



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201621
First Complainant:	VELCRO BVBA
Second Complainant:	VELCRO IP HOLDINGS LLC
Respondent:	Dongguan Quwin Textile Co., Ltd. / qu wei
Disputed Domain Name:	<quwinvelcro.com>

1. The Parties and Contested Domain Name

The First Complainant is VELCRO BVBA, of Industrielaan 16, Deinze 9800, Belgium.

The Second Complainant is VELCRO IP HOLDINGS LLC, of 95 Sundial Avenue, Manchester, NH, 03103, USA.

The Complainants' Representative is China Sinda Intellectual Property Services (Beijing) Company Limited, of 11th Floor, Tower B, Focus Place, 19 Financial Street, Beijing 100033, China.

The Respondent is Dongguan Quwin Textile Co., Ltd., of No. 7 Tianbian Heyi Road, Shipai Town, Dongguan City, Dongguan, Guangdong 510000, CN.

The domain name at issue is <quwenvelcro.com>, registered by Respondent with eNom, Inc., at URL: www.enom.com.

2. Procedural History

On 12 May 2022, the Complainants submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Center ("Center"), pursuant to the Uniform Domain Name Dispute Resolution Policy ("Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on 26 August 1999, the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of directors on 28 September 2013 ("Rules"), and the Asian Domain Name Dispute Resolution Centre Supplemental Rules to the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules"). The Center confirmed receipt of the Complaint on 12 May 2022. The Complainants elected that a single panelist decide this case.

On 12 May 2022, the Center transmitted by email to the Registrar, eNom, Inc., a request for registrar verification of the disputed domain name.

On 12 May 2022, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the Registrant and providing contact details as: telephone and fax +86.76982668004 and email dgqw8@158.net.

On 16 May 2022, the Center notified the Complainants by email that the Complaint, as originally submitted, did not name Respondent as the Registrant. On 17 May 2022, Complainant submitted timely, in accordance with paragraph 4 (b) of the Rules, an Amended Complaint (“Complaint”), with exhibits.

On 20 May 2022, the Center transmitted the Complaint and evidence to the Respondent by email to the Respondent’s registered email addresses, requesting that the Respondent submit a Response within 20 calendar days, further specifying the due date as being on or before 9 June 2022.

Since the Respondent defaulted and did not mention the panel selection in accordance with the time specified in the Rules, the Supplemental Rules, and the Notification, the Center informed the Complainants and the Respondent by email on 10 June 2022, that the Center would appoint a single-member panel to proceed to render the decision.

On 10 June 2022, having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the Center notified the parties that the Panel in this case had been selected, with Mr. David L. Kreider, Chartered Arbitrator (UK), acting as the sole panelist.

The Panel determines that the appointment was made in accordance with Rule 6 and Articles 8 and 9 of the Supplemental Rules. In accordance with the Rules, subject to exceptional circumstances, a decision for the captioned domain name dispute shall be rendered by the Panelist on or before 24 June 2022.

3. Factual background

Complainants are the owners of the trademark “VELCRO” and belong to VELCRO group which is the world’s first and original manufacturer of hook-and-loop fasteners. VELCRO group is a pioneer of the technology in the field of manufacturing hook-and-loop fasteners. It has set up its own production bases throughout the world to provide its customers with hundreds of different series of hook-and-loop fasteners and other fastening solutions.

Complainants do not serve merely as a product provider. More importantly, they apply a variety of processing techniques and product designs to provide the best solutions to their customers. Complainants’ VELCRO products have been widely applied in the manufacture of clothing, shoes, headgears, bags, sofa, window curtains, toys, tents, gloves, sports equipment, medical equipment, electronics, plastics and various military products and/or accessories, covering various industries, such as textiles, personal care, automotive and transportation, consumer goods, medical, packaging and materials handling, industrial, construction, aerospace, toys, electronic, sport and gymnasium products, and outdoor products.

The First Complainant owns the trademark No. 661700 for “VELCRO”, in stylized letter form, which was registered in the United States in 1958, as well as the trademark No. 529505 for VELCRO, which was registered in the mainland of China in 1990, among others. The Second Complainant owns trademark No. 266212 for “VELCRO”, in stylized letter form, which was registered in the mainland of China in 1986, among others.

Complainants’ affiliate company, VELCRO USA Inc., registered the domain name <velcro.com> on 2 November 1994, as well as hundreds of domain names containing “velcro”.

