Decision for dispute CAC-UDRP-105986

Case number	**CAC-UDRP-105986**
Time of filing	**2023-11-16 09:35:31**
Domain names	**h-d120thanniversary.com, harley-davidso.com, harley-davidsonn.com, harleydavidsonn.com , harleys-davidsion.com, harleysdavidsons.com , harleysdavidson.com , harleydavidsons.shop, harleysdavidson.shop, harleydvstore.shop, harleydavison.shop, harleysdavidsons.shop, hd-120anniversary.com**

Case administrator

Name	**Olga Dvořáková (Case admin)**

Complainant

Organization	**Harley-Davidson Motor Company Inc.**

Complainant representative

Organization	**Stobbs IP**

Respondents

Organization	**(Yan Zhi Jun)**
Name	**Lu Tao**
Name	**Shi Jin Dou**
Name	**Zhang Qin**
Name	**fu hao**
Name	**huang ming hui**
Name	**Zhu Bin**
Name	**Xu Yu**
Name	**Lu Zhang**
Name	**Hao Fu**

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the registered proprietor of an extensive portfolio of trademarks and other intellectual property rights worldwide.

The Complainant's trademarks were filed and registered at the following Trademark Registration Offices:

- United States Patent and Trademark Office (USPTO)
- United Kingdom Intellectual Property Office (UK IPO)
- European Union Intellectual Property Office (EUIPO)

The Complainant's trademarks include but are not limited to:

Trademark	Register	Registration Number	Registration Date	Class(es)
HARLEY-DAVIDSON	UK	UK00000658028	April 9, 1947	12
Bar & Shield	UK	UK00001341822	July 5, 1991	25
HARLEY	UK	UK00002121230	September 11, 1998	25
H-D	UK	UK00901526276	April 9, 2001	12, 14, 25
MOTOR HARLEY-DAVIDSON CYCLES	UK	UK00901536309	November 19, 2001	3, 7, 9, 12, 14, 16, 18, 25, 26, 28, 35, 36, 39, 41
HARLEY-DAVIDSON	UK	UK00901797018	March 21, 2002	25, 39
HD	UK	UK00903530177	April 4, 2007	12, 14, 25, 35, 37, 39, 41

The terms covered by the Complainant's trademarks include, but are not limited to, coverage for "outer clothing, sweaters, suspenders, scarves, bandannas, jackets, coats, vests, gloves, jeans, chaps, shirts, shorts, caps, hats, headgear for wear, belts, wristbands, coveralls, hosiery, halter tops, neckties, night shirts, nightgowns, pyjamas, trousers, pants, rain suits, rain coats, shirts, sweatshirts, sweat pants, tank tops, t-shirts, underwear, head bands, leg warmers, aprons, mittens, lingerie, leather clothing, swimsuits, skirts, bibs; footwear, namely, shoes and boots, and parts of footwear, namely boot tips, sole plates, heel guards.", in Class 25, UK00901797018.

The Complainant owns the domain name <harley-davidson.com>, which was registered by the Complainant on November 8, 1994, which domain has been live since at least as early as December 19, 1996.

The Complainant also owns a considerable portfolio of "HARLEY-DAVIDSON" domain names.

The Complainant is also active on social media and has generated a significant level of endorsement as shown below:

Platform	URL	Followers
Facebook	https://www.facebook.com/harley-davidson/	12,900,000+
Instagram	https://twitter.com/harleydavidson/	492,000+

FACTUAL BACKGROUND

The Complainant is a subsidiary company of Harley-Davidson, Inc., an international motorcycle manufacturer providing leading worldwide manufacture, distribution, and sale of motorcycles, parts, and complementary goods and services thereof. Harley-Davidson,

Inc. includes the subsidiary Harley Davidson Motor Company Inc.

The Complainant's parent company has traded on the New York Stock Exchange since November 5, 1987 and as of November 6, 2023, has a market capitalisation value of $4.10 billion.

The USA is the Complainant's domestic market and accounts for a significant portion of sales, with other key markets being DACH (Germany, Austria, and Switzerland), Japan, China, Canada, France, United Kingdom, Italy, Australia, and New Zealand.

