



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301527

Complainant: DIGITAL TRADING SCIENCE & TECHNOLOGY (BEIJING) CO. LTD.

Respondent: xiaogen huang

Domain Name: dhgate.pro

Registrar: GoDaddy.com, LLC

1. Procedural History

On February 21, 2023, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On February 24, 2023, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, GoDaddy.com, a request for registrar verification in connection with the disputed domain name.

On February 27, 2023, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

After receiving the Registrar's confirmation, the ADNDRC Beijing Office invited the Complainant to revise the Complaint accordingly. On February 27, 2023, the Complainant submitted the revised Complaint to the ADNDRC Beijing Office.

On February 28, 2023, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a

Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments through email and EMS according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and the Registrar, GoDaddy.com, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. The ADNDRC Beijing Office notified the Respondent's default on March 21, 2023. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the parties that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. LIAN Yunze, the ADNDRC Beijing Office notified the parties on March 21, 2023 that the Panel in this case had been selected, with Mr. LIAN Yunze acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On March 21, 2023, the Panel received the case files from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before April 4, 2023.

Pursuant to Paragraph 11(a) of the Rules, 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 current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

2. Factual Background

A. The Complainant

The Complainant in this case is DIGITAL TRADING SCIENCE & TECHNOLOGY (BEIJING) CO. LTD. The registered address is 1-701-1, Floor 7, 28 Chengfu Road, Haidian District, Beijing, China. The authorized representative in this case is Ms. Chen Bojun of Abida IP Agency.

B. The Respondent

The Respondent in this case is xiaogen huang. The registered address is jinanquyangguangfanersaigong, Fuzhou, Fujian 350000 China.

The Respondent is the current registrant of the disputed domain name "dhgate.pro", which was registered on May 24, 2022 according to the WHOIS information. The

registrar of the disputed domain name is GoDaddy.com.

3. Parties' Contentions


A. The Complainant

The Complainant is subordinate to DHgate Group(敦煌集团). Ms. Wang Shutong, the chief executive officer of DHgate Group, participated in the establishment of excellence network in 1999 and became the first chief executive officer, and founded DHgate.com in 2004. DHgate.com is one of the world's largest online wholesale market. According to the data of PayPal trading platform, DHgate.com is the No. 1 e-commerce website in the Asia Pacific region and the sixth in the world in terms of online foreign trade volume. At present, DHgate.com has about 2.2 million sellers and 26 million corporate and individual buyers from more than 222 countries and regions around the world. DHgate.com provides one-stop solutions for online procurement, from international logistics and payment to internet finance and customer service. Its service brands include DHcredit, DHlink, DHpay, DHtraining, DHmobile and DHport.

DHgate Group has a number of subsidiaries, including the Complainant, SHI JI FU XUAN KE JI FA ZHAN (BEIJING) YOU XIAN GONG SI, and CENTURY HEGUANG SCIENCE AND TECHNOLOGY DEVELOPMENT (BEIJING) LIMITED. Wang Shutong, chief executive officer of DHgate Group, is the legal representative of these subsidiaries.


"DHgate Group" is the English name of "敦煌集团", and the letters "DH" is the acronym of DHgate Group in Chinese characters, both DHgate and DH are of great significance in the intellectual property rights owned by DHgate Group.


As a subsidiary of DHgate Group, the Complainant has registered "DHgate" and "dhgate.com" trademarks in several classes in many countries and regions, including Chinese Mainland. In addition, the Complainant has also registered a number of other trademarks beginning with "DHgate" in Chinese Mainland and other countries and regions. The domain name and trademark information related to this case are as follows:


 "DHgate" trademark has been registered in Chinese Mainland on January 28, 2011 with the registration number of 7473183. The expiry date is January 27, 2031. The designated goods are commodities in class 9: Fax machine; Battery; Telephone; Power supply materials (wires and cables); Electronic publications (downloadable); Computer programs (downloadable software), etc.


 "DHgate" trademark has been registered in Chinese Mainland on November 7,


2010 with the registration number of 7473186. The expiry date is November 6, 2030. The designated goods are commodities in class 16: Office shredder; Painting materials; Office necessities excluding furniture; Building model; Teaching materials (except instruments); periodical; writing tool; Printed publications; Printed matter; Paper.


 "DHGate" trademark has been registered in Chinese Mainland on November 21, 2010 with the registration number of 7473189. The expiry date is November 20, 2030. The designated services are services in class 35: Administrating the purchase orders; Advertisement; Accounting; Import and export agent; Online advertisement on data communication network; Purchasing for others (purchasing goods or services for other enterprises); Sell for others; Outsourcing services (business assistance); Looking for sponsorship; Employment agency.

