



(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2301767</b>
<b>Complainant:</b>	<b>螞蟻礦池科技有限公司</b>
<b>Respondent:</b>	<b>Daniel Akinbo</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;antpooldigitalsolutions.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is 螞蟻礦池科技有限公司, Hong Kong, China.

The Respondent is Daniel Akinbo, Nigeria.

The domain name at issue is <antpooldigitalsolutions.com>, registered by Respondent with Dreamhost, LLC of the United States of America (the “Registrar”).

**2. Procedural History**

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”), in Chinese, on June 16, 2023. On June 19, 2023, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Regrettably, despite repeated reminders from the Centre, the Registrar did not send its verification response until July 12, 2023. The registrant information for the disputed domain name disclosed by the Registrar in its verification response differed from the named Respondent information in the Complaint. The Centre sent an email communication to the Complainant on July 12, 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 July 13, 2023.

On July 12, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On July 13, 2023, the Complainant submitted a request that Chinese be the language of the proceeding. The Respondent did not comment 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 and the proceeding commenced on July 14, 2023. In accordance with the Rules, the due date for the Response was August 3, 2023.

No Response was received by the Centre.

The Centre appointed Sebastian Hughes as the Panelist in this matter on August 8, 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 company incorporated in Hong Kong and founded in 2014, and a provider of cryptocurrency mining pool services under the trade mark ANTPOOL (the “Trade Mark”). The Complainant is the owner of numerous registrations for the Trade Mark in jurisdictions worldwide, including International registration No. 1352717, with a registration date of February 15, 2016.

#### **B. Respondent**

The Respondent is located in Nigeria.

#### **C. The Disputed Domain Name**

The disputed domain name was registered on June 19, 2021.

#### **D. The Website at the Disputed Domain Name**

The disputed domain name was previously resolved to an English language website impersonating the Complainant’s website, featuring prominently the Trade Mark, and apparently offering cryptocurrency mining pool services (the “Website”).

As at the date of this Decision, the disputed domain name is no longer resolved to an active website.

### **4. Parties’ Contentions**

#### **A. Complainant**

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

#### **B. Respondent**

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

## **5. Findings**

### **5.1 Procedural Issue: 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.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burden being placed on the parties and undue delay to the proceeding.

The Complainant did not provide any submissions or evidence in support of its request that the language of the proceeding be Chinese.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response in either Chinese or English, after the Respondent had been duly notified in both Chinese and English of the language of the proceeding, and of the Complaint.

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.

The Panel finds there is no evidence to support the conclusion that the Respondent is conversant in Chinese.

The Panel is however mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner, and notes further that the Respondent has not taken any part in this proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that it will accept the filing of the Complaint in Chinese, and it will render this Decision in English.

### **5.2. Substantive Elements of the Policy**

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

The 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**

The Panel finds that the Complainant has rights in the Trade Mark.

The disputed domain name incorporates the entirety of the Trade Mark, together with the words "digital solutions".

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

#### **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) 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 trade mark or service mark at issue.

There is no evidence that the Complainant has authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Complainant has prior rights in the Trade Mark which precede the Respondent's registration of the disputed domain name by several decades. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name has previously been used in respect of the Website, to impersonate an official website of, or authorised by, the Complainant. As at the date of this Decision, the Website has been taken down and the disputed domain name is no longer being used.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish rights or legitimate interests in the disputed domain name.

### **C) Bad Faith**

In light of the manner of use of the Website, the Panel finds that the requisite element of bad faith has been satisfied, under paragraph 4(b)(iv) of the Policy.

The Panel finds the Respondent's failure to take part in this proceeding, coupled with his act of taking down the Website following the commencement of this proceeding, provides further support for a finding of bad faith.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

## **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 <antpooledigitalsolutions.com> be transferred to the Complainant.



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Sebastian Hughes  
Sole Panelist

Dated: August 22, 2023