The Complainant has a significant reputation and has built up a vast amount of goodwill in the trademark "HARLEY-DAVIDSON" in the USA and abroad in relation to a wide range of goods and services.

The "HARLEY-DAVIDSON" brand has become iconic in popular culture in part due to the intensity, geographical extent, and long-standing use made of its trademarks, as evidenced by the extremely high level of awareness of the Complainant's brand amongst consumers.

Since the founding of the Complainant's business in 1903, the Complainant has grown to serve its customers across the globe; manufacture motorcycle models for use in World War One, World War Two; and establish multiple motorcycle festivals across the world to celebrate their heritage and customer base.

As of February 2022, the Complainant employed 5,800 individuals, 86.5% of which were based in the USA.

In 2023, the Complainant celebrated its 120 years of Harley-Davidson. The Complainant emphasizes the celebration of its 120th anniversary in 2023 to recognise its illustrious and extensive brand presence.

The Panel conducted its own search of the words "harley davidson 120th anniversary" and was taken to the Complainant's website at <harley-davidson.com/au/en/current/120th-anniversary.html>. The front page of the website displayed the words "120 Year of Harley-Davidson®". The website also refers to the words "120th Anniversary Bikes"; "120 years in the making"; "120th Anniversary Collection"; "120th Anniversary Parts & Accessories".

A list of the disputed domain names is set out below:

No.	Domain Name	Respondent Name	City	Registrar Name	Registration Date
1	h-d120thanniversary.com	Yan Zhi Jun	Jiang Yin Shi, China	Xin Net Technology Corporation	November 13, 2023
2	harley-davidso.com	Lu Tao	Guangxi, China	Hong Kong Kouming International Limited	November 13, 2023
3	harley-davidsonn.com	Shi Jin Dou	Zhongwei Ningxia, China	Hong Kong Kouming International Limited	October 17, 2023
4	harleydavidsonn.com	Zhang Qin	Nanchong Sichuan, China	Hong Kong Kouming International Limited	November 1, 2023
5	harleys-davidsion.com	fu hao	Chongqing, China	Hong Kong Kouming International	October 28. 2023

				Limited	
6	harleysdavidsons.com	fu hao	Chongqing, China	Hong Kong Kouming International Limited	October 13, 2023
7	harleysdavidson.com	huang ming hui	Yunfu Guangdong, China	Hong Kong Kouming International Limited	October 12, 2023
8	harleydavidsons.shop	Zhu Bin	Shenzhen, Guangdong, China	Alibaba Cloud Computing Ltd. d/b/a HiChina	October 16, 2023
9	harleysdavidson.shop	Zhu Bin	Shenzhen, Guangdong, China	Alibaba Cloud Computing Ltd. d/b/a HiChina	September 17, 2023
10	harleydvstore.shop	Xu Yu	Shenzhen Guangdong, China	Alibaba Cloud Computing Ltd. d/b/a HiChina	May 17, 2023
11	harleydavison.shop	Lu Zhang	Beijing, China	Chengdu West Dimension Digital Technology Co., Ltd.	October 23, 2023
12	harleysdavidsons.shop	Lu Zhang	Beijing, China	Chengdu West Dimension Digital Technology Co., Ltd.	October 23, 2023
13	hd-120anniversary.com	Hao Fu	Chongqing, China	Chengdu West Dimension Digital Technology Co., Ltd.	October 28, 2023

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

The Respondents failed to file any administratively compliant response.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that each of the disputed domain names 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).

The Panel accepts that the Complainant has rights by reason of its ownership of the registered trademarks “HARLEY”, “HARLEY-DAVIDSON”, “HD”. The question is whether each of the disputed domain names is identical or confusingly similar to the Complainant’s trademark.

Whether a disputed domain name is identical or confusingly similar to a trademark can be determined by making a side-by-side comparison with the disputed domain name. A disputed domain name is identical to the trademark when it is a character for character match. It is confusingly similar when it varies the trademark by, for example, adding generic terms to the dominant part of the trademark.

