



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201633
Complainant:	LSpace America, LLC
Respondent:	Fu Guihua
Disputed Domain Name(s):	<newlspace.com>

1. The Parties and Contested Domain Name

The Complainant is LSpace America, LLC, of 557 Wald Street, Irvine, California 92618 United States. The authorized representative of the Complainant is China Sinda Intellectual Property Service Ltd., of 11F, Focus Place, 19 Financial Street, Xicheng District, Beijing 100033, P.R. China.

The Respondent is Fu Guihua, of Block C, Wu Street, Fucheng, Fuxin City, Shanghai, CN, 708902

The domain name at issue is <newlspace.com>, registered by Respondent with Name.com, Inc., of 414 14th Street #200 Denver, Colorado 80202.

2. Procedural History

On 27 June 2022, pursuant to the Uniform Domain Name Dispute Resolution Policy (“the Policy”), the Rules for the Uniform Domain Name Dispute Resolution Centre Policy (“the Rules”) and the Asian Domain Name Dispute Resolution Centre Supplemental Rules (“the ADNDRC Supplemental Rules”), the Complainant submitted a complaint to the Hong Kong Office of the ADNDRC (“the Centre”) and elected this case to be dealt with by a single-member panel. The Centre acknowledged receipt of the complaint and notified the Registrar of the disputed domain name on 27 June 2022. The Registrar replied on 28 June 2022.

On 28 June 2022, the Centre notified the Complainant of the deficiency of the complaint and requested Complainant to rectify, within 5 calendar days (on or before 3 July 2022), the deficiency by updating the information of the Respondent in accordance with the WHOIS information provided by the registrar. On 28 June 2022, the Centre received a revised complaint submitted by the Complainant. After reviewing the revised complaint, the Centre confirmed the complaint is in administrative compliance with the Policy and the Rules on the same day.

On 4 July 2022, the Centre sent a Written Notice of Complaint to the Respondent, notifying the Respondent that a complaint had been filed against the Respondent by the Complainant and the deadline for submitting a response was 24 July 2022. The Respondent did not file a response with the Centre within the prescribed period.

On 25 July 2022, the Centre listed Prof. Jyh-An Lee as a candidate of the sole panelist. Prof. Jyh-An Lee confirmed his availability and position to act independently and impartially between the parties on the same day, and was appointed as the sole Panelist for the captioned case. Both parties were informed of the appointment.

3. Factual background

A. For Complainant

The Complainant, LSpace America, LLC. (hereinafter referred to as “LSpace”) is a California-incorporated company producing and marketing swimwear, beachwear, sportswear and accessories for women under the brand “LSpace”. The Complainant owns a series of valid trademark registrations for its house mark “ L*SPACE ” or “ L*SPACE ” in classes 24 and 25 in China, and in classes 14, 18 and 25 in the United States. A compilation of the Complainant’s trademark registrations is as follows:-

Mark	Jurisdiction	Reg. No.	Class
L*SPACE	China	6764209	25
L*SPACE	China	22248589	25
L*SPACE	China	27261165	25
L*SPACE	China	49528284	24
L*SPACE	USA	4751718	25
L*SPACE	USA	4964860	14
L*SPACE	USA	4618396	18

Moreover, the Complainant also registered the domain name <lspace.com> on 10 December 2002. The said domain points to the Complainant’s official website, listing all products of the Complainant, on which users can shop and place orders freely. The “ L*SPACE ” mark is extensively used on the Complainant’s website.

B. For Respondent

The Respondent did not file any response with the Centre within the prescribed period.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The domain name in dispute is confusingly similar to the Complainant's trademarks and domain name

The Complainant contends that the main part of the disputed domain name is "newlspace", which is confusingly similar to the Complainant's trademarks "LSpace". The extension ".com" of the disputed domain name should not be included in assessing whether the disputed domain name is identical with Complainant's registered trademarks or domain name. Furthermore, the adjective "new" is only used to modify "lspace", which is the most distinctive part of the disputed domain name and is identical or confusingly similar to the Complainant's trademarks "LSpace". The Complainant's "LSpace" trademarks are inherently distinctive because "LSpace" is not a fixed word combination in vocabulary, and have also gained distinctiveness through the Complainant's continuous use for approximately 10 years. The similarity between the disputed domain name and the Complainant's trademarks is easy to be perceived as a related domain name owned by the Complainant.

- ii. The Respondent has no rights or legitimate interests in disputed domain name

The Complainant confirms that the Respondent is by no means permitted or licensed by the Complainant to register the disputed domain name. The preliminary online searches conducted by the Complainant did not reveal any trademark application or registration incorporating the word "lspace" in China owned by the Respondent. In that case, the Complainant contends that the burden of proof shifts to the Respondent to show that he or she has the rights or legitimate interests in the disputed domain name. The Complainant further contends that the Respondent cannot discharge the burden by proving that it has used the disputed domain name in connection with a *bona fide* offering of goods or services, because "[t]he offering of goods and services in association with an infringing trademark use does not constitute a 'bona fide' offering of goods and services within the meaning of Policy paragraph 4(c)(i)." *Cable News Network LP, LLLP v. Ahmed Latif, Case No. 100709 (Nat. Arb. Forum Dec. 31, 2001)*.

