



Asian Domain Name Dispute Resolution Centre

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301567

Complainant: MIDEA GROUP CO., LTD
Respondent: andrew okotie
Domain Name: mideainvestment.com
Registrar: PDR Ltd. d/b/a PublicDomainRegistry.com

1. Procedural History

On 17 July, 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 17 July, 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, PDR Ltd. d/b/a PublicDomainRegistry.com, a request for registrar verification in connection with the disputed domain name.

On 21 July, 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 25 July, 2023, the Complainant submitted the revised Complaint to the ADNDRC Beijing Office.

On 27 July, 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 the Registrar, PDR Ltd. d/b/a PublicDomainRegistry.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. 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 Dr. Timothy Sze, the ADNDRC Beijing Office notified the parties on 23 August, 2023 that the Panel in this case had been selected, with Dr. Timothy Sze 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 23 August, 2023, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 6 September, 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 MIDEA GROUP CO., LTD. The registered address is 26th to 28th floors, Block B, Midea Headquarters Building, No. 6 Midea Avenue, Beijiao Town, Shunde District, Foshan City, Guangdong Province, China. The authorized representative in this case is Liu, Shen & Associates.

B. The Respondent

The Respondent in this case is andrew okotie. The registered address is Oshodi oshgbeju ikeja lagos Nigeria 234001.



The Respondent is the current registrant of the disputed domain name "mideainvestment.com", which was registered on 21 September, 2020 according to the WHOIS information. The registrar of the disputed domain name is PDR Ltd. d/b/a PublicDomainRegistry.com.




3. Parties' Contentions

A. The Complainant

The Complainant, founded in 1968, is a large comprehensive modern enterprise group focusing on household appliances and involved in real estate, logistics and other fields. The Complainant was listed on the Shenzhen Stock Exchange on 18 September, 2013. The Complainant has two subsidiary listed companies, Tundra swan (SZ000418) and Welling Holdings (HK00382). In 1980, the Complainant officially entered the home appliance industry. At present, the Complainant employs 126,000 people in total, and owns more than 10 brands including Midea, Tundra swan, Welling, Hualing, Ande, and Meizhi. The Complainant has 15 domestic production bases in China and 5 foreign production bases in Vietnam, Egypt, Brazil, Argentina, and India.

In 1999, the Complainant publicly released his new English expression "Midea" through several medium such as Xinhua News Agency, China Trade News, Securities Times, Hong Kong China News Agency, China Information Daily, Southern Metropolis Daily, etc. Afterwards, "Midea", as the main trademark of the opponent, has been promoted and used for more than 20 years, and has obtained a high reputation. In the Administrative Judgment (2012) YZXHCZ No. 1568 issued by the First Intermediate People's Court of Beijing, it was determined that the trademark No. 1523735 "Midea", used in air conditioners, electric fans and other commodities, has reached a well-known state before January 21, 2004. In the Administrative Judgment No. (2019) Jingxing Zhong 3947 of the Beijing High People's Court, it was determined that the trademark No. 5478887 "Midea" has a high level of popularity in air conditioning and electric fan products and constitutes a well-known trademark.

| Country | Trademark | Reg. No. | Reg. Date | Registration goods | Registrant |
|---------|---|----------|------------|---|----------------------------|
| China |  | 14910307 | 2015/10/07 | Classes 7, 9, 11, 21 Goods of class 7 Goods of class 9 Goods of class 11 | MIDEA GROUP CO., LTD |
| China |  | 6765876 | 2010/06/28 | Goods of class 9 | |