In the present case, the analysis can be divided into two categories.

First, the disputed domain names that use the term “harley” and/or “davidson”, which the Panel will refer to as “Category 1”.

Secondly, the disputed domain names that use the term “HD” in combination with other generic terms, which the Panel will refer to as “Category 2”.

In Category 1, eleven of the disputed domain names incorporate the term “harley” in its entirety in combination with other terms or generic terms, including with the term “davidson”. Adding other terms, adding or omitting an alphabet, do not avoid a finding of confusing similarity. See Harley-Davidson Motor Company Inc. v Duc Tran The Deltavn (2023) CAC 105387.

The Complainant’s trademarks “HARLEY” or “HARLEY-DAVIDSON” are incorporated in the disputed domain names with other terms with or without the hyphen “-“. These trademarks are the dominant element within the disputed domain names.

The Panel consider that such incorporation is identical or confusingly similar to the Complainant’s trademarks.

In Category 2, two of the disputed domain names incorporate the term “HD” in its entirety in combination with the number “120” or the word “anniversary”. The addition of these terms refers to the Complainant’s 120th year anniversary in 2023.

The use of the number 120 or 120th in combination with the generic term “anniversary” when the relevant trademark “HD” is recognizable within the disputed domain name does not prevent a finding of confusing similarity. On the contrary, the addition of the hyphen “-“after the term “HD” accentuates the Complainant’s trademark “HD” as the dominant part of the Complainant’s branding to celebrate its 120 years of Harley-Davidson. See Harley-Davidson Motor Company Inc. v. Vin Nguyen (Vin Pre) (2023) CAC 105614.

It is also trite to state that the addition of the gTLD “.COM” or “.SHOP” does not add any distinctiveness to each of the disputed domain names and will be disregarded for the purposes of considering this ground.

The Panel sets out the table below the Complainant’s contentions regarding each one of the disputed domain names and the Panel’s findings.

Domain Name	Complainant's contentions	Panel’s findings
<harleydvstore.shop>	Incorporates the Complainant's mark, followed by “DV” which indicates “DAVIDSON”. The suffix “store” is descriptive of the website location.	The Panel accepts this contention as it is a Category 1 analysis.
<harleydavidson.shop>	Incorporates the mark absent the hyphen. Minor variation in marks is generally not a barrier to finding confusing similarity.	The Panel accepts this contention as it is a Category 1 analysis. The terms “harley” and “davidson” are also phonetically identical to the Complainant’s trademark, which makes the disputed domain name

		identical or confusingly similar to the Complainant's trademark 'HARLEY-DAVIDSON".
<harleysdavidsons.com>	Incorporates the mark absent the hyphen and followed by "S", which doesn't prevent confusing similarity.	The Panel accepts this contention as it is a Category 1 analysis.
<harleys-davidson.com>	Typo-squatting variant of the mark with additional "S" in "HARLEY" and "I" in "DAVIDSON", which doesn't prevent confusing similarity.	The Panel accepts this contention as it is a Category 1 analysis.
<hd-120anniversary.com>	Incorporates the "HD" mark with reference to the 120th year anniversary, reinforcing the link with the Complainant's brand.	The Panel accepts this contention as it is a Category 2 analysis.
<harleydavidsonn.com>	Incorporates the mark absent the hyphen and an addition of "N" at the end, repeating arguments regarding typo-squatting.	The Panel accepts this contention as it is a Category 1 analysis.
<harley-davidso.com>	Incorporates the mark in its entirety, absent the "N", with repeated arguments regarding typo-squatting.	The Panel accepts this contention as it is a Category 1 analysis.
<harleydavison.shop>	Incorporates the mark absent the hyphen and a second "D" in "DAVIDSON", with repeated arguments regarding typo-squatting.	The Panel accepts this contention as it is a Category 1 analysis.
<harleysdavidson.com>	Incorporates the mark absent the hyphen with an "S" after "HARLEY", with repeated arguments regarding typo-squatting.	The Panel accepts this contention as it is a Category 1 analysis.
<harleysdavidsons.shop>	Incorporates the mark and pluralises "HARLEY" and "DAVIDSON", with repeated	The Panel accepts this contention as it is a Category 1 analysis.

