer in love with photography, movie and cultures," with an address in Japan and the header "Language" with Chinese, Japanese and English.
5. Based on these findings the Panel considers it probable that the Respondent has, at least, a basic understanding of the English language. On balance, the Panel considers the proceedings can proceed in the English language under these circumstance.
6. Consequently, the Panel accepts the Complainant's request and considers that it is appropriate to proceed to determine the proceeding in the English language.
7. Further, 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.

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#### PRINCIPAL REASONS FOR THE DECISION

1. It is well established that the Top-Level Domain ("TLD") – in the present case ".top" – maybe disregarded in the assessment under paragraph 4(a)(i) of the Policy. The disputed domain name contains the LIVERPOOLFC trademarks in its entirety. The Panel therefore finds that the disputed domain name is identical to the Complainant's trademarks.
2. The Complainant must make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455). The Panel takes note of the various allegations of the Complaint and in particular, that that the Respondent has not been commonly known by the disputed domain name and does not perform any activity. These allegations of the Complainant remain unchallenged. Consequently, there is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name.
3. The Panel finds that the disputed domain name was registered in bad faith as the Respondent should have been aware of the Complainant's trademarks LIVERPOOLFC when the Respondent registered the disputed domain name given the trademark's reputation (e.g., The Liverpool Football Club and Athletic Grounds Public Limited Company and the LiverpoolFC.TV Limited v. Andrew James Hetherington, WIPO Case No. D2002-0046).
4. Finally, the Complainant's allegation that the disputed domain name must have been registered to prevent the Complainant from reflecting its trademark in a corresponding domain name remained undisputed, and the Panel is therefore satisfied that the Respondent also uses the disputed domain name in bad faith.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **liverpoolfc.top**: Transferred

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#### PANELLISTS

Name	<b>Alfred Meijboom</b>
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DATE OF PANEL DECISION **2023-07-13**

**Publish the Decision**

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