# Decision for dispute CAC-UDRP-106463

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| Case number | CAC-UDRP-106463 |
| Time of filing | 2024-04-19 14:15:07 |
| Domain names | shopaccgenshin24h.com |

## Case administrator

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| Organization | Iveta Špiclová (Czech Arbitration Court) (Case admin) |

## Complainant

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| Organization | miHoYo Co., Ltd. |

## Complainant representative

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| Organization | Zacco Sweden AB |

## Respondent

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| Name | Vu dinh khanh |

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 has demonstrated ownership of rights in the trademark GENSHIN IMPACT for the purposes of standing to file a UDRP complaint.

The Complainant is the owner of trademark registrations for GENSHIN IMPACT, including the following, as per trademark registration details submitted as annexes 6.1 and 6.2 to the Complaint:

- International trademark registration No. 1652156 for GENSHIN IMPACT (word mark), registered on August 11, 2021, in classes 9, 14, 16, 20, 25, 35, 38, 41, 42 and 45;

- International trademark registration No. 1635794 for GENSHIN IMPACT (word mark), designating amongst others Vietnam, on August 11, 2021, in classes 9, 14, 16, 20, 25, 35, 38, 41, 42 and 45.

FACTUAL BACKGROUND

The Complainant is a Chinese video game development company founded in 2011 and specialized in the development of a wide range of game products including GENSHIN IMPACT, Honkai Impact 3rd, Tears of Themis, Honkai: Star Rail, and Zenless Zone Zero.

With around 5.000 employees worldwide, over time the Complainant and its subsidiaries also launched the dynamic desktop software N0va Desktop and created a variety of products such as animations, comics, music, novels, and merchandise around its original creative concepts.

The Complainant is committed to research and development, exploring cutting-edge technologies and accumulating world-leading technical capabilities in cartoon rendering, artificial intelligence, cloud gaming technology and other fields.

GENSHIN IMPACT is an action role-playing game launched by the Complainant and its affiliates. It was released for Android, iOS, PlayStation 4, and Windows in 2020, and on PlayStation 5 in 2021. The game features an anime-style open-world environment and an action-based battle system using elemental magic and character-switching. The development of GENSHIN IMPACT began in 2017. The game has received positive reviews obtaining a gross revenue of more than $1 billion by the end of 2022.

The Complainant is also the owner of domain names constituted by the verbal element GENSHIN IMPACT, the main one being <genshinimpact.com>, which was registered on June 7, 2019.

The disputed domain name <shopaccgenshin24h.com> was registered on July 28, 2022, and resolves to a website in which visitors are offered to buy accounts or top-ups for the GENSHIN IMPACT game and other games of the Complainant. The website features several of the Complainant's images, which have been slightly edited.

## PARTIES CONTENTIONS

### COMPLAINANT

The Complainant contends that the disputed domain name <shopaccgenshin24h.com> is confusingly similar to the trademark GENSHIN IMPACT in which the Complainant has rights as it reproduces the most distinctive part of the trademark, GENSHIN, in its entirety, along with the non-distinctive elements "shop", "24h" and "acc" (the latter of which purportedly refers to "accounts"), and the generic Top Level Domain (gTLD) ".com".

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name since: i) the Respondent is not commonly known by the disputed domain name; ii) the Complainant is in no way related to the Respondent iii) the Respondent has in no way been authorized or allowed by the Complainant to use the GENSHIN IMPACT mark in any way; iv) the Respondent has purposely failed to include a disclaimer on the website as to his lack of affiliation with the Complainant and v) the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, since he has intentionally chosen the disputed domain name, based on the Complainant's trademark, in order to generate traffic and income through a commercial website which, via the use of the Complainant's own content, implies a connection with the Complainant and its mark.

The Complainant claims that the Respondent registered the disputed domain name in bad faith because: i) the disputed domain name was registered after the Complainant's registration of the trademark GENSHIN IMPACT, which is protected also in Vietnam; ii) it is clear that it is the fame and value of the GENSHIN IMPACT trademark that has motivated the Respondent to register the disputed domain name; and iii) since the disputed domain name resolves to a website which is partly copying the Complainant's own content and is directly referring to the Complainant's products and services, the Respondent was fully aware of the Complainant and its trademark.

The Complainant further submits that, by pointing the disputed domain name to a website reproducing the Complainant's designs and images and likely aimed at obtaining money by selling GENSHIN IMPACT gaming accounts or top-ups to internet users, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

The Complainant also states that it sent a take-down request of the Respondent's website to the concerned hosting provider and asserts that, notwithstanding the fact that the Respondent presumably received copy of such communication, he opted to ignore the Complainant's communication.

### RESPONDENT

No administratively compliant Response has been filed.

## 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 Complainant has provided evidence of ownership of valid trademark registrations for GENSHIN IMPACT.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark GENSHIN IMPACT as it reproduces the core of the Complainant's mark, consisting of the term GENSHIN, with the addition of the generic term "shop", the number "24", the letter "h" (likely standing for "hours") and "acc" (presumably referring to "accounts"), which are not distinguishing features.

As to the gTLD ".com", as established in a number of prior UDRP cases, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

The Panel notes that, based on the records, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register and use its trademark GENSHIN IMPACT or to register the dispute domain name. Moreover, there is no evidence that the Respondent may have rights in the disputed domain name or may be commonly known by a name corresponding to the disputed domain name.

As highlighted above, the disputed domain name, confusingly similar to the Complainant's trademark, is currently pointing to an active website in which users are offered to buy accounts or top-ups for the GENSHIN IMPACT game and other games of the Complainant. The website also reproduces several edited versions of the Complainant's own images and does not include any disclaimer apt to inform users of the Respondent's lack of affiliation with the Complainant. The Panel finds that the Respondent's use does not amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name without intention to misleadingly divert the consumers or to tarnish the Complainant's trademark.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark GENSHIN IMPACT in connection with the Complainant's game and the popularity reached by the GENSHIN IMPACT game in short time, the Respondent was or could have been aware of the Complainant and its trademark when he registered the disputed domain name in July 2022.

The Panel further notes that considering the disputed domain name has been pointed to a website featuring images of the Complainant's games and offering users the possibility to acquire GENSHIN IMPACT gaming accounts or top-ups, the Respondent was clearly aware of the Complainant's trademark at the time of registration and registered the disputed domain name to target the Complainant and its trademark.

In view of the content of the website described above and since the Respondent has failed to publish a clear and prominent disclaimer of non-affiliation with the Complainant, the Panel finds that the Respondent is using the disputed domain name to intentionally attempting to attract internet users to his website, for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of his website, according to paragraph 4(b)(iv) of the Policy.

In view of the above, the Panel finds the Respondent registered and is using the disputed domain name in bad faith according to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **shopaccgenshin24h.com**: Transferred

## PANELLISTS

| Name | **Luca Barbero** |
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DATE OF PANEL DECISION 2024-05-30

Publish the Decision