Complainants’ affiliate company, VELCRO (China) Fastening System Company Limited, registered the domain name <velcro.com.cn> on November 17, 2000. Complainants website to which this domain name resolves is a principal marketing channel within the mainland of China.

On its part, the Respondent in these administrative proceedings has defaulted and failed to submit timely, or at all, a Response to the Complaint.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

1) The disputed domain name is identical or confusingly similar to the trademarks in which the Complainants have rights.

The word “velcro” is incorporated in its entirety within the Disputed Domain Name, which is identical to the Complainants’ registered trademarks “VELCRO”. The Complainants had used their “VELCRO” trademarks (the “Mark”) continuously in commerce for around 30 years in the mainland China, and globally for more than 60 years, when the Disputed Domain Name was registered on 23 March 2021.

The Mark has become well-known due to its fanciful and distinctive nature, and extensive and longstanding use by the Complainants, as recognized by previous UDRP arbitration panels. See *Velcro Industries B.V. and Velcro USA Inc. v. Qingdao Kunwei Velcro Co., Ltd.*, D2006-0023 (WIPO March 21, 2006) (“Complainants have demonstrated that their longstanding, extensive and worldwide use of the VELCRO mark, which consists of a fanciful word, has placed this mark in the category of trademarks with a high degree of acquired distinctiveness. As a result of its fame, the mark enjoys a wide scope of protection.”)

The Complainants have exclusive rights to the use of the “VELCRO” mark by virtue of the fact that the Complainants have registered trademarks and domain names consisting of VELCRO® alone and in various combinations. The Respondent has merely taken Complainants’ famous trademark “VELCRO” and added a descriptive term. See, e.g., *Sony Kaisha v. Inja Kil*, D2000-1409 (WIPO December 9, 2000) (holding addition of ordinary descriptive words to SONY trademark does not detract from overall impression of dominant, trademarked part of the domain).

The suffix “.com” is irrelevant in determining identity or confusing similarity. See *Pomellato S.p.A. v. Richard Tonetti*, D2000-0493 (WIPO July 12, 2000).

2) *The Respondent has no rights or legitimate interests on the disputed domain name.*

The Complainants have conducted a search to the online database of the Chinese Trademark Office. The Complainants did not locate any trademark applications or registrations containing “velcro” in the name of the Respondent, nor have the Complainants found any evidence showing that the Respondent has rights or legitimate interests in the terms “velcro”, “quwinvelcro”, or any other identical/similar terms. The Respondent has not been licensed or otherwise permitted by Complainant to register the Disputed Domain Name or utilize the Mark.

As the Complainants have presented preliminary evidence demonstrating that the Respondent has no rights or legitimate interests over the disputed domain name, the burden of proof has shifted from the Complainant to the Respondent. See *Neusiedler Aktiengesellschaft v. Kulkarni*, D2000-1769 (WIPO February 12, 2001).

The Respondent cannot show that, before any notice of this dispute, it has used the Disputed Domain Name in connection with a *bona fide* offering of goods or services. This is because the Disputed Domain Name is directed to a business website selling competing goods, which does not constitute a ‘*bona fide*’ offering of goods and services within the meaning of Policy paragraph 4(c)(i). See *Cable News Network LP, LLLP v. Ahmed Latif*, Case No. FA100709 (Forum December 31, 2001).

3) *The Respondent’s domain name was registered and is being used in bad faith.*

The Disputed Domain Name resolves to a website (“Respondent’s website”) used primarily for the sale and promotion of “hook-and-loop” products that appear identical or similar to those covered by the Complainants’ “VELCRO” Mark.

The Respondent’s website frequently and widely uses the Complainants’ registered “VELCRO” Mark to promote its own hook and loop products. Such trademark infringement, along with the use the Disputed Domain Name <quwinvelcro.com>, is very likely to cause Internet users erroneously to believe that Respondent’s website is related to the Complainants or has some connection with the Complaints. After the First Complainant issued a cease-and-desist letter, the website operator, Dongguan Quwin Electronic Co., Ltd., acknowledged the Complainants’ rights in and to the VELCRO Mark and removed some infringing links.

The Respondent has registered and used the Disputed Domain Name to (a) prevent the Complainants from registering the subject domain name, (b) disrupt the business of the Complainants, and (c) intentionally attempt to attract, for commercial gain, Internet users to its website by associating the Complainants’ well-known mark VELCRO with the goods of Dongguan Quwin Electronic Co., Ltd.

