



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301825
Complainant:	Anta (China) Co, Ltd.
Respondent:	yong peng
Disputed Domain Name(s):	<aktshoes.com>

1. The Parties and Contested Domain Name

The Complainant is Anta (China) Co, Ltd., of Dongshan Industrial Zone, Chidian Town, Jinjiang City, represented by Ms. HUANG Weilan, of Beijing NTD Law Office.

The Respondent is yong peng, of no 21 minzhu east street, Chongqing, 400060, CN, not represented.

The domain name at issue is <aktshoes.com>, registered by Respondent with Godaddy, Inc., of Tempe, 2155 E. GoDaddy Way, United States.

2. Procedural History

On November 6, 2023, the Complainant filed a Complaint with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”). The Complaint is in Chinese. On the same day, the Centre transmitted by email to the Registrar a request for WhoIs data verification in connection with the disputed domain name. On November 14, 2023, the Registrar disclosed the WhoIs data related to the disputed domain. On November 16, 2023, the Centre provided the Complainant with the WhoIs data disclosed by the Registrar. On the same day, the Complainant filed an amended Complaint and submitted a request for the language of the proceeding to be Chinese.

On November 17, 2023, 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 November 17, 2022.

The Centre sent to the Parties, in English and Chinese, a Written Notice of Complaint and an email regarding the language of the proceeding:

"According to Article 11(a) of the Rules for ICANN Uniform Domain Name Dispute Resolution Policy, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the Registration Agreement of the disputed domain name <aktshoes.com> is English. Thus the language of proceedings for this case should be English.

However, the complaint Form C and annexes that the Complainant submitted are in Chinese and the Complainant requested to change the language of proceedings from English to Chinese. May we ask the Respondent to respond to this e-mail regarding the language of the proceedings on or before 22 November 2023. The Panelist shall make the final determination on the language issue."

The Respondent did not make any submissions on the language of the proceeding.

In accordance with the Rules, the due date for the Response was December 7, 2023. No Response was received by the Centre.

The Centre appointed Professor Kun FAN as the Panel in this matter on December 8, 2023. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion. In accordance with the Rules, in the absence of exceptional circumstances, a decision for the captioned domain name dispute shall be rendered by the Panel on or before 22 December 2023.

3. Factual background










According to the Complainant, Anta (China) Co., Ltd., founded in 2000, is a leading sports equipment manufacturer that has grown into a publicly traded powerhouse with global competitiveness. ANTA Group became China's largest sporting goods group in 2015, with a market value exceeding HK\$170 billion in August 2019, ranking third globally in the sporting goods industry. In 2021, it secured the 289th spot on the Fortune China 500 list.

According to the Complainant, the "安踏/ANTA" brand series consistently commands a significant market share in China, with a significant number of stores in China and abroad, along with flagship online stores on platforms like Tmall and JD.com. ANTA invests heavily in advertising, spending over RMB 24 million from 2015 to 2017 to maintain brand recognition.

The Complainant insists on its sponsorship commitment. Through sponsorships of international events, sports teams, and athletes, the "安踏/ANTA" brand enjoys global recognition and is associated with prestigious sports competitions. Anta has been the official partner of the Chinese Olympic Committee for 16 consecutive years, and it has partnered with NBA players like Kevin Garnett, Rajon Rondo, Chandler Parsons, Klay Thompson, and Kyrie Irving, as well as tennis star Jankovic and NBA China.

Finally, the Complainant adds that its trademark "安踏/ANTA" has been recognized as a well-known trademark by the China Trademark Office and the State Intellectual Property Office.

The Complainant owns the following trademarks registered in China:

Trademark	Trademark number	Validity
	1333427	1999-11-14 to 2029-11-13
	1387242	2000-04-21 to 2030-04-20
	2007377	2003-01-14 to 2033-01-13
	1009204	1997-05-21 to 2027-05-20
	1384238	2000-04-14 to 2030-04-13
	1387241	2000-04-21 to 2030-04-20
	2007375	2003-01-14 to 2033-01-13
	4879788	2009-03-07 to 2029-03-06
	6541038	2010-06-21 to 2030-06-20

In addition, the Complainant indicates that it has signed a partnership with the NBA player Klay Thompson (abbreviated as "KT") for the Anta basketball image spokesperson.

The Respondent registered the disputed domain name <aktshoes.com> on March 15, 2022. The disputed domain resolves to an operative merchant website available only in English and offering exclusively goods of the "安踏/ANTA" trademark.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. First, according to the Complainant, the disputed domain name, <aktshoes.com> mainly comprises "akt" and "shoes," where "shoes" has weak distinctiveness. The key part, "akt," closely resembles the complainant's "ANTA" and "KT," potentially causing confusion and misidentification as the Respondent promotes an "ANTA KT" shop selling "KT" series basketball shoes.

ii. Second, the Complainant asserts that it has never authorized the Respondent to use its trademark or authorized it to register any domain name or other commercial trademark with "anta" or something similar. Additionally, the Complainant declares that the Respondent is not authorized to promote or sell "KT" series of products. The Complainant concludes that the Respondent does not have any rights to the disputed domain name <aktshoes.com>.

iii. Third, the Complainant contends that disputed domain name, registered on March 15, 2022, came after the Complainant's "ANTA" and "KT" products had already established a strong reputation in China and globally. According to the Complainant, the Respondent's choice of the domain name is a deliberate attempt to imitate the Complainant's trademarks. Additionally, the Respondent used unauthorized promotional materials and falsely claimed to be an authorized store, indicating clear malicious intent.

iv. Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

5. Findings

5.1. Procedural issue: language of the proceeding

Paragraph 11(a) of the Rules states that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

On November 6, 2023, the Centre requested the registrar to disclose *inter alia* the language of the registration agreement. On November 14, 2023, the registrar replied that the language of the disputed domain name's registration agreement is English. This fact is not disputed neither by the Complainant nor by the Respondent. On November 16, 2023, the Centre invited the Complainant to submit a request to change the language of the proceeding. On the same day, the Complainant submitted the following request:

"We, as the agent of Anta (China) Co., Ltd., argue that the language of proceedings for this case should be Chinese, because the registrant of the disputed domain name is also a Chinese individual, both parties' native languages are Chinese".