	arguments regarding typo-squatting.	
<harley-davidsonn.com>	Incorporates the mark in its entirety with the addition of “N”, with repeated arguments regarding typo-squatting.	The Panel accepts this contention as it is a Category 1 analysis.
<hd-120thanniversary.com>	Incorporates the HD trademark in its entirety with “120thanniversary”, referencing the 120th year anniversary.	The Panel accepts this contention as it is a Category 2 analysis.
<harleydavidsons.shop>	Incorporates the mark in its entirety, absent the hyphen and with “S”, with repeated arguments made above.	The Panel accepts this contention as it is a Category 1 analysis.

Accordingly, the Panel considers that the each of the disputed domain names is confusingly similar to the Complainant’s trademarks “HARLEY”, “HARLEY-DAVIDSON”, “HD” and this ground is made out.

NO RIGHTS OR LEGITIMATE INTERESTS

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

A complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. See Document Technologies, Inc. v. International Electronic Communications Inc, WIPO Case No. D20000270.

If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See Croatia Airlines d.d. v. Modern Empire Internet Ltd, WIPO Case No. D2003-0455; Mile, Inc. v. Michael Burg, WIPO Case No. D2010-2011.

The Complainant’s contentions can be summarized as follows:

No Bona Fide Offering of Goods or Services

The Complainant asserts that the Respondents’ use of the disputed domain names are not in connection with a bona fide offering of goods or services.

The evidence adduced shows that disputed domain names are used for websites that impersonate or suggest affiliation with the Complainant, notably by mimicking the Complainant’s official website’s distinctive elements such as logo, typeface, and colour scheme.

The Complainant further asserts that these websites are used to advertise and sell counterfeit goods, which cannot constitute a bona fide offering.

Not Commonly Known by the disputed domain name

The Complainant asserts that the Respondents have never legitimately been known by the names “HARLEY-DAVIDSON”, “HARLEY”, or “HD” and that the registrations of the disputed domain names were to exploit the Complainant’s goodwill and reputation.

The Respondents cannot claim to have been commonly known by the disputed domain names.

No Legitimate Non-Commercial or Fair Use

The Complainant asserts that the Respondents’ use of the disputed domain names is clearly for commercial gain, as evidenced by their use to promote and sell counterfeit goods.

This negates any claim of legitimate non-commercial or fair use.

No connection or affiliation

The Complainant asserts that Respondents are not in fact connected to or affiliated with the Complainant.

The Panel accepts that the Complainant has considerable reputation of the “HARLEY-DAVIDSON” trademark and brand. It holds exclusive trademark rights predating the registration of the disputed domain names.

At the time of filing the Complaint, the Complainant acknowledges two out of the ten disputed domain names do not currently resolve to an active website, namely <harleydvstore.shop> and <harleysdavidsons.com>.

The eight active websites resolving from the disputed domain names are referred to as “the infringing websites”. These infringing websites mimic distinctive elements of the Complainant’s official website such as the logo, typeface, images, and colour scheme, in an attempt to pass off as originating from the Complainant.

The evidence adduced shows that the Respondents are using the disputed domain names to resolve to the infringing websites, which impersonate or pass off as the Complainant, or at a minimum suggest that they are affiliated with the Complainant.

The Complainant’s contentions are uncontradicted as there have not been any administratively compliant responses filed by any of the Respondents.

The Panel is prepared to accept the Complainant’s contention that the Respondents cannot demonstrate any legitimate offering of goods or services under the Complainant’s trademarks.

Given the evidence adduced by the Complainant of its extensive portfolio of trademarks and wide reputation which the Panel accepts as evidencing the strength of its reputation, the Panel accepts and finds that each of the Respondents has no rights or legitimate interests to the disputed domain names.

BAD FAITH

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

The Complainant contends that the Respondents have registered and are using the disputed domain names in bad faith, on the following grounds.

