



Asian Domain Name Dispute Resolution Centre

beijing

## **ADMINISTRATIVE PANEL DECISION**

**Case No. CN-2301546**

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**Complainant: XPEL, INC.**  
**Respondent: Zhang Bin**  
**Domain Name: <xpel.live>**  
**Registrar: GoDaddy.com, LLC**

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### **1. Procedural History**

On 30 March 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 12 April 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, LLC, a request for registrar verification in connection with the disputed domain name.

On 12 April 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. On 13 April 2023, the ADNDRC Beijing Office requested the Complainant to revise the Complaint. On the same date, the Complainant submitted the revised Complaint.

On 18 April 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 according to the Rules and the

Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar, GoDaddy.com, LLC, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 17 May 2023, the ADNDRC Beijing Office notified the Respondent's default. 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 Complainant and the Respondent 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. ZHAO Yun, the ADNDRC Beijing Office notified the parties on 19 May 2023 that the Panel in this case had been selected, with Mr. ZHAO Yun 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 19 May 2023, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 2 June 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 XPEL, INC. The registered address is 618WEST SUNSET ROAD, SAN ANTONIO, TEXAS 78216, USA. The authorized representative in this case is Yanmeng ZHAO.

### **B. The Respondent**

The Respondent in this case is Zhang Bin. The registered address is An Zhou Shi Yue Xiu Ou Yue Xiu Na Lu 183Hao Chuang Ju Shang Wu, Beijing, CN.

The Respondent is the current registrant of the disputed domain name "xpel.live", which was registered on 21 June 2022 according to the WHOIS information. The registrar of the disputed domain name is GoDaddy.com, LLC.

### **3. Parties' Contentions**

#### **A. The Complainant**

(i) The disputed domain name is identical or extremely similar to the trademark or service mark owned by the Complainant, which is likely to cause confusion; and

In the disputed domain name <xpel.live> in this case, ".live" is the top-level domain symbol and is not distinctive, and "xpel" is the distinguishing part of the disputed domain name.

As mentioned above, the Complainant has registered trademark of "XPEL" in many countries. "XPEL" is a contrived term and has no special meaning itself. The distinguishing part of the disputed domain name "xpel" is the same as the trademark "XPEL" registered by the Complainant. Thus, the disputed domain name <xpel.live> is identical or extremely similar to the Complainant's trademark.

In addition, the official website domain name used by the Complainant is <xpel.com>, and the official website domain name used by the Complainant's general distributor in China, Shanghai Xingying Trading Co., Ltd. is <xpel.com.cn>. The domain name identification parts are also same with that of the disputed domain name.

Therefore, the disputed domain name is very easy to cause confusion, and it is easy for the relevant public to believe that the disputed domain name <xpel.live> was registered by the Complainant or have a certain connection with the Complainant.

Based on the above reasons, the Complainant believes that the Complaint meets the conditions stipulated in Article 4(a)(i) of the Policy.

(ii) The Respondent does not have the rights or legitimate interests in the domain name; and

There is no evidence shows that the Respondent has any rights to "xpel" or its identical or similar logo, nor does the Respondent claim any rights or legitimate interests, nor does the Respondent register the disputed domain name by obtaining the permission of the Complainant.

In addition, the purpose of the Respondent's registration of the disputed domain name is to imitate the website of the Complainant's exclusive distributor in China, and to provide electronic warranty inquiries for the counterfeit products sold by him or the co-infringer, in order to defraud consumers' trust. Combined with the Respondent's obvious malice, the Respondent will not have the rights or legitimate interests in the disputed domain name.

Based on the above reasons, it can be presumed that the Respondent does not have rights or interests in the disputed domain name, its registration and use of the disputed domain name lack a reasonable basis, and the Complainant's complaint meets the conditions stipulated in Article 4(a)(ii) of the Policy.

(iii) The domain name of the Respondent has been registered maliciously and is being used maliciously.

