



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301599

Complainant: JINKO SOLAR CO., LTD

Respondent: Ahmed Benzguil

Domain Name: jinkosolarmaroc.com

Registrar: OVH SAS

1. Procedural History

On December 19, 2023, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the ADNDRC Beijing Office) and elected the case to be dealt with by a sole panelist, 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 December 26, 2023, ADNDRC Beijing Office informed ICANN, and requested the Registrar OVH SAS for the registrar verification in connection with the registration record of the disputed domain name. On December 27, 2023, the Registrar replied to confirm that the Respondent is currently the registrant of the disputed domain name and the language used in the registration agreement is French.

On December 28, 2023, ADNDRC Beijing Office sent by email to the Complainant for the acknowledgement of the receipt of the Complaint and requested the Complainant to revise its submission, as well as notified the Complainant that the procedural language is French. On the same day, the Complainant revised its submission and requested for the change of the procedural language to English.

On January 2, 2024, the ADNDRC Beijing Office sent the request by the Complainant for the procedural language change to the Respondent asking for its opinion. The Respondent replied on January 4, 2024 in English but failed to express its opinion on the procedural language.

On January 12, 2024, the ADNDRC Beijing Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent; and the

proceeding officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which indicated that the Complainant had filed a Complaint with regards to the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments to the Respondent, according to the Rules and the Supplemental Rules. At the same time, the ADNDRC Beijing Office notified ICANN and the Registrar OVH SAS of the commencement of the proceeding.

On February 1, 2024, the Respondent sent an email to the ADNDRC Beijing Office to express its general views on the dispute. The ADNDRC Beijing Office forwarded the Respondent's response to the Complainant on February 5, 2024. On the same day, the ADNDRC Beijing Office informed the disputing parties that the ADNDRC Beijing Office would appoint a sole panelist to make a decision on the dispute.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Chi Shaojie, the ADNDRC Beijing Office notified the parties on February 6, 2024 that the Panel in this case had been formed with Mr. Chi Shaojie acting as the sole panelist. The Panel determines that the appointment was made in conformity with the regulations under Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules. On February 18, 2024, the Panel received the file from the ADNDRC Beijing Office and was required to render the Decision within 14 days after the formation of the Panel, i.e. on or before March 3, 2024.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language used in the current administrative proceeding shall be the language used in the Registration Agreement, subject to the authority of the Panel to determine otherwise, and having regard to the foregoing proceeding among the Complainant, the Respondent and the ADNDRC Beijing Office, especially the request to change the language to English submitted by the Complainant and the language used by the Respondent in its communication with the ADNDRC Beijing Office; the Panel decides that the language used in the current proceeding shall be English and notified its decision on February 20, 2024 to the parties through the ADNDRC Beijing Office.

2. Factual Background

A. The Complainant

The Complainant in this case is JINKO SOLAR CO., LTD with its business address at No. 1 Yingbin Road, Shangrao Economic Development Zone, Shangrao City, Jiangxi Province, China.

The authorized representative of the Complainant in this case is Beijing Uni-intel Patent and Trademark Law Firm.

B. The Respondent

The Respondent in this case is Ahmed Benzguil with the address at 315 Lot maristane 1 SYBA Marrakech 40000 MA.

The Respondent is the current registrant of the disputed domain name <jinkosolarmaroc.com>, which was registered, according to the WHOIS information, on December 22, 2021 and was updated on November 24, 2023. The Registrar of the disputed domain name is OVH SAS.