Awareness of Complainant's trademarks and brand

The Complainant asserts that the Respondents’ registration of the disputed domain names, which occurred between May and November 2023, were done with knowledge of the Complainant's well-established “HARLEY-DAVIDSON” trademark and brand.

This is evidenced by the significant use of the Complainant’s trademarks on the infringing websites, suggesting intentional targeting of the Complainant's brand.

The Complainant's brand, having celebrated its 120th anniversary in 2023, holds a considerable reputation, which the Respondents seem to have exploited.

The Panel has already found that the Complainant has trademark rights in “HARLEY”, “HARLEY-DAVIDSON”, “HD” and given the Complainant’s widely held reputation and business for 120 years.

The Panel infers from this conduct that the Respondents are well aware of the Complainant’s trademarks, brand, business, and reputation at the time they registered the disputed domain names.

The Panel finds the Respondents were intentionally using the Complainant’s trademarks within the disputed domain names without its permission for an unauthorised purpose.

Pattern of Bad Faith Registration

The Complainant points out that the Respondents registered ten domain names incorporating the Complainant's trademarks “HARLEY-DAVIDSON”, “HARLEY”, or “HD”.

The Complainant asserts that these registrations are seen as part of a pattern to prevent the trademark owner from reflecting its mark in corresponding domain names.

Registration and use of a domain name in bad faith can be evidenced when a respondent engages in a pattern of conduct to prevent the owner of the trademark or service mark from reflecting the mark in corresponding domain names.

A “pattern of conduct” typically involves multiple domain names directed against multiple complainants but may also involve multiple domain names directed against a single complainant. See paragraph 3.3 of the WIPO Overview 3.0.

Registration of multiple domains in a short period of time can also indicate a pattern of conduct under the Policy. See Entain Plc v. Jehsaj Wakre ((2023) CAC 105051.

The Panel accepts that the evidence shows that there is an established pattern of conduct here by the registration of the thirteen disputed domain names in a relatively short period of time, namely from May 2023 to November 2023.

The irrefragable evidence is that the Respondents seek to commercially exploit the Complainant's trademarks and brand reputation by selling goods bearing the Complainant's trademarks, which are either counterfeit and/or unauthorized.

The Panel finds that this conduct supports a finding of abusive registration.

Bad Faith Use

The Complainant asserts that the Respondents registered the disputed domain names to attract internet users for commercial gain by creating confusion. The Respondents seek to drive internet traffic to the infringing websites and thereafter to impersonate the Complainant or claim an affiliation.

A circumstance of bad faith registration and use arises when a respondent intentionally attempts to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

The mere registration of a domain name that is identical or confusingly similar, particularly domain names comprising typos or incorporating the mark plus a descriptive term, to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See paragraph 3.1.4 of the WIPO Overview 3.0.

The Panel accepts the uncontradicted evidence that the disputed domain names lead to websites selling counterfeit goods and falsely implying an association with the Complainant.

The Panel infers that the Respondents registered the disputed domain names incorporating the Complainant's trademarks to take advantage of its wide reputation and business goodwill.

The Panel finds that this conduct supports a finding of use in bad faith.

Disrupting the Business of a Competitor

The Complainant asserts that the Respondents' use of the disputed domain names to sell counterfeit goods makes them a "competitor" within the meaning of the Policy.

This assertion is supported by paragraph 3.1.3 of WIPO Overview 3.0, which expands the definition of "competitor" to include anyone acting in opposition to another for commercial gain.

The Complainant relies on Harley-Davidson Motor Company Inc. v. Duc Tran The Deltavn (2023) CAC 105387, where similar circumstances were deemed bad faith.

The Panel accepts that this conduct also supports a finding of use in bad faith.

Accordingly, the Panel finds that the disputed domain names were registered and used in bad faith, and this ground is made out.

PROCEDURAL FACTORS

A. Consolidation of the disputed domain names in a single dispute

The Complainant requests consolidation of the disputed domain names into a single proceeding.