The Complainant was established in the United States in 1997. It is an international manufacturer dedicated to automotive safety protection products. It has branches in the United Kingdom, Canada, Germany, Mexico, Denmark, Asia and other countries and regions. Agents and distributors not only cover the entire United States, but also extend to more than 80 countries and regions on all continents, including the Americas, Europe, Asia, Australia, etc. It is a leading enterprise in the field of automotive paint protection film (also known as invisible car clothing in China), and has extremely high awareness and good reputation. The Complainant was listed on the Canadian stock market in 2006 under the stock code DAP.U, and in 2019 on the Nasdaq stock market in the United States under the stock code XPEL. XPEL automotive paint protection film entered the Chinese market in 2009, and currently nearly a thousand XPEL dealers are located in various provinces and cities in mainland China.

The Complainant's exclusive general distributor in China is Shanghai Xingying Trading Co., Ltd. (hereinafter referred to as Xingying). In China, to sell XPEL car paint protection film, you must get the authorization of Xingying to become a franchise dealer, and then you can obtain the channels and sales qualifications to purchase XPEL genuine products. In addition, each roll of XPEL car paint protection film has a unique roll number, which can be used to identify the authenticity of the paint protection film and track whereabouts in the internal system.

After the dealer sells the XPEL car paint protection film to the consumer, the consumer can obtain the electronic warranty ID. Through the electronic warranty ID, the authenticity of the product and the information of the consumer, vehicle, and film can be inquired on the electronic warranty query system of Xingying's website.

At present, some infringers in China sell counterfeit XPEL car paint protection film products at prices lower than the genuine ones. Although the car paint protection film packaging box shells are basically the same as the genuine ones, they also use the Complainant's registered trademark "XPEL", but since counterfeit products cannot provide electronic warranty, some consumers who are familiar with XPEL products can identify the authenticity of the products. In this case, some counterfeiters registered domain names including "xpel" and copied Xingying's website to provide a false electronic warranty query system to deceive consumers that it is an authorized franchise store and convince consumers that its product is genuine XPEL.

The website in this case is one of several fake websites discovered by the Complainant. The domain name <xpel.com.cn> used by Xingying's website was registered in 2010, and the domain name of the Respondent <xpel.live> was registered in the August of 2022. It was much later than the registration and use of Xingying's domain name, and except for the suffix part, the domain name identification

part "xpel" is exactly the same.

It can be clearly seen from the webpage submitted by the Complainant that the website "www.xpel.live" used by the Respondent completely copied the website "www.xpel.com.cn" of Xingying Company, and the two websites are consistent in interface design and website content.

In addition, the Respondent copied the Complainant and Xingying's management personnel in the management details of the company's "Management Information"; in the lower corner of the website, the fake website also copied the ICP recordation number of Xingying's website, "Shanghai ICP No.19023804-1". On the electronic warranty query page, the counterfeit website deletes the graphics and text parts of the original website related to the three ways of authenticating.

The purpose of the Respondent's creation of a fake website is to provide a counterfeit electronic warranty inquiry system, and then sell fake goods by himself or help others sell fake goods to deceive consumers. The act of the Respondent selling counterfeit goods and using the counterfeit website is not only a trademark infringement, but may also constitute a criminal offense of selling counterfeit registered trademark goods or selling counterfeit goods.

In addition, the Respondent concealed his identity information when registering the domain name "xpel.live", and did not disclose his information on the website when using this disputed domain name. The website "www.xpel.live" did not file for the ICP recordation, also for hiding its identity information. Those can also reflect the malice of the Respondent.

In summary, the Respondent's malicious registration and use of the <xpel.live> domain name is very obvious.

Since the Respondent concealed his identity information when implementing the counterfeiting behavior, if the <xpel.live> domain name is not transferred to the Complainant, the Complainant has no other appropriate way to stop the counterfeiting behavior of the Respondent, which is not only damage to the Complainant's exclusive right to use a registered trademark, but will also cause serious infringements on the legitimate rights and interests of consumers.

