Decision for dispute CAC-UDRP-107372

Case number	CAC-UDRP-107372
Time of filing	2025-03-12 08:57:13
Domain names	geekbari.com, geekbarcm.com, geekbarz.com

Case administrator

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

Complainant

Organization	Guangdong Qisitech CO., LTD.

Complainant representative

Organization	Chofn Intellectual Property

Respondent

Name	Xiao Chun Liu

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 owner of the following registrations for the trademark "GEEK BAR", designating the goods of "cigarettes and electronic cigarettes" in classes 34:

- China Registration No. 45380452, registered on January 7, 2021;
- US Registration No. 6275589, registered on February 23, 2021;
- EU Registration No. 018225081, registered on August 26, 2020;
- International Registration No. 1676896, registered on June 8, 2022, covering Syria and Iran.

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant was established in 2016 and focuses on the development, production, as well as sales of "GEEK BAR" disposable

electronic smokable brand. "GEEK BAR" is known as a disposable electronic cigarettes' atomization brand, adhering to the ultimate pursuit of quality and taste. The product sells well in Russia, the United States, the Middle East, Europe and other countries, and provides cigarette replacement solutions for hundreds of millions of users around the world.

B. Respondent's Factual Allegations

The Respondent has defaulted in this UDRP administrative proceedings and has consequently made no factual allegations.
The Respondent is Xiao Chun Liu based at the address of Nan Ning Shi Xi Xiang Tang Qu Huo Ju Yi Zhi Lu, Guang Xi, Post Code 530001.

The disputed domain names were registered by the Respondent, as confirmed by the Registrar:

<geekbari.com>: June 7, 2024

<geekbarcm.com>: December 12, 2024

<geekbarz.com>: December 30, 2024

As at the time of filing of the Complaint, the disputed domain name <geekbari.com> resolved to a website that offers electronic cigarettes, which are the same product of the Complainant's offer. As at the time of filing of the Complaint, the disputed domain names <geekbarcm.com> and <geekbarz.com> were not in use.

PARTIES CONTENTIONS

A. COMPLAINANT

Language of the Proceedings

With respect to the language of the proceedings, the Panel notes as follows:

• The Complaint was written in English;
• According to the registrar's verification response ('the RVR'), the language of the registration agreement for the disputed domain names is Chinese;
• Following the RVR, and at the request of CAC, the Complainant submitted a request for English to be the language of this administrative proceedings, on the following grounds:

According to 8. Art. 11 of the Rules: Language of Proceedings of the CAC's UDRP Supplemental Rules of the Czech Arbitration Court, all documents including communications made as part of the proceedings shall be made in the language of the proceedings or in English. Since the Respondent created an English website and has the ability to read English, in order to facilitate reading and understanding by CAC and subsequent expert group members, the Complainant requested CAC to agree that the language of the complaint in this case be English in accordance with 8. Art. 11 of the Rules.

Complainant´s contentions

I. The disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights

The Complainant contends that the disputed domain names <geekbari.com>, <geekbarcm.com> and <geekbarz.com> are identical or confusingly similar to the Complainant's trademark "GEEK BAR". They exactly reproduced the trademark "GEEK BAR", with the mere addition of letters "i", "cm" and "z".

II. The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names on the grounds:

The Complainant searched various national and regional trademark databases in the name of the Respondent and did not find that the Respondent had trademark rights in the name of "GEEK BAR". The Respondent is not in the identity of the Complainant's distributors or partners. The Complainant has never directly or indirectly authorized the Respondent to use the trademark "GEEK BAR" and the corresponding domain names in any form.

III. The Respondent registered and is using the disputed domain names in bad faith

The Complainant claims that the Respondent registered the disputed domain names in bad faith, because:

The trademark "GEEK BAR" has acquired a high degree of distinctiveness and a high level of popularity through the Complainant's extensive use. The Respondent and the Complainant are in the same location. The content of the websites of "www.geekbari.com" is identical to the content of the Complainant's website. Therefore, the Respondent was aware of the existence of the Complainant's trademark "GEEK BAR" prior to the registration of the disputed domain names.

The three domain names were all registered by the same entity. According to WIPO Jurisprudential Overview 3.0, Section 3.1.2, it is a pattern of bad faith conduct.

The Respondent has pointed the disputed domain name <geekbari.com> to the website related to the Complainant's business. The authenticity verification process of the electronic cigarettes in the Respondent's website is similar to that of the Complainant's website. Its webpage is exactly the same as the Complainant's webpage. All links on its webpage point to the Complainant's website, with the purpose of deliberately creating confusion and making consumers mistakenly believe that the electronic cigarettes they purchased are from the Complainant. The disputed domain name is actually impersonating or implying the sponsorship or recognition of the trademark owner, which is consistent with paragraph 4(b)(iv) of the Policy. And in conjunction with the bad faith use described above, it is possible to find that the Respondent acted in bad faith at the time of registration of the domain name.