Paragraph 5(f) of the Policy allows a panel to consolidate multiple disputes between the parties at its sole discretion. Rule 10(e) empowers the Panel to decide such a request in accordance with the Policy and the Rules.

"Respondent" is defined in Rules paragraph 1 to mean "the holder of a domain-name registration against which a compliant is initiated". Rules paragraph 3(c) provides that "the complaint may relate to more than one domain, provided that the domain names are registered by the same domain-name holder".

If the registrants are in fact separate legal or beneficial entities the Policy requires a complainant to initiate separate proceedings against each registrant of the disputed domain names.

The "domain-name holder", if its identity is disclosed, is usually the beneficial owner. If its identity is not disclosed, it is then a proxy holder. Even if the identity of the beneficial owner is determined, it is only prima facie identification of the putative registrant of the domain name and is not conclusive of the real identity of the beneficial owner as aliases could be used as the alter egos of the controlling entity.

The phrase “same domain-name holder” under Rules paragraph 3(c) has been construed broadly to include registrants who are not the same person, but circumstances point to the domain names being controlled by a single person or entity. See WIPO Jurisprudential Overview 3.0, Paragraph 4.11.2; Dr Ing. H.c.F. Porsche AG v Kentech Inc aka Helois Lab aka Orion Web aka Titan Net aka Panda Ventures aka Spiral Matrix and Domain Purchase, NOLDC, Inc., WIPO D2005-0890; Kimberly Clark Corporation v N/A, Po Ser and N/A, Hu Lim, WIPO D2009-1345.

Thus, the domain-name holder can either be the registrant or a person with “practical control” of the disputed domain name.

In Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons, WIPO Case No. D2010-0281 the Panel reviewed the relevant UDRP decisions in relation to consolidation in multiple respondent's cases and extracted the following general principles:

1. Consolidation of multiples registrants as respondents in a single administrative proceeding may in certain circumstances be appropriate under paragraphs 3(c) or 10(e) of the Rules provided the complainant can demonstrate that the disputed domain names or the websites to which they resolve are subject to common control, and the panel having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.
2. The administrative provider should act as a preliminary gatekeeper in such cases by determining whether or not such complaints fulfill the requisite criteria. Once a case is admitted on a *prima facie*basis, the respondent has the opportunity to make its submissions on the validity of the consolidation together with its substantive arguments. In the event that the panel makes a finding that the complaint has not satisfied the requisite criteria, the complainant is not precluded from filing the complaint against the individual named respondents.

See also Bayerische Motoren Werke AG v. MIKE LEE / WHOISGUARD PROTECTED, WHOISGUARD, INC., Yang Xiao, Xiao Yang, Ning Li, Li Ning, MIKE LEE, WIPO Case No. D2016 2268; General Electric Company v Marketing Total S.A. WIPO Case No. D2007-1834.

A complainant bears the onus of proof.

It is, therefore, important for a complainant to adduce evidence that establishes a common ownership or control that is being exercised over the disputed domain names or the websites to which the disputed domain names resolve.

Typically, the evidence would show that there are some matching details including entities, addresses, telephone numbers, and/or email accounts.

In undertaking this analysis, the Panel refers to the table of disputed domain names set out in the Factual Background section.

The contact details for the disputed domain names were initially unknown to the Complainant but the Registrars of the disputed domain names have disclosed the details of the registrants.

There are thirteen disputed domain names that appear to have been registered with different registrars as follows:

- Alibaba Cloud Computing Ltd
- Chengdu West Dimension Digital Technology Co. Ltd
- Hongkong Kouming International Limited
- Xin Net Technology Corporation

The Complainant contends that the disputed domain names are subject to common control based on the following circumstances:

- Commonalities between the disputed domain names.
- The websites to which the disputed domain names resolve.
- Their overall use which demonstrates that the disputed domain names are interconnected as part of an organized infringement network.

The Panel accepts that the disputed domain names relate to the Complainant’s famous trademarks "HARLEY", “HARLEY-DAVIDSON” or “HD”.

With the exception of one disputed domain name registered on May 17, 2023, each of the remaining twelve disputed domain names was registered between September 17, 2023 and October 13, 2023.