 "DHGate" trademark has been registered in Chinese Mainland on October 28, 2010 with the registration number of 7473185. The expiry date is October 27, 2030. The designated services are services in class 36: Insurance; Lease of real estate; Guarantee; Pawn; Electronic transfer; Financial services; broker; Raising charitable funds; Entrusted management; capital investment.


 "DHGate" trademark has been registered in Chinese Mainland on October 28, 2010 with the registration number of 747318. The expiry date is October 27, 2030. The designated services are services in class 38: Electronic bulletin board service (communication service); Teleconference service; Computer terminal communication; Providing Internet chat rooms; Providing telecommunication channel for TV shopping, etc.


 "DHGate" trademark has been registered in Chinese Mainland on December 21, 2010 with the registration number of 7473184. The expiry date is December 20, 2030. The designated services are services in class 41: Providing online electronic publications (not downloaded); Publishing of online e-books and magazines, etc.


 "DHGate" trademark has been registered in Chinese Mainland on June 14, 2011 with the registration number of 7473187. The expiry date is June 13, 2031. The designated services are services in class 42: Providing Internet search engine; Computer system design; Creating and maintaining websites for others, etc.


 "DHGate.com" trademark has been registered in Chinese Mainland on


November 7, 2010 with the registration number of 7415983. The expiry date is November 6, 2030. The designated services are services in class 35: Online advertisement on data communication network; Purchasing for others (purchasing goods or services for other enterprises); Sell for others; Outsourcing services (business assistance), etc.

“” trademark has been registered in Chinese Mainland on January 28, 2011 with the registration number of 7415996. The expiry date is January 27, 2031. The designated goods are services in class 42: Providing Internet search engine; Computer system design; Creating and maintaining websites for others, etc.


“” has been registered as a series of trademarks in the Trademark Registry of the Hong Kong Intellectual Property Department on May 12, 2013 with the registration number of 302827279. The designated goods and services are goods and services in classes 9, 35 and 38.

“” has been registered as a series of trademarks in EU Trademark Office on April 11, 2014 with the registration number of 01241899. The expiry date is December 9, 2023. The designated goods and services are goods and services in classes 9, 35 and 38.

“” trademark has been registered in the US Trademark Office on April 8, 2014. The registration number in class 35 is 4509838. The registration number in class 38 is 4488243.

“” trademark has been registered in Brazil Trademark Office on January 1, 2016. The expiry date is January 1, 2026. The registration number in class 9 is 907491537. The registration number in class 35 is 907491588. The registration number in class 38 is 907491596.

“DHgate” has been registered as a series of trademarks in Japan Trademark Office on January 28, 2021 with the registration number of 6346012. The expiry date is January 28, 2031. The designated goods and services are goods and services in classes 9, 35, 36 and 42.

“” has been registered as a series of trademarks in Turkey Trademark Office on July 17, 2018 with the registration number of 2018/66473. The expiry date is July 17, 2028. The designated services are services in classes 35, 38 and 42.

“DHGATE” trademark has been registered in Russia Trademark Office on April 4, 2014 with the registration number of 2014710668. The expiry date is April 4, 2024. The designated services are services in classes 9, 35, 38 and 42.

“DHgate” trademark has been registered in Korea Trademark Office on July 22, 2020 with the registration number of 40-1627198. The designated services are services in classes 9, 35, 38 and 42.

SHI JI FU XUAN KE JI FA ZHAN (BEIJING) YOU XIAN GONG SI, and CENTURY HEGUANG SCIENCE AND TECHNOLOGY DEVELOPMENT (BEIJING) LIMITED are subsidiaries of DHgate Group. They have registered several top-level domain names with the initials of “DHgate” and “DH”.

The Complainant has registered “DHgate” and “DHgate.com” trademarks in many countries and regions including Chinese Mainland. DHgate Group, to which the Complainant belongs, has registered and used “DHgate.com” domain name since 2004, and has registered multiple top-level domain names including “DHgate” letters in the name of its subsidiaries. The disputed domain name “DHgate.pro” is the same as the “DHgate” trademark owned by the Complainant and the service mark of DHgate Group to which the Complainant belongs, the disputed domain name is identical to the Complainant’s trademark and the disputed domain name is very easy to cause confusion.

Because the right to use the registered trademark is exclusive, when the Complainant registered “DHgate” and “DHgate.com” trademarks in many countries and regions including Chinese Mainland, other enterprises, organizations or individuals can no longer register the “DHgate” trademark. Besides, the Complainant has never authorized any enterprises, organizations or individuals including the Respondent to use its “DHgate” trademark to register the “dhgate.pro” domain name or use the domain name. Therefore, the Respondent has no rights or legitimate interests in respect of the domain name.

