



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301774
Complainant:	Bitmain Technologies Limited
Respondent:	Bit Main
Disputed Domain Name(s):	<shopbitmain.com>

1. The Parties and Contested Domain Name

The Complainant is Bitmain Technologies Limited, of 11th Floor, Wheelock House, 20 Pedder Street, Central, Hong Kong, China.

The Respondent is Bit Main, of 5 Freeland Walk, Openshaw Manchester, Manchester, M11 2LP, United Kingdom (“UK”).

The domain name at issue is <shopbitmain.com>, registered by the Respondent with NameCheap, Inc., of 4600 East Washington Street, Suite 305, Phoenix, AZ 85034, United States of America (“USA”).

2. Procedural History

On 29 June 2023, the Complainant submitted a Complaint in Chinese to the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999. On the same day, the ADNDRC confirmed receipt of the Complaint. The Complainant elected that this case be dealt with by a single member Panel.

On 29 June 2023, the ADNDRC transmitted by email to the Registrar “NameCheap, Inc.” (the “Registrar”) a request for registrar verification in connection with the disputed domain name <shopbitmain.com> (the “Disputed Domain Name”). On the same day, the Registrar transmitted by email to the Centre its verification response disclosing registrant

and contact information for the Disputed Domain Name. On 30 June 2023, the Centre sent an email to the Complainant providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to rectify the deficiencies. On the same day, the Centre sent a further email to the Complainant, highlighting that the language of the registration agreement was English and seeking the Complainant's response with respect to the language of the proceeding. On 3 July 2023, the Complainant filed a revised Complaint in Chinese and confirmed its request for Chinese to be the language of the proceeding.

The Centre verified that the Complaint was in compliance with the Policy and the Rules for ICANN Uniform Domain Name Dispute Resolution Policy ("Rules"). On 6 July 2023, the Centre transmitted the Complaint to the Respondent and formally notified the Respondent that the proceeding commenced on 6 July 2023, and that the due date for the Respondent's Response was 26 July 2023. The Centre also invited the Respondent to respond on the language of the Proceeding by 11 July 2023. On 31 July 2023, the Centre sent an email to both the Complainant and the Respondent to confirm that no response from the Respondent was received by the Centre by the due date.

On 31 July 2023, the Centre appointed Ms. Sok Ling MOI as the sole Panelist. The Panel finds that it was properly constituted and confirms that it is in a position to act impartially to deliver its decision.

3. Factual background

The Complainant and its related companies (including but not limited to Beijing Bitmain Technology Limited Company) are technology companies, offering products including chips, servers and cloud solutions which are mainly used in the fields of blockchain and artificial intelligence, including bitcoin mining machines under the ANTMINER brand.

The Complainant and its related companies have places of business in China, Singapore, USA, and other locations. Although the Complainant was incorporated in 2014, its related companies have been using BITMAIN as their trade name as early as 2013.

The Complainant and its related companies have registered the domain names <bitmain.com> and <bitmain.cn> to operate their official websites.

The Complainant has registered the BITMAIN trade mark in various jurisdictions and is the right holder of the following trade mark registrations:

Jurisdiction	Trademark	Class	Registration Number	Registration Date
China	BITMAIN	9	16620401	21 May 2016
China	BITMAIN	36	16620637	21 May 2016
China	BITMAIN	42	16660721	21 May 2016
USA	BITMAIN	9	4884613	12 January 2016
USA	BITMAIN	42	4980879	21 June 2016
Singapore	BITMAIN	9	40201504948W	24 March 2015
Singapore	BITMAIN	36	40201504949X	24 March 2015
Singapore	BITMAIN	42	40201504951W	24 March 2015
European Union	BITMAIN	9, 36, 42	13913521	31 August 2015
Switzerland	BITMAIN	9, 35, 36, 41,	718190	29 June 2018
Japan	BITMAIN	9, 35, 36, 42	6115174	18 January 2019

The Disputed Domain Name was registered on 13 September 2020. According to the evidence submitted by the Complainant, the Disputed Domain Name resolves to a website which reproduces the Complainant's BITMAIN trade mark and offers ANTMINER products for sale.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Disputed Domain Name is confusingly similar to its registered trade mark.
- ii. The Respondent has no right or legitimate interest in the Disputed Domain Name.
- iii. The Respondent has registered or used the Disputed Domain Name in bad faith.

B. Respondent

The Respondent did not file a response to the Complaint.

5. Findings

5.1 Procedural Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, 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.

In this case, the language of the Registration Agreement for the Disputed Domain Name is English. From the evidence on record, no agreement appears to have been entered into between the Complainant and the Respondent regarding the language issue. The Complainant has filed its Complaint in Chinese and has requested that Chinese be the language of the proceeding without providing any reasons.