The Panel analysed the email domains of the Respondents and the telephone numbers and set out its findings in the table below.

First Name	Last Name	Email	Domain Name	Telephone

Yanzhi	Jun	linneahjxgy64@gmail.com	h-d120thanniversary.com	+86 159 60530963
Lu	Tao	tonytt2023@outlook.com	harley-davidso.com	+86 189 98087092
Shi	Jin Dou	feestpyh29@gmail.com	harley-davidsonn.com	+86 159 60530963
Zhang	Qin	carissapkcyi53@gmail.com	harleydavidsonn.com	+86 159 60530963
Fu	Hao	cujingpaiyi@126.com	arleys-davidsion.com harleysdavidsons.com	+86 195 21982478
Huang	Ming Hui	suofu21579636@126.com	harleysdavidson.com	+86 186 75650627
Zhu	Bin	759791334@qq.com	harleydavidsons.shop harleysdavidson.shop	[+86] 131 92273898
Xu	Yu	177857365@qq.com	harleydvstore.shop	[+86] 130 73090374
Lu	Zhang	lumia0215@gmail.com	harleydavison.shop harleysdavidsons.shop	+86 130 73090374
Hao	Fu	cujingpaiyi@126.com	hd-120anniversary.com	+86 195 21982478

The Respondents Fu Hao and Hao Fu are likely to be the same person with the First Name and Last Name in reverse order. The email addresses and telephone numbers are identical. While the Registrars are different – Hong Kong Kouming International Limited and Chengdu West Dimension Digital Technology Co., Ltd – the Respondents appear to be located in Chongqing, China.

The Respondents Yanzhi Jun, Shi Jin Dou, and Zhang Qin appear to be located in different cities but their telephone numbers are identical.

The telephone numbers for Xu Yu and Lu Zhang are identical, noting that for the Respondent Xu Yu the country code “+86” was omitted. The same omission is also reflected in the Respondent Zhu Bin. The Respondents appear to be located in different cities.

As previously mentioned, the disputed domain name <harleydvstore.shop> was registered on May 17, 2023 but it appears that the Respondent Xu Yu and the Respondent Lu Zhang, who registered the disputed domain names <harleydavison.shop> and <harleysdavidsons.shop> on October 23, 2023, have identical telephone numbers.

Given the commonalities between the disputed domain names; the identical telephone numbers; the use of various email domains, gmail.com, 126.com, qq.com; and having regard to all the relevant circumstances, the Panel infers that the disputed domain names are likely to be subject to common control and are interconnected as part of the organized infringement network.

The Panel is also prepared to infer, having regard to all the relevant circumstances, that the Respondents Lu Tao, Huang Ming Hui, and Zhu Bin are interconnected as part of the organized infringement network.

The Panel also considers that it highly unusual for individuals whose names are different from one another to register the respective disputed domain names within such a short period of time from each other, including having identical telephone numbers. The strong inference here is that they were registered in this manner to conceal the true identity of the registrant.

The Panel also considers compelling that the websites to which the disputed domain names resolve are selling the counterfeit or otherwise unauthorised goods bearing the Complainant's trademarks.

This prima facie demonstrates the interconnectedness and coordination of an organized network, as contended by the Complainant, seeking to exploit the Complainant's rights. While this is not a trademark infringement case, the Panel considers that this conduct shows blatant disregard of the Complainant's trademark rights for the sole purpose of unlawful commercial exploitation through an organized infringement network.

Thus, the Panel is satisfied that, on the balance of probabilities, the thirteen disputed domain names are owned or under the effective control of a single person or entity, or a group of individuals acting in concert as an organized infringement network.

The Panel considers consolidation to be procedurally efficient, fair, and equitable to deal with as a single proceeding.

B. Language of proceedings request

The Complainant requests that English should be the language of the proceeding rather than Chinese, for the following reasons:

English Website Content

The disputed domain names' website content is entirely in English, which implies that the Respondents have a good understanding of the English language, enough to comprehend the Complaint. The Complainant relies on the consistency of previous Panels ruling in favor of English when the website content is in English further supports this request. See PaySendGroup Limited v Quan Zhongjun, Quan Zhong Jun (2023) CAC 104808.

