Decision for dispute CAC-UDRP-107497

Case number	CAC-UDRP-107497
Time of filing	2025-04-17 15:22:51
Domain names	vitamiwell.com

Case administrator

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

Complainant

Organization	VITAMIN WELL AB

Complainant representative

Organization	SILKA AB

Respondent

Name	jiang wei wei

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 is the owner of various trademark registrations for VITAMIN WELL, including the following:

- United Kingdom trademark registration No. UK00906896831, registered on January 28, 2009;
- European Union trademark registration No. 006896831, registered on January 28, 2009;
- Swedish trademark registration No. 408367, registered on December 12, 2009;
- International trademark registration No. 1055257, registered on August 11, 2010; and
- Canadian trademark registration No. TMA1025634, registered on June 17, 2019.

The Complainant is the owner of various domain names, including its primary domain name, <vitaminwell.com>, registered on May 4, 2008.

The Respondent registered the disputed domain name on February 12, 2025, and at the time of filing of the Complaint, it resolved to an inactive webpage.

FACTUAL BACKGROUND

The Complainant is a market leader in the food and beverage business that develops, markets and sells premium products for health-conscious and active consumers. It was established in 2006 and is headquartered in Stockholm. In 2024, the Complainant had more than 600 employees and a revenue of around 650 million Euros.

One of the Complainant's core brands is VITAMIN WELL, which is developed as a healthier and tastier alternative to traditional sodas and sweet juices. It is available in over 40 markets, including Europe, the Middle East, North Africa, and some Asian countries.

PARTIES CONTENTIONS

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

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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.

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Rules"), paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceedings be English since the disputed domain name consists of Roman characters, and the disputed domain name consists of two English words, "vitamin" (with the omission of the letter "n") and "well", which shows that the Respondent is familiar with the English language. The Complainant is located in Sweden and has no knowledge of the Chinese language. On the other hand, English is the primary language for international relations. Further, in order to proceed in Chinese, the Complainant would have to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings. The use of Chinese in this case would therefore impose a burden on the Complainant which must be deemed significant in view of the low cost of these proceedings.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the language/script of the domain name particularly where the same as that of the complainant's mark, unwarranted delay, and evidence showing that the respondent can understand the language of the complaint (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 4.5.1).

Having considered the circumstances of this case including the composition of the disputed domain name which contains the English words "vitamin" and "well" (albeit "vitamin" is misspelt), the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. There does not appear to be any reason which warrants a delay and additional expense in ordering the Complainant to translate the Complaint.

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 trade mark or service mark in which the complainant has rights.

A registered trade mark provides a clear indication that the rights in the mark shown on the trade mark certificate belong to its respective owner. The Complainant has provided evidence that it owns registered trademark rights in VITAMIN WELL.

In this case, the disputed domain name comprises the entirety of the Complainant's VITAMIN WELL trade mark with the omission of the letter "n" in "vitamin". It is well established that where a domain name consists of an intentional mis-spelling of a complainant's trade mark and the trade mark is sufficiently recognizable, the domain name would be considered to be confusingly similar to the relevant trade mark for the purposes of the first element of the Policy (see WIPO Overview 3.0, section 1.9.).

The Panel finds that the VITAMIN WELL trade mark is recognizable in the disputed domain name and that the omission of the letter "n" is insufficient to prevent a finding of confusing similarity with the Complainant's VITAMIN WELL trade mark.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trade mark in which the Complainant has 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 Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns registered trademark rights in the VITAMIN WELL mark long before the date that the disputed domain name was registered. Further, there is no evidence that the Respondent was licensed or otherwise authorized by the Complainant to use the Complainant's VITAMIN WELL trade mark or that the Respondent is commonly known by the disputed domain name.

At the time of the filing of the Complaint, the disputed domain name resolved to an inactive webpage. There is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trade mark.

The Respondent did not submit a Response and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

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

C. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

This appears to be a typical case of typosquatting. The disputed domain name reproduces the well-established VITAMIN WELL trade mark in its entirety, with the omission of the letter "n". It is not plausible that the Respondent was unaware of the Complainant and its trade mark when he registered the disputed domain name. Panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. (See WIPO Overview 3.0, section 3.1.4.).

The fact that the disputed domain name resolves to an inactive webpage does not prevent a finding of bad faith. Under the doctrine of passive holding, factors which can be considered include the degree of distinctiveness or reputation of the complainant's mark, the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain name may be put. (See WIPO Overview 3.0, section 3.3.). Taking into account the totality of the circumstances in this case, the Panel finds that the disputed domain name has been registered and used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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. **vitamiwell.com**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2025-05-28

Publish the Decision