In addition, the fake websites using the domain names <xpel.cloud>, <xpel.gold> <xpel.gdn> are almost identical to the situation in this case, and the fake websites are also almost identical. Panels of ADNDRC Beijing Office made the Decisions No. CN-2101386, CN-2101411, and CN-2101444 respectively on June 3, 2021, August 13, 2021, and March 7, 2022, and decided to transfer the domain names <xpel.cloud> <xpel.gold> and <xpel.gdn> to the Complainant.

In conclusion, the Complainant's complaint meets the conditions stipulated in Article 4(a)(iii) of the Policy.

The Complainant requested that the disputed domain name be transferred to the Complainant.

## **B. The Respondent**

The Respondent failed to submit a Response within the specified time period.

## **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.

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.

## **A. Identity or Confusing Similarity**

Evidence No. 4 (Copies of the trademark registration certificates) submitted by the Complainant shows that the Complainant successfully registered the trademark

“XPEL” in China on 14 February 2014, earlier than the registration date of the disputed domain name (i.e. 21 June 2022). The trademark is still within the trademark protection period. The Panel has no problem in finding that the Complainant enjoys the prior trademark right over “XPEL”.

The disputed domain name <xpel.live> ends with “.live”, this suffix only indicates that the domain name is registered under this gTLD and “.live” is not distinctive. Thus, the Panel only needs to examine the main part of the disputed domain name “xpel”. It is obvious that this main part is exactly the same as the Complainant’s registered trademark “XPEL” except that the letters are in lowercases which bears no distinction value in domain names.

The Panel holds, accordingly, that the Complaint fulfills the condition provided in Paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests of the Respondent**

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant has never authorized the Respondent to use the trademark or the disputed domain name. The Complainant’s assertion is sufficient to establish a prima facie case under Paragraph 4(a)(ii) of the Policy, thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests.

The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name. No evidence has shown that the Respondent is using or plans to use the disputed domain name for a bona fide offering of goods or services, which will be further elaborated below. On the contrary, Evidence No. 8 (The home page, management information, electronic warranty query system of the fake website [www.xpel.live](http://www.xpel.live)) shows that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The act of registering the disputed domain name does not automatically endow any legal rights or interests with the Respondent.

The Panel therefore finds that the Complaint fulfills the condition provided in Paragraph 4(a)(ii) of the Policy.

### **C. Bad Faith**

The Complainant is an American company in the field of automotive safety protection products. Evidence No. 6 (Evidences to prove the high awareness and good reputation of XPEL) sufficiently shows that the Complainant has received wide recognition in the relevant market by winning awards and honors from the many honors; the trademark has also been officially considered to have obtained certain reputation in the market through extensive use, advertisement and promotion. As such,

the public has come to recognize and associate the Complainant's trademark as originating from the Complainant and no other.

More importantly, Evidence 7 (Whois information of the domain name <xpel.com.cn> of Xingying Company's website), Evidence No. 8 (The home page, management information, electronic warranty query system of the fake website [www.xpel.live](http://www.xpel.live)) and Evidence No. 9 (The home page, management information electronic warranty query system of the Xingying Company's website [www.xpel.com.cn](http://www.xpel.com.cn)) sufficiently show that the webpage of the disputed domain name reproduced the same or highly similar webpage of the official website of the Xingying, which is the Complainant's exclusive general distributor in China. The fact that the website of the disputed domain name contains the trademark "XPEL" and the same products is obvious to all that the Respondent is aware of the existence of the Complainant and its trademark. This can be further substantiated by the fact that "XPEL" is not a generic word. The act of registering the disputed domain name per se has constituted bad faith. Actually, it is impossible to conceive of any plausible active use of the disputed domain names by the Respondent that would not be illegitimate.

In fact, the Complainant has never authorized the Respondent to use the trademark or the disputed domain name to sell these products. This is exactly the type of bad faith use of the disputed domain name as identified in the Policy, i.e. the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

The Panel concludes that the Respondent has registered and used the domain name in bad faith. Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4(a)(iii) of the Policy.

## 5. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the <xpel.live> domain name should be transferred to the Complainant XPEL, INC.



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ZHAO Yun

Dated: 25 May 2023