3. Parties' Contentions

A. The Complainant

The main part of the disputed domain name, "jinkosolar", is the trade name and trademark of the Complainant. The Complainant was founded on December 13, 2006 using the Chinese trade name corresponding to "JINKO SOLAR". The Complainant filed a lot of earlier trademarks on which the Complaint is based, such as the Chinese Registrations "JinKO" No. 6961685 filed on September 19, 2008 and "JinkoSolar" No. 7844155 filed on November 18, 2009, both in Class 9 in respect of the designated goods "Semiconductor; monocrystalline silicon; square lead crystal (detector); quartz crystal; polysilicon; carbon material; silicon epitaxial sheet; chip (germanium); solar cells; battery". Moreover, the international registration No. 1135950 filed on July 10, 2012, "JinKO Solar Building Your Trust in Solar", was successfully extend to Morocco, which means the same country as "Maroc" (as included in the disputed domain name, other than the "jinkosolar" part) in classes 9, 19 and 37, the designated goods of which in class 9 include "Quantity indicators; punched card machines for offices; weighing machines; electronic notice boards; intercommunication apparatus; enlarging apparatus (photography); cables, electric; galena crystals (detectors); wafers (silicon slices); integrated circuits; video screens; ionisation apparatus, not for the treatment of air; radiology screens for industrial purposes; sound alarms; batteries, electric". The Complainant owns trademark registrations of "JINKO", "JINKO SOLAR" or marks with "JINKO" or "JINKO SOLAR" as the distinctive part in more than 120 countries and regions all over the world, including China, Morocco (Maroc), countries and regions nearby Morocco (Maroc) such as Algeria, Cyprus, Turkey, Switzerland, EU, Mexico; etc.. There are more than 150 registrations of "JINKO SOLAR" in many classes of goods/services all over the world including China and Morocco (Maroc). "JINKO SOLAR" has been well-known in the world. The Respondent registered the Complainant's trade name and registered trademark as its domain name. The Complainant requests for transferring of the disputed domain name from the Respondent to Complainant, in accordance with the Policy, the Rules, and the ADNDRC Supplemental Rules. The Policy provides, at Paragraph 4(a), that in the

administrative proceeding, the complainant must prove that EACH of the following three elements is present:

(i) The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant was founded on December 13, 2006 and started the use of “JINKO SOLAR” as the English translation of its trade name and its English mark from then on. The Complainant filed a lot of prior trademarks on which the Complaint is based, such as the Chinese Registrations “JinKO” No. 6961685 filed on September 19, 2008 and “JinkoSolar” No. 7844155 filed on November 18, 2009, both in Class 9. Moreover, the international registration No. 1135950 filed on July 10, 2012, “JinKO Solar Building Your Trust in Solar”, was successfully extend to Morocco. The Complainant owns trademark registrations of “JINKO”, “JINKO SOLAR” or marks with them as the distinctive part in more than 120 countries and regions all over the world.

The disputed domain name can be divided into two parts, “jinkosolar” and “maroc”. “jinkosolar”, the distinctive part of the disputed domain name, is identical with the trade name and the main trademark of the Complainant. “maroc” means “Morocco” in French, which is the Registrant Country Morocco, as shown in the Whois information. The meaning of the disputed domain name as a whole is very likely to mislead the relevant consumers to believe that such domain name is the official domain name of the Complainant’s Morocco branch.

Therefore, the disputed domain name is confusingly similar to the prior trademarks in which the Complainant has rights.

(ii) The Respondent has no rights or legitimate interests in respect of the domain name(s):

The distributors of the Complainant in Morocco are Cleanergy, Unimage/Aqua pumping system, Sunq, Compagine marocaine de goutte et de pompage, Centrelec/Dardis, Disway, while the Respondent has nothing to do with them. The Complainant has never authorized the Respondent to use “JINKO SOLAR” by any means.

Besides, the Respondent registered the disputed domain name in December, 2021, much later than the date when the Complainant used it as its trade name and registered it as trademark.

(iii) The disputed domain name(s) has/have been registered and is/are being used in bad faith:

The Complainant is a globally renowned and highly innovative solar technology company. Embracing the mission of “changing the energy portfolio and taking responsibility for enabling a sustainable future”, the company strategically positions itself in the core segments of the photovoltaic industry chain. The Complainant

focuses on integrated research, development, and manufacturing of photovoltaic products, as well as providing comprehensive clean energy solutions, leading in sales in the global mainstream photovoltaic market.

The Complainant’s products serve over 190 countries and regions worldwide, catering to more than 3,000 customers. For several years, it has maintained its position as the global leader in module shipments. The Complainant pioneered the “vertical integration” capacity from silicon wafer and cell to module production in the industry. It owns 14 globalized manufacturing bases in China, Malaysia, Vietnam, and the United States. With a workforce of over 2,000 research and development professionals, the Complainant has earned numerous accolades including “National Enterprise Technology Center,” “National Technological Innovation Demonstration Enterprise,” and “Manufacturing Single Champion Enterprise”. The company has played a leading role in establishing multiple international and domestic industry standards such as IEC, continuously expanding the diversified application scenarios of photovoltaic technology. It actively develops building integration photovoltaic, photovoltaic hydrogen production, energy storage system, striving to create a clean energy ecosystem.

