



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301814
Complainant:	华为技术有限公司
Respondent:	Milen Radumilo
Disputed Domain Name:	<huaweicitycloud.com>

1. The Parties and Contested Domain Name

The Complainant is 华为技术有限公司 (Huawei Technologies Co Ltd), of 深圳市龙岗区坂田华为总部办公楼 (Huawei Headquarters Office Building, Bantian, Longgang District, Shenzhen, China) .

The Respondent is Milen Radumilo, of 17 Strada C. Rosetti, Bucharesti, 010281, Romania.

The domain name at issue is <huaweicitycloud.com>, registered by the Respondent with Alethia Domains, LLC, of 5335 Gate Parkway, Jacksonville, Florida 32256, United States of America (the “Registrar”).

2. Procedural History

The Complaint, in Chinese, was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on September 28, 2023. On September 28, 2023, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 2023, the Registrar transmitted by email to the Centre its verification response disclosing registrant information for the disputed domain name which differed from the named Respondent information in the Complaint. The Centre sent an email communication to the Complainant on October 9, 2023, providing the registrant information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint by email on October 9, 2023.

On October 25, 2023, the Centre sent an email to the Parties, in English and Chinese, regarding the language of the proceeding. On the same date, the Complainant submitted its request for the language of the proceeding to be Chinese. The Respondent did not make any submissions on the language of the proceeding.

The Centre has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Centre’s Supplemental Rules.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint, in English and Chinese, and the proceeding commenced on October 10, 2022. In accordance with the Rules, the due date for the Response was October 30, 2023.

No Response was received by the Centre.

The Centre appointed Sebastian Hughes as the Panelist in this matter on October 31, 2023. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

A. Complainant

The Complainant is a leading telecommunications company founded in Shenzhen, China in 1987 and operating globally under the trade mark HUAWEI (the “Trade Mark”).

The Complainant launched its HUAWEI CLOUD services in 2005.

The Complainant is the owner of numerous registrations in China for, or comprising, the Trade Mark, including registration No. 981955, with a registration dated of April 14, 1997; and registration No. 28201770, for the trade mark HUAWEI CLOUD, with a registration date of November 28, 2018.

B. Respondent

The Respondent is apparently an individual resident in Romania.

C. The Disputed Domain Name

The disputed domain name was registered on July 12, 2023.

D. Use of the Disputed Domain Name

The disputed domain name has not been used in respect of an active website.

4. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

5. Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to 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 Chinese. The Complainant requested that the language of the proceeding be Chinese, but did not provide any reasons in support of its request.

The Respondent did not make any submissions with respect to the language of the proceeding, and has taken no part in this 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 parties' ability to understand and use the proposed language, time and costs.

There is no evidence before the Panel to demonstrate that the Respondent is conversant in Chinese. However, the Panel is mindful of the need to avoid additional costs or delay.

In all the circumstances, and having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that:

- (i) it will accept the filing of the Complaint in Chinese; and
- (ii) it will render this Decision in English.

Substantive Elements of the Policy

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

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

A) Identical / Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark(s) and the disputed domain name.

Based on the available record, the Panel finds the Complainant has shown rights in respect of trade marks or service marks for the purposes of the Policy.

The Panel finds the entirety of the marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy.

While the addition of other terms (here, “city”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

Based on the available record, the Panel finds the first element of the Policy has been established.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a 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 name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C) Bad Faith

Panels 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. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. 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. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that

in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <huaweicitycloud.com> be transferred to the Complainant.



Sebastian Hughes
Sole Panelist

Dated: November 14, 2023