Regarding the bad faith use of <geekbarcm.com> and <geekbarz.com>, although the disputed domain names are not in use, the Complainant argues that bad faith also arises from the Respondent's failure to use the disputed domain names. The act of "registering a domain name without using it" can itself be regarded as a kind of "passive use", which has the direct effect of preventing the Complainant from registering the same domain name with the same combination of letters. Under the passive holding doctrine, failure to use a domain name does not prevent the discovery of bad faith, which meets the "passive possession" principle.

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

B. RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

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

PROCEDURAL FACTORS

The language of the registration agreement is Chinese. The Complainant has requested that the language of proceedings be English.

The Panel is given discretion under Paragraph 11 of the Rules to determine the appropriate language of the administrative proceedings. Paragraph 10 of the Rules mentions that the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case. Based on the following factors, the Panel has decided that it would be fair and equitable to all parties to have the language of the proceedings be English:

- Complaint was written in English, an international language comprehensible to a wide range of internet users worldwide, including the ones living in China;
- The Respondent's website is an English language website, offering for sale of electronic cigarettes in English language;
- The Complainant has requested that the language of proceedings be English. The Respondent did not respond on the issue of the language of the proceedings and did not reject the Complainant's request.

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

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Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

(i) The disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) The disputed domain names have been registered and are being used in bad faith.

Based on the above regulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements are established. If all the three elements are established, the Panel will make a decision in favor of the Complainant. If the three elements are not established, the claims by the Complainant shall be rejected.

The Respondent did not submit the Response of any argument against what the Complainant claimed and to show his intention to retain the disputed domain names as required by the Policy and the Rules. If the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint. In view of the situation, the Panel cannot but make the decision based primarily upon the contentions and the accompanying exhibits by the Complainant, except otherwise there is an exhibit proving to the contrary.

I. Identity or Confusing Similarity

Pursuant to Paragraph 4(a) (i) of the Policy, a Complainant must prove that the domain names are identical with or confusingly similar to a trademark or service mark in which the Complainant has rights.

(1) Complainant should have rights in a trademark or service mark

The Complainant has provided evidence of ownership of valid trademark registrations for trademark “GEEK BAR”, which was registered in 2020, 2021 and 2022 on the goods of "cigarettes and electronic cigarettes" in class 34, covering China, US, EU, Syria and Iran. The trademarks are still valid and their registration dates are much earlier than the registration date of the disputed domain names, i.e. 2024. The Complainant therefore has rights in the trademark “GEEK BAR”.

(2) The domain names should be identical or confusingly similar to the trademark or service mark

The disputed domain names contain the Complainant's trade mark “GEEK BAR” in its entirety with the addition of the letters “i”, “cm” and “z”. WIPO Overview 3.0 paragraph 1.9 states that “a domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant’s trademark. In WIPO Case No. D2004-0971 (Fuji Photo Film U.S.A., Inc. v. LaPorte Holdings), the panelist mentioned that numerous panels in the past have found similarity to be present in the case of a deliberate misspelling of a mark (so-called “typo-squatting”), by adding, deleting, substituting or reversing the order of letters in a mark.

As to the generic Top Level Domain “.com”, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity. See WIPO Jurisprudential Overview 3.0, paragraph 1.11.1.

Therefore, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights according to paragraph 4(a)(i) of the Policy. Accordingly, the Complainant has proven that the first element required by paragraph 4(a) of the Policy is established.

II. Rights or Legitimate Interests of the Respondent

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names on the grounds: i) The Complainant searched various national and regional trademark databases in the name of the Respondent, but did not find that the Respondent had trademark rights in the name of "GEEK BAR". ii) The Respondent is not in the identity of the Complainant’s distributors or partners. iii) The Complainant has never directly or indirectly authorized the Respondent to use the trademark "GEEK BAR" and the corresponding domain names in any form.

Once the Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain names. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element. See WIPO Jurisprudential Overview 3.0, paragraph 2.1.

Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent’s rights or legitimate interests in a domain name. However, the Respondent has failed to meet that burden. The Respondent did not submit any evidence to demonstrate any of the above circumstances.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names. Accordingly, the Complainant has proven that the second element required by paragraph 4(a) of the Policy is established.

III. Bad Faith

The Complainant must prove under paragraph 4(a)(iii) of the Policy that the disputed domain name has been registered in bad faith and is being used in bad faith. Paragraph 4(b) of the Policy lists four alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

These examples are merely illustrative and are not meant to be exhaustive. Other circumstances may therefore lead to a finding of bad faith pursuant to paragraph 4(a)(iii) of the Policy.

A. The disputed domain names have been registered in bad faith

The Panel finds that the Respondent had knowledge of the Complainant’s trademarks at the time of registration of the disputed domain names, considering the following circumstances:

• WIPO Jurisprudential Overview 3.0 paragraph 3.2.2.mentions that noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark.

The Panel believes that before registration of the disputed domain names, the Respondent had made searches for the wording “GEEK BAR” and known it is the trademark of the Complainant.

