



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. 804D64F0

Determination DEFAULT

I. PARTIES

Complainant: MULTALER S.A.S. (France)
Complainant's authorized representative(s): ALTA ALATIS PATENT (France)

Respondent: CHEN XIAO BO (China)

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain Name(s): YONKA.XYZ
Registry Operator: XYZ.com, LLC
Registrar: Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn)

III. PROCEDURAL HISTORY

Complaint submitted: 2017-09-27 17:15
Lock of the domain name(s): 2017-09-28 15:36
Notice of Complaint: 2017-10-03 12:42
Default Date: 2017-10-18 00:00
Default notice: 2017-10-18 9:40

IV. EXAMINER

Examiner's Name: Molly Li

The Examiner certifies that she has acted independently and impartially and to the best of her knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant:

The Complainant asserts to be the owner of several trademark registrations for "YON KA" which are identical to the disputed domain name. Among others, it is the owner of the following trademark.

- Chinese trademark YON KA + YONG KA in Chinese Characters with No. 928414 registered since January 14, 1997.

It also holds many domain names such as: <yonka.com>, <yonka-institute.com>, <yonka-skincare.com>, etc.

On the Complainant's point of view the Respondent does not have any legitimate right or interest to the disputed domain name since the Respondent is not affiliated, nor licensed, neither authorized by the Complainant to register the domain name incorporating Complainant's registered trademark "YON KA".

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the Respondent, by registering or acquiring the disputed 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 the Respondent's out-of-pocket costs directly related to the domain name. The Respondent intentionally attempted to obtain commercial gain, by attempting to sell the domain name <yonka.xyz> at very high price. When contacted on July 24, 2017 regarding the alleged infringement of the Complainant's trademark rights, the Respondent reverted on July 25, 2017 offering to sell for \$ 1,000.

The Complainant claims to have registered its trademarks with the Trademark Clearing House (TMCH). When applying for the domain name <yonka.xyz> the Respondent has been informed by the TMCH of the existing trademarks and knowingly decided to pursue the application.

B. Respondent:

The Respondent did not reply to the Complaint.

C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

Language of the Determination: the Complaint has been submitted in English. The Notice of Complaint to the Respondent has been transmitted in English and in Chinese. In absence of a Response, the language of the Determination is English.

D. Findings of fact:

The disputed domain name <yonka.xyz> was registered on March 10, 2017. The website is currently not accessible.

The Complainant has shown trademark rights over the expression "YON KA", including but not limited to: the Chinese trademark YON KA + YONG KA in Chinese Characters with No. 928414 registered since January 14, 1997, the French trademark YON KA No. 3 318 892 registered since October 18, 2004 and the Benelux trademark YONKA No. 941 417 registered since July 19, 2013.

The Respondent's email address is flyrobe@outlook.com. Correspondences sent from such email address in the name of Monica Lee show that the domain name is supposed to be sold at \$1,000 and later \$800. According to the registrar's website, namely, wanwang.aliyun.com*, from September 20, 2017, the domain name <yonka.xyz> is available for sale at price of CNY 7,200.

*Note: Link to the registrar's website:

<https://wanwang.aliyun.com/nametrade/detail/online.html?spm=5176.8076989.763973.12.4b6cee>



[5cKQP79N&domainName=yonka.xyz&orgType=undefined&productType=2&token=check-web-hichina-com:4qq21j6ji72deca5y1d5odh8b5tvzhhg](#)

E. Reasoning:

1. The domain name(s) is(are) identical or confusingly similar to a word mark

The Complainant has shown trademark rights over the expression "YON KA" / "YON-KA"/ "YON KA + YONG KA in Chinese Characters", including the Chinese trademark YON KA + YONG KA in Chinese Characters with No. 928414 registered since January 14, 1997, the French trademark YON KA No. 3 318 892 registered since October 18, 2004 and the Benelux trademark YONKA No. 941 417 registered since July 19, 2013. Such trademarks are valid in the territory where the Respondent is located (China).

The domain name is comprised of the wording "YONKA", which is identical to the Complainant's distinctive trademarks.

It is well-founded view of URS (and UDRP) Panels that the new generic Top-Level Domain, in this case ".XYZ" is to be disregarded in the assessment of identity or confusing similarity between the disputed domain name and the complainant's trademark.

The Examiner thus finds that the Complaint meets the requirement of the URS 1.2.6 (i).

2. Respondent has no rights or legitimate interests to the domain name(s)

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to the URS, any rights or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed asserts that it has not authorized the Respondent nor granted him a license or permission to register the disputed domain name or use its trademarks.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name, corroborate with the indication of the absence of a right or legitimate interest.

Under these circumstances and absent evidence to the contrary, the Examiner finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name and the Complainant has therefore met the requirement of the URS 1.2.6 (ii).

3. The domain name(s) was(were) registered and is(are) being used in bad faith

After getting into contact with the Complainant, which is owner of the trademarks, the Respondent was still intentionally attempting to make a profit from <yonka.xyz> by selling it to the Complainant, and offering at the price of \$1,000 and later \$800. Moreover, according to the registrar's website, namely, wanwang.aliyun.com*, from September 20, 2017, the domain name <yonka.xyz> is available for sale at the price of CNY 7,200. Both prices are much higher than the registration fee and other reasonable expenses related to the domain name.

Hence, the Examiner finds that the domain name has been registered and is being used the in bad faith by the Respondent. The domain name was registered for the purpose of selling 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 the Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name. The Complainant has, therefore, met the requirement of the URS 1.2.6.3.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

SIGNATURE

Name: Molly

Surname: Li

Date: October 23, 2017