B. Respondent

The Respondent submitted no response to the Complaint.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See, *WIPO Jurisprudential Overview 3.0*, at par. 1.7.

The inclusion of the Respondent's corporate name "quwin" (in Chinese: 渠文) in the Disputed Domain Name <**quwinvelcro.com**>, serves only to create the misimpression of a connection or association between the Respondent and the Complainants, where none exists. The inclusion of the top-level domain ".com" is an administrative requirement and of no relevance in determining confusing similarity or identity under the first Policy element.

The Panel finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complaint alleges that Respondent's website frequently and widely uses the Complainants' registered VELCRO Mark to promote its own hook and loop fastener products, without authorization or license of the Complainants, thereby evidencing the Respondent's intention to unfairly profit from the Complainants' reputation, in competition with the Complainants. A respondent's use of a complainant's mark to redirect Internet users to a competing site is inconsistent with a claim of "fair use" or a claim of rights or legitimate interests in a domain name.

The Complainants having established a *prima facie* case under the second element of the Policy, the burden of adducing concrete credible evidence that it has rights and legitimate interests in the Disputed Domain Name shifted to the Respondent.

The Respondent submitted no response to the Complaint and has not sought to refute the Complainants' *prima facie* case under the second element of the Policy. The Panel is, accordingly, entitled to assume that the Respondent's failure to come forward with evidence is because no such evidence exists.

The Panel finds that the Complainants have satisfied paragraph 4(a)(ii) of the Policy.

C) Bad Faith

The Respondent in these proceedings, and the Registrant of the Disputed Domain Name, is Dongguan Quwin Textile Co., Ltd.

Screen shots of the Respondent's website taken on 23 November 2021 are peppered with the Complainants' VELCRO Mark. Under the heading "About Us", the website identifies the Respondent, Dongguan Quwin Textile Co., Ltd., while proclaiming the "advantages of Velcro", "what materials are needed to make Velcro", and various uses and characteristics of Velcro, offering for sale the Respondent's "Back To Back Velcro", "Velcro cable ties", "Double Sided Sticky Velcro Imitated OK Fabric", "Velcro With Silicon", "Colored Velcro Straps", "Velcro Curlers for Hair", "Special Adhesive Velcro", and other of the Respondent's competing products, or similar products, being marketed under the Complainants' registered VELCRO Mark.

Under the heading "Our factory", Respondent's website identifies Dongguan Quwin Electronic Co., Ltd., which it represents "is specialized in hook and loop designing, producing and selling". Respondent's website includes a footer "Copyright © Dongguan Quwin Electronic co. (*sic*), Ltd. All Rights Reserved".

The precise relationship between Dongguan Quwin Electronic Co., Ltd. and the Respondent, Dongguan Quwin Textile Co., Ltd., is unclear. It appears from Respondent's website that the two corporate names are used interchangeably and randomly.

The Complaint alleges that the First Complainant issued a cease-and-desist letter to Dongguan Quwin Electronic Co., Ltd., in May 2021 and that sometime thereafter, the Complainants' VELCRO Mark was removed from the Respondent's website. It is apparent, therefore, that the Respondent exercises actual control over Respondent's website.

Moreover, the fact remains that the Complainants' VELCRO Mark is incorporated in its entirety in the Disputed Domain Name <**quwinvelcro.com**> and the Respondent continues to sell hook and loop fasteners and other goods that Compete with the Complainants' products on Respondent's website to which the Disputed Domain Name resolves.

The Panel finds that the Respondent's use of Respondent's website to market goods that compete with the Complainants VELCRO branded goods, proves that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainants' Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the products shown on the website. Furthermore, that the infringing use of the VELCRO Mark stopped after the Complainants' cease-and-desist letter was delivered, is evidence that the Respondent acted intentionally and with full knowledge of the Complainants' Mark when it registered the Disputed Domain Name.

The Panel concludes from the evidence adduced that the Respondent registered and is using the Disputed Domain Name in bad faith. Further, the Respondent has not appeared to contest or refute the evidence.

Accordingly, the Panel finds that the third element of “bad faith” registration and use under Paragraph 4(a)(iii) of the Policy has been satisfied.

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

It is ORDERED that the <quwinvelcro.com> domain name be **TRANSFERRED** from the Respondent to the Complainants, VELCRO BVBA and VELCRO IP HOLDINGS LLC.



David L. Kreider
Panelist

Dated: 16 June 2022