• The Complainant claims that the trademark “GEEK BAR” has acquired a high degree of distinctiveness and a high level of popularity through the Complainant’s extensive use, and the Respondent and the Complainant are in the same location. The Complainant made Google search in respect of the wording “GEEK BAR” and most of the results point to the Complainant, which shows that “GEEK BAR” forms a strong correspondence with the Complainant's trademark “GEEK BAR”.

• The Respondent has pointed the disputed domain name <geekbari.com> to the website related to the Complainant's business, which means that the Respondent and the Complainant are in the same business sector.

• The Respondent registered three domain names and all of them includes the Complainant’s trademark.

In view of the Respondent’s internet searches, the distinctiveness and the popularity of the Complainant's trademark as well as the more domain names consisting of the Complainant's trademark, the Panel holds that the Respondent had knowledge of the Complainant’s trademarks at the time of registration of the disputed domain names. As the domain names would cause confusion to internet users, it should have avoided the registration, which is considered as good faith, rather it registered the disputed domain names. The Respondent deliberately sought to cause such confusion. Accordingly, the Panel finds that the disputed domain names have been registered in bad faith.

Typosquatting itself has been taken as evidence of bad faith registration and use by previous UDRP panels. In WIPO Case No. D2020-3457 (ArcelorMittal v. Name Redacted <arcelormltal.com>), the panelist mentioned: “The disputed domain name is an intentional misspelling of the Complainant’s ARCELORMITTAL trademark, as well as its <arcelormittal.com> domain name, and the Respondent is attempting to capitalize on typing errors committed by Internet users in trying to locate the Complainant on the Internet. In other words, it appears that the disputed domain name is a typosquatted version of the Complainant’s ARCELORMITTAL trademark and has intentionally been designed to closely mimic the Complainant’s trademark and its primary domain name <arcelormittal.com>”.

B. The disputed domain names are being used in bad faith

Paragraph 4(b) (iv) of the Policy states that the following circumstances in particular shall be evidence of registration and use of a domain name in bad faith: By using the domain name, the respondent has intentionally attempted to attract, for commercial gain, internet users to its 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 website or location or of a product or service on its website or location.

According to the above paragraph 4(b)(iv) of the Policy, the Complainant contends that the disputed domain name <geekbari.com> is being used in bad faith. The Panel supports the Complainant’s contention, based on the following factors:

• The disputed domain name resolved to the Respondent’s website related to the Complainant's business.

• The authenticity verification process of the electronic cigarettes in the Respondent’s website is similar to that of the Complainant’s website.

• The layout, design and content of the home page of the Respondent’s website is confusingly similar to those of the Complainant’s website. The Complainant’s trademark “GEEK BAR” and its device mark were used on the home page of the Respondent’s website.

The Complainant contends that all links on the Respondent’s webpage pointed to the Complainant's website, with the purpose of deliberately creating confusion and making consumers mistakenly believe that the electronic cigarettes they purchased are from the Complainant. The disputed domain name is actually impersonating or implying the sponsorship or recognition of the trademark owner, which is consistent with paragraph 4(b)(iv) of the Policy.

The Panel agrees with the Complainant’s contention. Considering the above factors, the Panel finds that the disputed domain name <geekbari.com> is being used in bad faith, which meets the circumstance mentioned in Paragraph 4(b) (iv).

Regarding the bad faith use of <geekbarcm.com> and <geekbarz.com>, although the disputed domain names are not in use, the Complainant argues that bad faith also arises from the Respondent's failure to use the disputed domain names.

WIPO Jurisprudential Overview 3.0 paragraph 3.3 mentions that from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. See WIPO Case No. D2017-0246, <docmartens.xyz>, “Dr. Martens” International Trading GmbH and “Dr. Maertens” Marketing GmbH v. Godaddy.com, Inc. See WIPO Case No. D2000-0003, <telstra.org>, Telstra Corporation Limited v. Nuclear Marshmallows.

In this case, the Panel is convinced that the above four circumstances apply to this case. The overall circumstances of this case strongly suggest that the Respondent’s non-use of the domain names is in bad faith.

Regarding the Complainant’s contention on bad faith, the Respondent should rebut it, but it did not make any response, which strengthened the Panel’s findings on its bad faith.

In view of all above, the Panel finds that the disputed domain names have been registered and are being used in bad faith according to paragraph 4(a)(iii) of the Policy. Therefore, the Complainant has proven that the third element required by paragraph 4(a) of the Policy is established.

Decision

For all the foregoing reasons, in accordance with paragraph 4(a) of the Policy and Rule 15 of the Rules, the Panel orders that the disputed domain names <geekbari.com>, <geekbarcm.com> and <geekbarz.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **geekbari.com**: Transferred
2. **geekbarcm.com**: Transferred
3. **geekbarz.com**: Transferred

PANELLISTS

Name	**Yunze Lian**

DATE OF PANEL DECISION 2025-04-22

Publish the Decision