The Complainant has achieved global excellence and has been honored with various accolades, such as:

Year	Achievement and Awards
2021	Harvard Business Review - "Enterprise of the Year Award" for Digital Transformation
2021	Forbes China - Most Promising Clean Energy Technology Award
2021	UN Global Compact China Network - "Achieving the Sustainable Development Goals 2021 Best Corporate Practices"
2022	Selected as one of the "2022 Hurun China Top 500", ranking top 50
2022	Listed on the "China Top 500 Private Enterprises" by the China Federation of Industry and Commerce for 9 consecutive years, ranking 152nd
2022	Listed on the Fortune 500 China for 8 consecutive years, ranked 309th
2022	Ranked "Most Bankable" PV brand by Bloomberg New Energy for 8 consecutive years
2022	SSE - "Science and Innovation 50 Index" and "SSE Growth Index" sample companies
2022	MIT-Global Top 50 Smart Companies
2022	Forbes China - Top 50 Innovative Companies
2022	Fortune China - Top 50 Best Design Companies in China
2022	China Listed Companies Association "Excellent ESG Practice Cases of Listed Companies"
2022	Ernst & Young Sustainability Awards 2022 Outstanding Enterprise of the Year
2022	Harvard Business Review - "2022 China New Growth - ESG

	Innovation Practice List"
2023	Forbes Top 50 Sustainable Companies in China in 2023

The Complainant started its business in Morocco much earlier than the registration date of the Respondent's domain name, as shown by the photos of the exhibitions that the Complainant attended in 2013. The Complainant's sales in Morocco in recent years are as follows:

2018: USD 3,676,776

2019: USD 8,672,622

2020: USD 11,217,042

2021: USD 11,470,743

As shown the sales in Morocco, the Complainant has acquired high reputation in Morocco. By comparing the information of the website linked to the disputed domain name, it is obvious that the Respondent has known the prior reputation of the Complainant and then copied the main structure, the company and product information, the images; etc., all from the Complainant's website in bad faith. As Complainant's domain name and website has been copied by the Respondent, it is very likely that the relevant consumers be misled by the Respondent's domain name and website that the Respondent is the branch of the Complainant or has acquired the Complainant's authorization to run the website of Morocco branch on behalf of the Complainant, so there will be high possibility of confusion.

The comparison of part of the webpages from the official website of the Complainant shown that the actual use of the disputed domain name is confusingly similar with the Complainant's website, using the same trademarks, company information, product information and images; etc. The content in the Complainant's website, such as the telephone number of "+212 5 29 88 77 67", the address, the statement of "Jinko solar maroc est votre partenaire spécialisé dans la distribution des panneaux photovoltaïques (Jinko solar maroc is your partner specialized in the distribution of photovoltaic panels)", is also copied on the disputed domain name, and is very likely to mislead the consumers to believe that Respondent's website is the official website of the Complainant's branch in Morocco.

In conclusion, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. The Respondent

The Respondent replied in email saying the following: "Thank you for your email, concerning my domain name <jinkosolarmaroc.com>, I have no objective of exploiting your commercial name or anything related to your commercial name, and as soon as you informed me of your email, I stopped my site because I don't want any problems. I am open to changing the name of the space to your advantage if you wish. On the

other hand, I was contacted by the sales manager of jinko Solar au Maroc and he assured me that he did not intend to take legal action or anything of the sort. He assured me that the company had no purpose in taking the name of the site, and an agreement had been reached with him. In conclusion, thank you for your efforts. ”

Before this email, the Respondent made a reply to ADNDRC Beijing Office with regard to the request by the Complainant to change the procedural language by saying, “I’m really sorry. I’m only a reseller of the Jinko Solar brand. If you have a problem with the site I will delete it tomorrow. Thank you for your understanding.”

4. Findings and analyses

It is meaningful for the parties to understand the nature of the current proceeding which is totally different from that of arbitration or litigation. Though the proceeding is known as administrative proceeding, it is NOT the proceeding by a government agency or any dispute resolution bodies. The jurisdiction by the Panel over the current dispute on the domain name registered by the Respondent comes from the authorization by the organization for the administration of domain name registration and maintenance.

Anyone intends to register a domain name needs to sign a registration agreement with the domain name administrative authority which makes no substantive examination on the registration application, but stipulates in the registration agreement that whenever a claim against the registration is submitted to the authorized domain name dispute resolution body, e.g. ADNDRC Beijing Office, the registrant is obliged to be a procedural party which has rights to make arguments against the claim by the Complainant, but subject to a decision made by a Panel constituted in conformity with the stipulated procedural rules.

As it is, the current proceeding is a part of the whole proceeding for the registration and maintenance of domain names. As such, the fundamental feature of the Panel’s making a judgment on the entitlement to the disputed domain name is to decide on a core issue of which party should be the rightful holder of the disputed domain name, so as to be in conformity with the basic requirements set forth under the Policy and to help keep the good operative order for the running of the internet, and to be beneficiary to the protection of common interests of the web-users.