On November 17, 2023, the Centre asked the Respondent to reply to this e-mail regarding the language of the proceedings on or before 22 November 2023. The Respondent did not submit any response as to the language of the proceeding.

In accordance with its usual practice, the Centre communicated with the Parties both in English (language of the registration agreement) and in Chinese (language of the Complaint). The Centre sent its communication, the Guide to HKIAC Domain Name Dispute Resolution shows that a request aiming to change the language of the proceeding is not necessarily successful. This document constitutes a reliable summary of the case law of decisions relating to domain names rendered under the aegis of the HKIAC. The Guide to HKIAC Domain Name Dispute Resolution provides several examples of decisions rendered in the language of the registration agreement, ruling out the language and the complaint ([para. 116 of the Guide to HKIAC Domain Name Dispute Resolution, 2nd ed.](#)).

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 ([HKIAC Case No. HK-2301814, 华为技术有限公司 v. Milen Radumilo](#)).

In the present case, the Panel considers that the language of the proceeding should be English for the following reasons:

1. The Respondent chose to register the domain name on the English version of the registrar's platform, whereas the registrar also offers services in simplified Chinese. Therefore, it can be legitimately assumed that the Respondent has sufficient command of English.

2. The website to which the domain name dispute resolves is available exclusively in English. The panel observes that the website offers to change or choose one monetary currency rather than another, but the Chinese monetary currency is not available.

3. The Complainant has developed international partnerships for many years which demonstrates that the Complainant has perfect command of English. Furthermore, after verifications carried out by the Panel, it appears on the Internet page of the Complainant's representative that she is capable of conducting proceedings in both Chinese and English.

4. At the same time, the Respondent having indicated a Chinese name and a postal address in China, the Panel is ready to assume that the Respondent is bilingual in Chinese and English. Therefore, the Panel finds that the Complaint in Chinese and the annexes in Chinese should be presumed acceptable. Furthermore, the Respondent refused to participate in the debates, including those concerning the language applicable to the procedure.

Consequently, the Panel considers that the parties' right to a fair trial would not be disturbed if the proceeding were conducted and the decision was rendered in the language of the registration agreement.

To conclude, the Panel considers that the proceeding should be conducted, and the decision rendered in English.

5.2. Substantive issue

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

The disputed domain name <aktshoes.com> is similar to the Complainant's trademark. First, the letter "a" refers to the first letter of the ANTA trademark and the letters "kt" reproduce the initials of the high-level athlete Klay Thompson with whom the Complainant entered into an agreement to manufacture and promote articles of sport. As for the generic word "shoes", this is devoid of

any originality, so that the dominant element is exclusively "akt". Finally, it is common ground that the top-level domain .com must be excluded from the analysis aimed at determining whether the disputed domain name is similar or identical to the trademark.

Therefore, the Panel finds the first element of the Policy has been established.

B) Rights and Legitimate Interests

The Complainant has not granted any authorization to the Respondent for the use of its trademark or for registering any domain name or commercial trademark containing "anta" or any similar variations. Moreover, the Respondent lacks the authorization to market or sell "KT" series products, and they hold no legitimate rights to the contested domain name <aktshoes.com>.

Although the proof rests in principle on the shoulders of the Complainant, panels have long considered that this amounts to a *probatio diabolica* consisting in providing information that only the respondent can provide. Consequently, it is settled case law that the simple assertion that the complainant did not authorize the respondent to register or use the disputed domain name is sufficient to switch the burden of proof. Accordingly, 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.

In the present case, the Panel considers that the Complainant made makes out a *prima facie* case that the respondent lacks rights or legitimate interests.

Therefore, the Panel finds the second element of the Policy has been established.

C) Bad Faith

As to the registration, the Panel notes that the disputed domain name was registered in 2022, that is to say years after the first registration of the ANTA mark (in 1999) and the start of the partnership between the Complainant and Mr. Klay Thompson (in 2017). Furthermore, at the time of registration of the disputed domain name, the Complainant's trademark had already acquired a strong international reputation. Therefore, it was clearly with the Complainant's trademark in mind that the Respondent registered the disputed domain name. The Panel concludes that the Respondent registered the disputed domain name in bad faith.

The Respondent is using the disputed domain name for an operative merchant site through which the Respondent displays and sells merchandise of the trademark "安踏/ANTA". Such use of a domain name similar to a well-known trademark corresponds exactly to an intention to attract for commercial gain, Internet users to the disputed website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the said website (para. 4.b.iv of the Policy).

Accordingly, 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 <aktshoes.com> be transferred to the Complainant.

Jan Kun

Kun FAN
Panelist

Dated: December 22, 2023