Decision for dispute CAC-UDRP-107028

Case number	CAC-UDRP-107028
Time of filing	2024-11-11 09:50:18
Domain names	klingxai.com, klingdow.com, klingxai.xyz, klings-ai.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Beijing Dajia Internet Information Technology Co., Ltd.
Organization	Beijing Kuaishou Technology Co., Ltd.

Complainant representative

Organization	Chofn Intellectual Property

Respondent

Name	Phan Van Thuong

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 1st Complainant states that it holds exclusive and prior rights to the KLING trade mark in China and the United Kingdom. It produced registrations certificates for these marks:

1. United Kingdom trademark registration No. UK00004072097 for KLING, registered on July 5, 2024;
2. China trademark registration No. 77360350 for kwai k-ling, registered on September 7, 2024;
3. China trademark registration No. 77365633 for kwai k-ling, registered on September 7, 2024; and
4. China trademark registration No. 77376398A for k-ling, registered on September 28, 2024.

FACTUAL BACKGROUND

The 1st Complainant, established in 2014 is an “indirect wholly-owned subsidiary” of the 2nd Complainant (collectively, the “Complainants”). The Complainants are technology companies in the artificial intelligence, big data analysis, and audio- visual video

technology industry. The Complainants state that Kling is a large model of video generation model developed by the 2nd Complainant's AI team, with powerful video generation capabilities, allowing users to easily complete artistic video creation. They state that due to their large user base, KLING has been widely noticed by both the industry and the public since its launch date on June 6, 2024, with extensive media coverage.

The Complainants own and operates in official domain names, <kling.kuaishou.com> and <kilingai.com>, of which, the latter was registered on March 26, 2024.

The Respondent is Phan Van Thuong of 54/4 Qui The, HCM, HCM, 700000, Vietnam.

The disputed domain names registered by the Respondent are:

- <klingxai.com>, registered on September 19, 2024;
- <klingdow.com>, registered on September 29, 2024;
- <klingxai.xyz>, registered on September 19, 2024; and
- <klings-ai.com>, registered on October 17, 2024.

At the time of filing the Complaint, the disputed domain names resolved to various web pages, one of which resembles the Complainants' official websites (www.klingxai.com and www.kling.kuaishou.com), while others returned a 404 error (<kingxai.xyz>), or showed a picture of a woman (<klingdow.com>), or to a CAPTCHA verification page (<klings-ai.com>).

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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

No administratively compliant Response has been filed.

RIGHTS

The Complainants have, to the satisfaction of the Panel, shown the disputed domain names are confusingly similar to a trademark or service mark in which the Complainants have rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainants have, to the satisfaction of the Panel, shown the Respondent 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).

BAD FAITH

The Complainants have, to the satisfaction of the Panel, shown 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).

PROCEDURAL FACTORS

LANGUAGE OF THE PROCEEDINGS

The language of the registration agreements is Vietnamese.

The Complainants requested that the language of proceedings shall be in English. The reasons provided are that:

- Although the disputed domain name Registrar is located in Vietnam, the Registrar provided an English interface for users to choose from and an English version of the registration agreement;
- The web pages to which the disputed domain names resolve are in English, which indicates that the Respondent has the ability to read and write in English and can understand the Complaint and its attachments;

- If the language of the proceedings were to be in Vietnamese, the Complainants will have to bear a great burden of translation. On the other hand, English is an international language.

Having considered all circumstances of the case and points made by the Complainants, the Panel determines that it would be fair and equitable to all parties for the language of the proceedings to be English. The Respondent could have voiced his/her objections but did not and therefore the Panel does not see any merit in placing a costly burden on the Complainants to incur the costs of translation into Vietnamese, which would also delay the administrative proceeding.

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

PRINCIPAL REASONS FOR THE DECISION

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainants have provided evidence that they own registered trademark rights in the UK to the trade mark KLING. The Panel does not consider the other Chinese trademark registrations for “kwai k-ling” and “k-ling” to be relevant to the dispute in this case as they are not the trade mark KLING which is the basis for the Complaint.

The disputed domain names contain the entirety of the Complainants’ KLING trade mark with the addition of various suffixes, “xai“, “dow”, and “s-ai”. The entirety of the Complainants’ KLING trade mark is incorporated and recognizable within the disputed domain names. The addition of the various meaningless suffixes does not prevent a finding of confusing similarity. See sections 1.7 and 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”).

Consequently, the Panel finds that the Complainants have shown that the disputed domain names are confusingly similar to the KLING trade mark in which the Complainants have rights.

B. Rights or Legitimate Interests

Once a complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainants have demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain names. The Complainants provided evidence that they own trademark rights in the KLING mark before the date that the disputed domain names were registered. The Respondent is not affiliated with the Complainants and was not licensed or otherwise authorized by the Complainants to use the Complainants’ KLING trade mark or to register it in a domain name.

The Respondent did not submit a formal Response and did not provide any explanation or evidence to show he/she has rights or legitimate interests in the disputed domain names which would be sufficient to rebut the Complainants’ prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

The Complainants must also show that the Respondent registered and is using the disputed domain names in bad faith (see Policy, paragraph 4(a)(iii)).

The Panel is persuaded that the Respondent knew of the Complainants and their KLING trade mark as a result of the media publicity and specifically targeted it for bad faith use purposes. The deliberate selection of the various combinations of the disputed domain names incorporating the distinctive word “Kling” and the mimicking of the Complainants’ official websites as evidenced by the <klingxai.com> website are indicators of bad faith registration and use. The Respondent’s website at www.klingxai.com also prominently displays the Complainant’s logo. The Panel finds the circumstances to be in the nature of a classic case of cybersquatting, the Respondent’s intention being to “attract, for commercial gain, Internet users to [the Respondent’s] website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [its] web site or location or of a product or service on [its] website or location”.

The fact that one of the disputed domain names (<klingxai.xyz>) returns a 404 error and resolves to an inactive webpage does not prevent a finding of bad faith under the doctrine of passive holding. See WIPO Overview 3.0, section 3.3.

The Panel therefore concludes that the disputed domain names were registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klingxai.com**: Transferred
2. **klingdow.com**: Transferred
3. **klingxai.xyz**: Transferred
4. **klings-ai.com**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2025-01-11

Publish the Decision