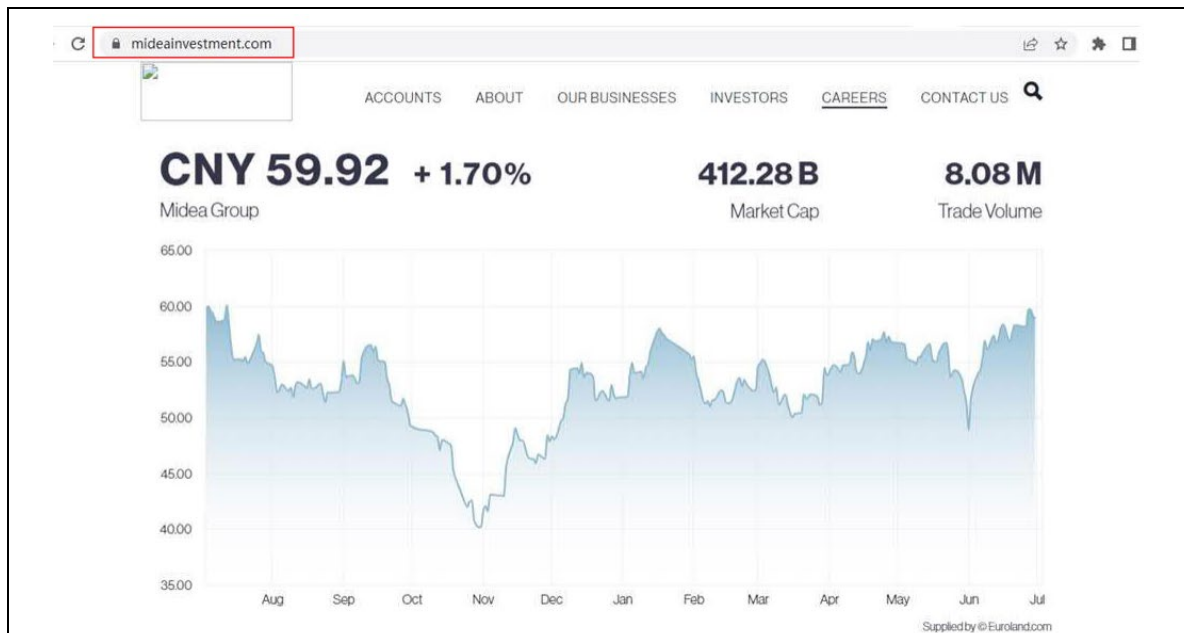
| | | | | |
|-------|--|----------|------------|---|
| China | 美的  | 25485828 | 2018/07/28 | Classes 7, 9, 11, 21 Goods of class 7 Goods of class 9 Goods of class 11 |
| China | 美的  | 1523735 | 1999/10/15 | Class 11 |
| China | 美的  | 5478887 | 2006/07/14 | Class 11 |

Besides, the Complainant has been recognized as Top 10 Excellent Independent Brands in Guangdong Province (广东省十佳优秀自主品牌), Top 100 Private Enterprises in Guangdong Province (广东省百强民营企业), 53rd among China's top 500 enterprise groups in 2008 (2008 年度中国最大 500 家企业集团第 53 名), 32nd on the 2018 China Top 500 list (2018 年中国 500 强排行榜第 32 名) and gained other honors.

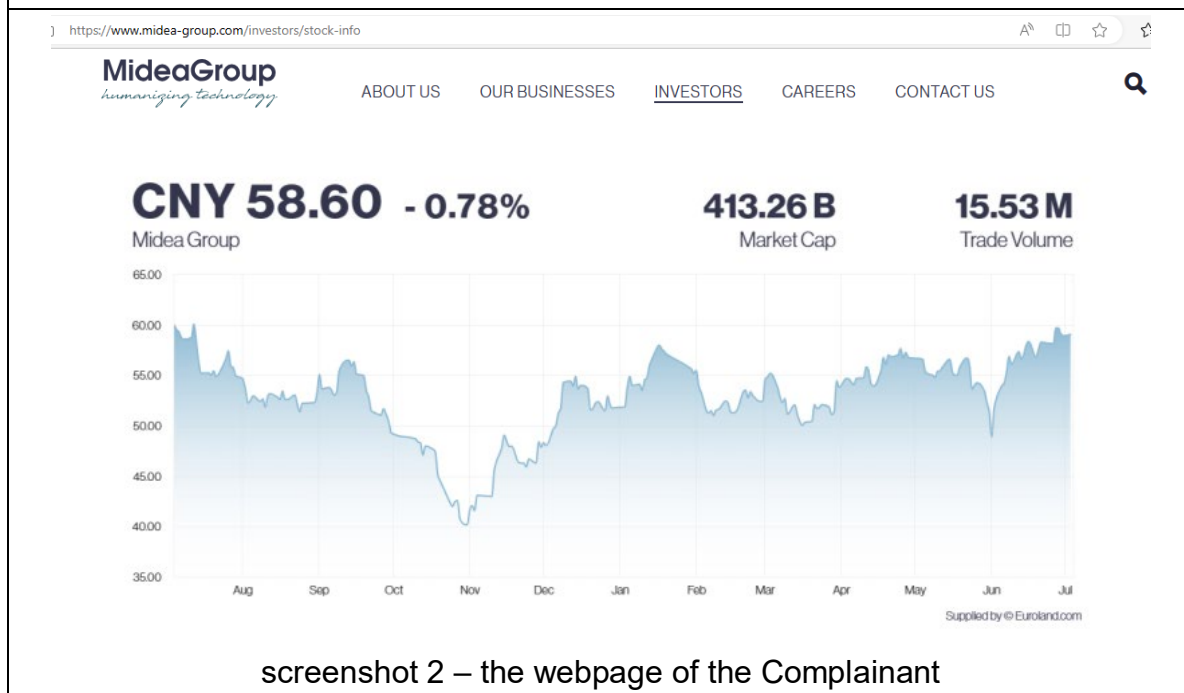
(1) The disputed domain name is very similar to trademarks owned by the Complainant which is likely to cause confusion