The Panel finds persuasive evidence to suggest that the Complainant has sufficient knowledge of English. In particular, the Panel notes that:

- (a) The Disputed Domain Name is in Latin characters, rather than Chinese script;
- (b) The website to which the Disputed Domain Name resolves has contents in English;
- (c) The Complainant has submitted as part of its evidence two previous UDRP cases administered by the ADNDRC which it was involved in as a party, namely HK-2101584 (<bitmainpreorder.com>) and HK-2101441 (<bitmain.click>). In these cases, the panel decisions were rendered in the English language.

Considering the above circumstances, the Panel determines that English shall be the language of the proceeding and the decision shall be rendered in English. Notwithstanding that the Complainant has been filed in Chinese, the Panel notes that the Respondent has been given an opportunity to respond on the language issue but has chosen not to do so. As such, to require the Complaint to be translated into English would cause an unnecessary cost burden to the Complainant and would unnecessarily delay the proceeding. As the Panel is bilingual in English and Chinese, it will accept the Complainant and all supporting materials as filed in Chinese without requiring further translation.

5.2 Substantive Issue: Findings

Paragraph 4(a) of the Policy provides that each of the following elements must be satisfied in order for a Complainant to prevail:

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

A) Identical / Confusingly Similar

The Panel accepts that the Complainant has rights in BITMAIN by virtue of use and registration as a trade mark. The Disputed Domain Name incorporates the Complainant's BITMAIN trade mark in its entirety. The addition of the descriptive word "shop" does not prevent a finding of confusing similarity, as the BITMAIN trade mark is clearly recognizable within the Disputed Domain Name. The addition of the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and is generally disregarded for the purpose of the confusing similarity assessment.

Consequently, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's BITMAIN trade mark. Accordingly, the Complainant has satisfied the requirements of the first element.

B) Rights and Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant bears the burden of establishing that the respondent lacks rights or legitimate interests in the disputed domain name. However, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, the burden of production shifts to the respondent to establish its rights or legitimate interests in the disputed domain name by demonstrating any of the following, without limitation, under paragraph 4(c) of the Policy:

- (i) before any notice to it 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 has been commonly known by the disputed domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial 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.

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the BITMAIN trade mark or to seek registration of any domain name incorporating the BITMAIN trade mark. Although the Respondent appears to be an UK entity by the name of “Bit Main”, it did not file any evidence to establish its identity or history of use of the name “Bit Main”. There is thus no objective evidence suggesting that the Respondent is commonly known by the Disputed Domain Name or that the Respondent has any rights in the term “Bit Main”.

According to the evidence submitted by the Complainant, the Disputed Domain Name resolves to a website which reproduces the Complainant’s BITMAIN trade mark and offers ANTMINER products for sale. The Complainant also alleged that the Respondent’s website blatantly copies the contents, product images and layout design from the Complainant’s “www.bitmain.com” website and even provides links which redirect to the Complainant’s “www.bitmain.com” website.

Without any accurate and prominent disclaimer of non-affiliation, the Respondent’s website conveys an impression that it is an official website of the Complainant. Such use would not be a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use.

The Panel is satisfied that the Complainant has made out a *prima facie* case showing that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The burden of production thus shifts to the Respondent to establish rights or legitimate interests in the Disputed Domain Name. Since the Respondent did not file a response to the Complaint and has thus failed to offer any explanation for the registration of the Disputed Domain Name, the *prima facie* case has not been rebutted.

Consequently, the Panel finds that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. Accordingly, the Complainant has satisfied the requirements of the second element.

C) Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the domain name in bad faith, namely:

(i) circumstances indicating that the respondent has registered or 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel is persuaded that the Complainant was aware of the Complainant and its BITMAIN trade mark when it registered the Disputed Domain Name in 2020, some 7 years after the Complainant's incorporation. In particular, the Panel notes that the Respondent's website offers the Complainant's ANTMINER products for sale and blatantly copies the contents, product images and layout design from the Complainant's "www.bitmain.com" website.

The Panel is therefore satisfied that the Respondent's purpose of registering the Disputed Domain Name was to trade on the reputation of the Complainant and its trade mark by diverting Internet users seeking the Complainant's products to its own website for financial gain. As such, the Panel determines that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of the Respondent's website. The circumstances referred in paragraph 4(b) (iv) of the Policy are applicable to the present case.

Taking into account all the circumstances, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith. Accordingly, the Complainant has satisfied the requirements of the third element.

6. Decision

The Complainant has satisfied all three elements under paragraph 4(a) of the Policy.

In accordance with the Policy and the Rules, the Panel orders that the Disputed Domain Name <shopbitmain.com> be transferred to the Complainant.

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Sole Panelist: Sok Ling MOI

Dated: 19 August 2023