

Decision for dispute CAC-UDRP-107113

Case number **CAC-UDRP-107113**

Time of filing **2024-12-03 10:41:43**

Domain names **instantpotus.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **IB Appliances US Holdings, LLC**

Complainant representative

Organization **Stobbs IP**

Respondent

Name **Ao Li Xiang**

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

According to the evidence submitted by Complainant, Complainant is the owner of the trademark INSTANT POT, registered with the United States Patent and Trademark Office, registration number 6291537 and registration date 16 March 2021.

FACTUAL BACKGROUND

According to the information provided the disputed domain name <instantpotus> was registered on 9 August 2024.

According to the information provided by Complainant the disputed domain name currently does not resolve to an active website. Previously it resolved to a website which offered for sale counterfeit products of Complainant.

PARTIES CONTENTIONS

Complainant:

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

According to the evidence submitted by Complainant, Complainant produces and markets the INSTANT POT branded multicooker since 2008 and it has gained widespread acclaim and commercial success. The INSTANT POT brand has extensive reach offering its products and services worldwide. Complainant has an active online presence including owning the domain name <instantpot.com> which is used for the main operating website, the website being live since at least as early as May 2009.

The registration agreement for the disputed domain name is Chinese. Complainant requests that the proceeding is in English. Complainant submits that the content of the website to which the disputed domain name resolves is written entirely in English. Therefore, it is reasonable to infer that Respondent must have a good grasp of the English language such that he would be able to understand the language of the Complaint. Complainant further submits that the products offered on Respondent's website, are offered in USD, a currency which relates to an English speaking country, which again, is evidence that Respondent understands the English language.

Complainant submits that the disputed domain name is confusingly similar to Complainant's INSTANT POT trademark. The disputed domain name includes Complainant's INSTANT POT mark as the dominant element, along with a non-distinctive term "US". Inclusion of the non-distinctive term does nothing to alter the overall impression in the eyes of the average Internet user.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant submits that Respondent previously had used the disputed domain name to resolve to an active website. Historical records show Respondent's propensity to use the disputed domain name for malicious activity and therefore there is an ongoing risk to Complainant that the disputed domain name will actively be configured for such use. The website under the disputed domain name has offered counterfeit goods targeting Complainant. These offers for sale show that Respondent has operated its website for commercial gain. For the avoidance of doubt, Respondent does not have authorization nor consent from Complainant. Upon information and belief, Complainant also submits that Respondent has never legitimately been known by the name INSTANT POT at any point in time.

According to Complainant the disputed domain name was registered and was being used in bad faith. Complainant reiterates the comments made above that the trade mark pre-dates the registration of the disputed domain name and that the INSTANT POT brand enjoys a wide reputation. Furthermore, Respondent was unequivocally aware of the INSTANT POT brand given Respondent's website under the disputed domain name substantial use of INSTANT POT brand assets in order to sell counterfeit and competing goods. Therefore, Complainant submits that Respondent had knowledge of the INSTANT POT brand and that the disputed domain name was registered with the sole purpose of targeting Complainant's trademark.

Respondent:

No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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 decides in accordance with paragraph 11(a) of the UDRP Rules that English is the language of the proceeding for the disputed domain name. In accordance with section 3.3. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") the Panel takes into account that the website corresponding to the disputed domain name includes Complainant's well-known trademark, and is in the English language. Finally, the Panel notes that there is lack of reaction on the part of Respondent after having been given a fair chance to comment.

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's INSTANT POT trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the relevant trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of trademark registrations for INSTANT POT. The disputed domain name incorporates the entirety of the well-known INSTANT POT trademark as its distinctive element. The addition of the geographical term "us" is insufficient to avoid a finding of confusing similarity. The Top-Level Domain ("gTLD") ".com" in the disputed domain names may be disregarded.

The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In addition Complainant has demonstrated that the disputed domain name resolved to a website where counterfeit INSTANT POT branded products were offered for sale which does not represent a bona offering of goods or services.

Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the INSTANT POT trademark. Respondent knew or should have known that the disputed domain name includes Complainant's well-known mark.

The Panel notes that the disputed domain name currently does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).

The Panel also notes the undisputed submission of Complainant, supported by evidence, that the disputed domain name previously resolved to a website which incorporates Complainant's trademark in its entirety and which sells counterfeit INSTANT POT branded products, which indicates that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **instantpotus.com**: Transferred

PANELLISTS

| | |
|------|----------------------------------------------------|
| Name | Dinant T.L. Oosterbaan (Presiding Panelist) |
|------|----------------------------------------------------|

DATE OF PANEL DECISION 2025-01-07

Publish the Decision