The disputed name “mideainvestment” consists of “midea” and “investment”. “Investment” means “the act of investing money in something”, and it does not possess distinctiveness. The main distinctive part of the disputed domain name is “midea”, which is the same as the above prior registered trademarks or the distinctive English word of the above registrations.

As shown in screenshot 1 below, which was made by the Complainant for the webpage of the disputed domain name on 7 July, 2023, its content and webpage layout are almost the same as those of the Complainant’s own domain name “midea-group.com” shown in the screenshot 2. Besides, the webpage also contains the Complainant’s introduction and products, such as household appliances. The goods shown in screenshot 1 are identical/similar to the covered by the Complainant’s registered trademarks. While, at present, the webpage of the disputed domain name has been closed due to the Complaint.



screenshot 1 – the webpage of the dispute domain name



screenshot 2 – the webpage of the Complainant

In addition, before the registration date (September 21, 2020) of the disputed domain name, the brand “MIDEA” has obtained a high reputation around the world through the Complainant’s use.

Considering the high reputation of the Complainant and the prior registered marks, the similarity between the prior registered marks and the disputed domain name, and the actual promotion and use of the disputed domain name, it will confuse the relevant public when seeing the disputed domain name. If the disputed domain name is allowed to continue as a valid domain name, it will inevitably disrupt the market, cause confusion to the relevant public and damage the Complainant’s

trademark rights.

(2) the Respondent has no rights or legitimate interests in the Domain Name

The Complainant has searched the trademarks "mideainvestment.com", "mideainvestment" in all classes in the database of CNIPA. As a result, the Respondent does not have any rights or legitimate interests in the disputed domain name.

(3) the Respondent's domain name has been registered in bad faith and is being used in bad faith.

First, the Respondent snatched the Complainant's registered trademarks and brand "midea" as the domain name.

Second, according to screenshot 1 on 7 July, 2023, the Respondent used the disputed domain name to indicate the goods similar to the ones covered by the Complainant's registrations, which clearly intended to confuse the customer with bad faith.

Lastly, the contents and layout of the website that the disputed domain name linked to are almost the same as those of the Complainant's own domain name. The Respondent takes advantage of the Complainant's reputation and imitates the Complainant's webpage to attract investors, which may be a fraud. Therefore, the disputed domain name is registered and used in bad faith.

B. The Respondent

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

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.

Respondent in Default

The Policy and the Rules provides that "[i]f a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the

dispute based upon the complaint.” The Panel finds that no exceptional circumstances exist. Accordingly, the Panel will decide the dispute based upon the Complaint and the evidence submitted therewith.

A. Identity or Confusing Similarity

The evidence submitted by the Complainant demonstrates that they successfully registered the trademark “MIDEA” as early as 1999, which is much earlier than the time the Respondent registered the disputed domain name. The Complainant has registered multiple “MIDEA” and “美的” series trademarks in China, all of which enjoy a high market reputation. The registration date of the disputed domain name “mideainvestment.com” was 21 September 2020, significantly later than the application and completion of the registration of the aforementioned trademarks by the Complainant.

The disputed domain name “mideainvestment.com” reproduces the Complainant's “MIDEA” trademark entirely, with the addition of the term “investment”. The term “investment” refers to “the act of investing money in something” and does not possess distinctiveness. Although the disputed domain name does not separate “Midea” from “investment”, internet users will generally recognize “investment” as business services or a scope related to the “MIDEA” Group. Even if internet users do not recognize “investment”, the difference between the main part of the disputed domain name, “midea”, and the Complainant's trademark “MIDEA” is negligible considering their identical appearances, pronunciations, and lengths. Additionally, the gTLD “.com” is without legal significance in this case since the use of a TLD is technically required to operate a domain name.