- iii. The Respondent has registered and used the disputed domain name in bad faith

The website directed by the disputed domain name <newlspace.com> (hereinafter referred to as "the disputed website") offers for sale "beach clothes, beachwear, dresses, sweaters" and etc. These goods are deemed as same or similar with the goods covered by the Complainant's trademark registrations Nos. 6764209, 22248589 and 27261165. Meanwhile, the Complainant's " L*SPACE " mark is extensively displayed on the disputed website, which, together with the use of the disputed domain name, would easily mislead consumers to believe that the disputed domain name is related to Complainant or has any sort of business connection with Complainant.

For the foregoing reasons, the Complainant contends that the Respondent has registered and used the disputed domain name to (a) prevent Complainant from registering the disputed domain name, (b) disrupt the business of Complainant, and (c) intentionally attempt to attract, for commercial gain, Internet users to its website by associating Complainant's registered trademarks "LSpace" with the goods provided by the disputed website.

B. Respondent

The Respondent did not file any response to defend himself or herself within the prescribed period.

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

In the present case, the Complainant has adduced evidence to show that it owns live and valid trademark registrations for its “ L*SPACE ” or “ L*SPACE ” marks in multiple classes in China and the United States covering goods such as swimwear or beachwear, which are the main products of its company. Meanwhile, the Complainant is also the registrant of the domain name <lspace.com>, on which the Complainant's official site and online store is run and operated. The panel finds that the Complainant has prior rights in the trademark “ L*SPACE ” and the domain name <lspace.com>.

The disputed domain name is <newlspace.com>. When assessing whether the disputed domain name is identical or confusingly similar to the Complainant's trademark, it has been well established that the generic top-level part “.com” should not be considered. The substantive part of the disputed domain name, “newlspace”, entirely incorporates the word component of the Complainant's prior mark “LSpace”. Furthermore, the Panel accepts the Complainant's contention that the additional part “new”, which is an adjective modifying the subsequent part “lspace”, is generally less distinctive, and the incorporation of the same could easily mislead consumers into believing that the Respondent's website offers or promotes a new line of the Complainant's brand or is in any other form related to the Complainant.

Under such circumstances, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's registered trademark as stipulated by Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant has declared in its complaint that the Respondent is not in any form associated with the Complainant, nor is the Respondent's registration and use of the disputed domain name authorized by the Complainant. The Respondent did not submit a response with the Centre and consequently failed to adduce evidence to prove it has any right or legitimate interest in the disputed domain name. It is therefore inferred that the

Respondent in this case does not have any right or legitimate interest in the disputed domain name as stipulated by Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Paragraph 4(b) of the ICANN Policy specifies four types of circumstances that could be evidence of the registration and use of a domain name in bad faith. They include: (i) circumstances indicating that the holder of the domain name has registered or has 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 his documented out-of-pocket costs directly related to the domain name; or (ii) the holder of the domain name has 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 he has engaged in a pattern of such conduct; or (iii) the holder of the domain name has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the holder of the domain name has intentionally attempted to attract, for commercial gain, Internet users to his 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 his web site or location or of a product or service on his web site or location.

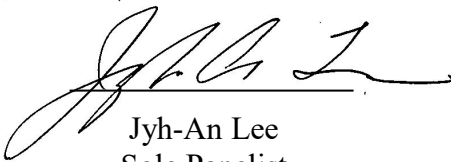
In the present case, the Complainant has adduced evidence to show (1) its earliest Chinese trademark registration (No. 6764209) was registered in 2008; and (2) its “LSPACE” brand and products have been noted by media in China since 2015. Both dates precede the registration date of the disputed domain name, which, according to the WHOIS information, is 7 May 2022.

The disputed website currently directs to a website which lists a variety of outfits for women including swimwear and beachwear. Users can browse and place order freely on the disputed website. Meanwhile, the design, colours and layout of the disputed website are confusingly similar to the Complainant's official site <www.lspace.com>, with the Complainant's “ L*SPACE ” mark displayed on the front page. Considering that the Respondent is engaged in the same industry with the Complainant and offer similar products to those of the Complainant through the disputed website, the Panel accepts the Complainant's contention that the Respondent is intentionally attempting to attract, for commercial gain, Internet users to the disputed website by associating the goods offered by the disputed website with Complainant's “ L*SPACE ” trademark.

As such, the Panel holds that the disputed domain name has been registered and is being used in bad faith by the Respondent as stipulated by Paragraph 4(a)(iii) of the Policy.

6. Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is confusingly similar to the Complainant's registered trademark, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent's domain name has been registered and is being used in bad faith. Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel orders that the registration of the domain name <newlspace.com> be transferred to the Complainant.



Jyh-An Lee
Sole Panelist

Dated: 8 August 2022