The title of the website (www.DHgate.pro) where the Respondent resolves the disputed domain name “DHgate.pro” uses “DH DHgate” logo in black and yellow color, and uses “DHgate” trademark in the prominent position at the top and bottom of the website, which is the same as “DH DHgate” logo in black and yellow color in the title of DHgate Group’s website (www.DHgate.com). Network users and consumers will think that the brands of the website (www.DHgate.pro) and DHgate Group’s website (www.DHgate.com) are sharing the same brand “DHgate”. Secondly, the website www.DHgate.pro is aimed at global Internet users and provides services such as online sales of luxury goods, high-end clothing and clothing, high-end electronic products, etc; this overlaps with partial service types and partial product types provided by DHgate Group’s website (www.DHgate.com), which is very easy to cause

confusion, network users and consumers will be misled. The website www.DHgate.pro was mistakenly believed to be the website of the Complainant's parent DHgate Group. In addition, the website www.DHgate.pro sells fake luxury goods, fake high-end clothing and clothing, fake high-end electronic products, etc. of inferior quality online at extremely low prices, which will mislead network users and consumers, making them mistakenly believe that the Complainant's parent DHgate Group is engaged in illegal acts that infringe on the intellectual property rights of others, and seriously damaging the reputation and reputation of the complainant and DHgate Group.

In view of all the above, the Complainant considers the Respondent's registration and use of the disputed domain name is obviously in bad faith. The Complainant requests that the disputed domain name be transferred to the Complainant.

B. The Respondent

The Respondent was duly notified by the ADNDRC Beijing Office of the Complaint lodged by the Complainant and asked to submit the Response in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplementary Rules, but failed to give any sort of defense in any form against the Complaint lodged by the Complainant.

4. Discussions and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The registrant 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.

Based on the above regulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements are established. If all the three elements are established, the Panel will make a decision in favor of the Complainant in accordance with the fact-finding and the relevant regulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If the three elements are not established, the claims by the Complainant shall be rejected.

The Respondent failed to submit the Response of any argument against what the Complainant claimed and to show his intention to retain the disputed domain name as required by the Policy, the Rules and the ADNDRC Supplemental Rules, "If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint". In view of the situation,

the Panel cannot but make the decision based primarily upon the contentions and the accompanying exhibits by the Complainant, except otherwise there is an exhibit proving to the contrary.

A. Identity or Confusing Similarity

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove that the domain name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights. Paragraph 4(a)(i) of the Policy relates to two issues: One is that the Complainant has rights in a trademark or service mark. The other one is that the disputed domain name is identical or confusingly similar to the trademark or service mark.

(1) The Complainant has rights in a trademark or service mark

The evidence provided by the Complainant shows that the Complainant's trademark "DHgate" has registrations in Chinese Mainland, Hong Kong, EU, U.S.A, Russia, Brazil, Japan, Turkey and Korea covering the goods and services in classes 9, 35, 36, 38 and 42.

Trademark "DHgate" was registered in Chinese Mainland under Reg. No. 7473183, 7473184, 7473185, 7473186, 7473187, 7473188 and 7473189, covering the goods and services in classes 9, 35, 36, 38 and 42, which were registered in 2010 and 2011 and are presently valid.

Trademarks "DHgate" and "DHgate.com" with the registration number 7473189 and 7415983 were registered on November 21, 2010 and November 7, 2010. The expiry dates are November 20, 2030 and November 6, 2030. The registered services in class 35 are "Administrating the purchase orders; Advertisement; Accounting; Import and export agent; Online advertisement on data communication network; Purchasing for others (purchasing goods or services for other enterprises); Sell for others; Outsourcing services (business assistance); Looking for sponsorship; Employment agency".

The above trademark registrations are presently valid and their dates are earlier than that of the disputed domain name, i.e. May 24, 2022. The Complainant therefore has rights in the trademark "DHgate" and "DHgate.com".

(2) The disputed domain name should be identical or confusingly similar to the trademark or service mark

The disputed domain name "dhgate.pro" is composed of ".pro" and "dhgate". ".pro" is the generic top-level domain suffix and may be disregarded when evaluating the similarity between a domain name and a trademark. The distinctiveness of the disputed domain name therefore lies in "dhgate", which is identical with the Complainant's registered trademark "DHgate", except the capital two letters. The Panel therefore finds that the disputed domain name is confusingly similar to the

Complainant's registered trademarks. Accordingly, the Complainant has proven that the first element required by paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. It has not authorized the Respondent to use and register "DHgate" trademark as the disputed domain name "dhgate.pro". The Respondent should rebut the Complainant's assertion by providing concrete evidence that it has rights to or legitimate interests in the domain name. Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent's rights or legitimate interests in a domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

However, the Respondent did not respond and did not submit any evidence to demonstrate any of the above circumstances. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has proven that the second element required by paragraph 4(a) of the Policy is established.

C. Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (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 trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent registered the domain name in order to prevent the owner of the trademark 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 its 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 its website or location or of a product or service on its website or location.

Paragraph 4(a)(iii) and Paragraph 4(b) relates to two issues: One is that the disputed domain name has been registered in bad faith. The other one is that the disputed domain name is being used in bad faith.

(1) The disputed domain name has been registered in bad faith

When judging whether the disputed domain name has been registered in bad faith, the following circumstances should be considered:

The Complainant's trademark is distinctive and widely known. The Complainant and the Respondent are in the same business sector with same consumers. The near instantaneous and global reach of the internet and search engines.

a. Distinctiveness of the Complainant's trademark

The Panel believes that the distinctiveness of the Complainant's trademark should be taken into account when determining whether the Respondent has bad faith. The more distinctive the trademark is, the less likely that the disputed domain name is registered as a coincidence, and the more likely that it will be considered as bad faith registration. The Panel believes that the "DHgate" trademark has strong distinctiveness, and it is not a coincidence that the Respondent registered the disputed domain name. The Respondent should argue and provide evidence to prove that "dhgate" was designed by the Respondent, but the Respondent failed to do so. The Respondent did not provide evidence to prove that the registration of the disputed domain name was not for bad faith.

b. The same business sector with same consumers

The Complainant is subordinate to DHgate Group, which founded DHgate.com in 2004. DHgate.com is one of the world's largest online wholesale market. The Respondent is also an online wholesale market. They are in the same business sector with same consumers. The Panel holds that the Respondent should have known about the Complainant's trademark prior to registering the disputed domain name.

c. The Complainant's trademark is widely known

The Complainant asserts that it is subordinate to DHgate Group. DHgate.com is one of the world's largest online wholesale market. According to the data of PayPal trading platform, DHgate.com is the No. 1 e-commerce website in the Asia Pacific region and

the sixth in the world in terms of online foreign trade volume. At present, DHgate.com has about 2.2 million sellers and 26 million corporate and individual buyers from more than 222 countries and regions around the world. To support the well-known reputation of its trademark “DHgate”, the Complainant submitted evidence including awards received: No. 1 Cross-border E-commerce Enterprises; Top 100 China B2B Enterprises; Top 100 China E-commerce Enterprises; Most Influential Enterprises of the Year 2017.

The Panel is convinced by the above evidence that the Complainant’s trademark “DHgate” is widely known. The Panel holds that the Respondent should have known about the Complainant’s trademark prior to registering the disputed domain name.

d. The near instantaneous and global reach of the internet and search engines

Nowadays it is very easy to make searches with internet and search engines. It is a common sense and practice for people to make searches with internet and search engines prior to registering something. The Panel believes that the Respondent made searches and knew the Complainant’s trademark “DHgate” prior to registering the disputed domain name.

Considering the above, the Panel holds that the Respondent should have known about the Complainant’s trademark prior to registering the disputed domain name. As the domain name would cause confusion to internet users, it should have avoided the registration, which is considered as good faith; instead, it registered the disputed domain name. The Respondent deliberately sought to cause such confusion. Accordingly the Panel holds that the disputed domain name has been registered in bad faith.

(2) The disputed domain name is being used in bad faith

The screenshot of the website of the disputed domain name shows that it is also an online wholesale market. It provides services of online sales of garments, shoes and bags, which are the same services of the Complainant’s online sales (www.dhgate.com). They are in the same business sector with same consumers.

On the top of the webpage there shows “DHgate.com” in black and yellow color, which is identical to the Complainant’s trademark No. 7415983. Other pages shows “DGgate.pro” and “DHgate.pro BIRKIN Bags BIR01” on the top page. Pictures of all kinds of bags were shown with different prices. At the bottom of the page, there shows “Copyright © 2022 - DHgate.pro (<https://www.dhgate.pro>)”. Bags marked with different prices show that the website is for commercial gain.

Having carefully studied the Complainant’s assertion on bad faith and the screenshot of the Respondent’s website, the Panel was convinced that the Respondent is trying to mislead the internet users to believe that the website is the Complainants’ website, the information is from the Complainant or the Respondent has special business

relations with the Complainant. As the website is for commercial gain, the Respondent is trying to obtain commercial gain from the Complainant's reputation. The Panel believes that the use of the domain name is in bad faith, which meets Paragraph 4(b)(iv) of the Policy.

In view of all the above, the Panel holds that the disputed domain name should be considered as having been registered and being used in bad faith under paragraph 4(b) of the Policy. Therefore, the Complainant has proven that the third element required by paragraph 4(a) of the Policy is established.

5. Decision

For all the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the domain name "dhgate.pro" be transferred to the Complainant, Digital Trading Science & Technology (Beijing) Co. Ltd.

Sole-Panelist:



Dated April 4, 2023 in Beijing