Furthermore, the mark “MIDEA” is inherently distinctive and will attract internet users' attention. The evidence provided by the Complainant also shows that the “MIDEA” mark had accumulated a considerable reputation by 2020 when the Respondent first registered the disputed domain name. The reproduction of the Complainant's “MIDEA” trademark in its entirety in the domain name establishes that the domain name is confusingly similar to the Complainant's trademarks.

The Panel notes that the Complainant has provided evidence of its registered trademarks for “MIDEA” in connection with household appliance products and has been using this trademark for many years.

Therefore, the Panel finds that the Complainant has proven the element required by the Policy, paragraph 4(a)(i), that the disputed domain name is confusingly similar to the Complainant's registered trademarks.

B. Rights or Legitimate Interests of the Respondent

Based on the Complainant's search results on the Internet and the China Trademark Office database, it appears that the Respondent does not possess any rights related to the disputed domain name. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain names. The Panel also could not find any rights or legitimate interests under paragraph 4(c) of the Policy.

Accordingly, the Panel finds that the Complainant has satisfied the second condition under paragraph 4(a)(ii) of the Policy.

C. Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the Respondent has registered or the Respondent has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain names 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 documented out-of-pocket costs directly related to the domain names; or

(ii) the Respondent has registered the domain names 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 names primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain names, 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 the Respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. The overriding objective of the Policy is to curb the abusive

registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another.

For the reasons discussed under this and the preceding heading, the Panel considers that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraphs 4(b)(iv) and 4(a)(iii) of the Policy. The Respondent clearly was aware of the Complainant and had the Complainant's "MIDEA" mark in mind. The Complainant argues that the Respondent cannot ignore the fact that "MIDEA" is a well-recognized company and its trade and service marks are commonly known, alleging that the Respondent was aware of that mark when it registered the disputed domain name. Further, the Complainant alleges that the Respondent cannot use the disputed domain name without infringing on the trademark owner's rights.

The Panel notes that according to the evidence provided, the disputed domain name "mideainvestment.com" uses the Complainant's "MIDEA/美的" brand household appliances website. The layout, text information, and other contents of this fake page are identical to the Complainant's "MIDEA/美的" website, and it contains the Complainant's official contact information, which is extremely confusing. It is easy for ordinary consumers to mistakenly believe that the disputed domain name is the official website of the Complainant or has any association with the Complainant. Furthermore, the Complainant has conducted a blockchain notarization of the disputed domain name, demonstrating the operation and providing fixed evidence of the disputed domain name forging the Complainant's "MIDEA" brand and using the official contact information of the Complainant.

The addition of the term "investment" to the disputed domain name does not sufficiently distinguish it from the Complainant's trademarks, especially given that the term "investment" is commonly associated with the types of goods sold by the Complainant. Moreover, the fact that the Respondent uses the Complainant's "MIDEA/美的" brand website, with the layout, text information, and other contents being identical to the Complainant's "MIDEA/美的" website, along with the inclusion of the Complainant's official contact information, further adds to the confusion.

The Panel finds it highly probable that the Respondent had the Complainant's mark in mind when registering the Domain Name. Not only is "MIDEA" an uncommon, if not unique, but the redirection of the disputed domain name to the same products of the Complainant suffices an act of bad faith.

The Panel finds that the Complainant has established that the Respondent

registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The failure of the Respondent to respond to the Complainant further supports a finding of bad faith registration and use.

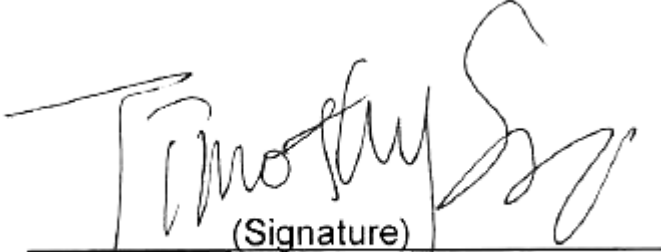
5. Decision

Based on the above analysis, the Panel decides that:

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and 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.

Accordingly, pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel decides that the disputed domain name “mideainvestment.com” should be transferred to the Complainant, MIDEA GROUP CO., LTD.

Sole panelist:



(Signature)

(Timothy SZE)

Dated: 6 September 2023