Currency Indication

The products on the Respondents' websites are offered in USD, a currency of an English-speaking country. This serves as evidence that the Respondents understand and operate in the English language.

Common English Words in disputed domain names

The disputed domain names in question include common English words such as "store" and "anniversary," indicating the Respondents' engagement with the English language.

Cost and Delay Concerns

Translating the Complaint into Chinese would lead to unnecessary delays and significant expenses for the Complainant. Imposing additional translation costs would be contrary to the Policy's intent of efficiency and cost-effectiveness.

Paragraph 11(a) of the UDRP rules states:

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.

In conducting the administrative proceeding, the Panel is required to ensure under Rule 10 of the UDRP rules that the Parties are treated with equality and be given a fair opportunity to present its case.

The Respondents have not filed any administratively compliant response to the Complainant's Amended Complaint.

On balance, the Panel considers the proceedings can proceed in the English language given the disputed domain names use the famous English language trademarks "HARLEY", "HARLEY-DAVIDSON", "HD". Some of the Respondents also combined with an English language generic words and numbers "120", "120th", "Anniversary", that focuses on selling counterfeit or unauthorized products as alleged by the Complainant.

In the circumstances, the Panel accepts the Complainant's request and considers that it is appropriate to proceed to determine the proceeding in the English language.

C.Notification of proceedings sent to the Respondent

When forwarding a Complaint, including any annexes, electronically to the Respondent, paragraph 2 of the Rules states that CAC shall employ reasonably available means calculated to achieve actual notice to the Respondent.

Paragraphs 2(a)(i) to (iii) set out the sort of measures to be employed to discharge CAC's responsibility to achieve actual notice to the Respondent.

On December 27, 2023 the CAC by its non-standard communication stated as follows (omitting irrelevant parts):

The e-mail notice sent to <postmaster@h-d120thanniversary.com>,<postmaster@harley-davidso.com>,<tonytt2023@outlook.com>,

<postmaster@harley-davidsonn.com>, <postmaster@harleydavidsonn.com>,<postmaster@hd-120anniversary.com>, <cujingpaiyi@126.com>,<postmaster@harleysdavidsons.com>,<postmaster@harleys-davidsion.com>, <postmaster@harleysdavidson.com>,<postmaster@harleydavidsons.shop>, <postmaster@harleysdavidson.shop>, <postmaster@harleydavison.shop>,<postmaster@harleysdavidsons.shop>,<postmaster@harleydvstore.shop> was returned back undelivered as the e-mail address had permanent fatal errors.

The e-mail notice was also sent to <postmaster@harley-davidso.com>, <tonytt2023@outlook.com>, <linneahjxgy64@gmail.com>, <feestpyh29@gmail.com>,<carissapkcyi53@gmail.com>,<suofu21579636@126.com>,<759791334@qq.com>, <lumia0215@gmail.com>,<177857365@qq.com>,<> but we never received any proof of delivery or notification of undelivery.

Further e-mail address could be found on the disputed site to which the information about the proceeding were sent.

The Respondents never accessed the online platform.

Given the reasonable measures employed by CAC as set out in the above non-standard communication, 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **h-d120thanniversary.com**: Transferred
2. **harley-davidso.com**: Transferred
3. **harley-davidsonn.com**: Transferred
4. **harleydavidsonn.com** : Transferred
5. **harleys-davidsion.com**: Transferred
6. **harleysdavidsons.com** : Transferred
7. **harleysdavidson.com** : Transferred
8. **harleydavidsons.shop**: Transferred
9. **harleysdavidson.shop**: Transferred
10. **harleydvstore.shop**: Transferred
11. **harleydavison.shop**: Transferred
12. **harleysdavidsons.shop**: Transferred
13. **hd-120anniversary.com**: Transferred

PANELLISTS

Name	**William Lye OAM KC**

DATE OF PANEL DECISION 2024-01-01

Publish the Decision