The Panel noted that the Respondent has made no defense against the Complainant’s claims while expressing its general idea of willingness to delete the website using the disputed domain name, but thought it a necessity to make the following comments on the Complainant’s request for the transfer of the disputed domain name, due to the consideration that since the Complainant officially requested

the Panel to make a decision on the transfer of the disputed domain name, the Panel shall be procedurally committed to making the relevant decision.

Paragraph 4(a) of the Policy provides that in order to be entitled to the requested transfer of the disputed domain name, the Complainant shall prove the following three indispensable facts, i.e.

- (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.

The Panel is going to say the following words on the findings and analyses with regard to the three stipulated prerequisites for a final decision.

A. Identity or Confusing Similarity

As revealed in the subtitle, what the Panel needs to do is to hold either the facts with regards to the judgment on the key element of “Identity” OR that of “Similarity”; and the two basic elements to be compared in this case are the Complainant’s registered trademarks and the identifying part of the disputed domain name, i.e. JINKO SOLAR and “jinkosolarmaroc”.

Obviously, the latter contains the former but adding the subsequent letters of “maroc”. As indicated by the Complainant, “maroc” is the French equivalent of the English word “morocco” which is known to the world as the North African country. As it is, the identifying part of the disputed domain name may be understood by the web-users as the “jinko solar (presence) in Morocco”. As said by the Respondent, he is “only a reseller of the Jinko Solar product” in the country.

As such, the Panel has sufficient reason to hold that the identifying part of the disputed domain name “jinkosolarmaroc” is of high confusing similarity with the Complainant’s registered trademark JINKO SOLAR; therefore the Complainant meets the first requirement under Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests of the Respondent

Pursuant to Paragraph 4(a)(ii), the second prerequisite for the Complainant to meet in terms of the request for the transfer of the disputed domain name is to prove that the Respondent does not enjoy any right to or legitimate interest in the domain name at issue.

The Complainant submits that it is exclusively entitled to the words “JINKO SOLAR”, and the Respondent has nothing to do with such words except acting as a re-seller of the JINKO SOLAR brand products in Morocco and registered the disputed domain name without the Complainant’s permit. On the other hand, the Respondent has NOT

argued that it does have certain legitimate interests in the disputed domain name, while making an apology for its misconduct by expressing its willingness to “delete the website”.

Meanwhile, the Complainant submitted enough exhibits to certify such facts as the words “JINKO SOLAR” were created and used by it for some years. As such, the Panel has sufficient reason to ascertain that it is none other than the Complainant who has rights and legitimate interests in connection to the disputed domain name; and further holds that the Complainant meets the second requirement set forth under Paragraph 4(a)(ii).

C. Bad Faith

Furthermore, the Complainant has to establish the fact of bad faith on the part of the Respondent in registering and using the disputed domain name, as set forth in the Paragraph 4(a) (iii) of the Policy.

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.e. “(i)..... ; (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; (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.”

The logical thinking of the Panel on the above stipulation is something like that when a party registers a domain name which is NOT created by itself with a distinctive feature known in the real world, but identical or confusingly similar to a mark or logo or sign to which the other party has rights and legitimate interests with high market value, the intention of the registration is clear, namely taking advantages by causing confusion to the consumers.

On the other hand, if the registrant is NOT intentionally taking others’ advantage, it should create a distinctive domain name to make web-users easily tell the name from others’. What is more, if someone registers a domain name in bad faith, it is hard for him to make use of the registered subject matter in good-faith, otherwise the ill-intention of the registrant would not be revealed.

The Complainant argues and proves that the website using the disputed domain name is as a matter of fact highly imitating the Complainant’s website, and it is possible to cause the web-users to confuse the two websites.

As such, the Panel holds that the Respondent registered and used the dispute domain name in bad faith, and further ascertains that the Complainant meets the third requirements for the requested transfer of the domain name at issue.

Based upon all the above findings and analyses, the Panel comes to the final conclusion that the Complaint fulfills each and all of the conditions provided in Paragraph 4(a) (i) (ii) (iii) of the Policy.

5. Decision

In light of all the foregoing findings and in accordance with Paragraphs 4(a), 8(a) of the Policy and 5(e) of the Rules, the Panel orders that the Respondent Ahmed Benzguil shall transfer the disputed domain name <jinkosolarmaroc.com> to the Complainant JINKO SOLAR CO., LTD.



(Chi Shaojie)

Dated: March 1, 2024