



DECISION

Nutramax Laboratories, Inc. v. huang xu hui

Claim Number: FA2202001984010

PARTIES

The Complainant is **Nutramax Laboratories, Inc.** (“Complainant”), represented by **Jenny T. Slocum** of **Dickinson Wright PLLC**, District of Columbia, USA. The Respondent is **huang xu hui (黄旭辉)** (“Respondent”), China.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name is **<eezycosequins.com>**, registered with **Alibaba Cloud Computing (Beijing) Co., Ltd.**

PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

David L. Kreider, Chartered Arbitrator, as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on February 11, 2022; the FORUM received payment on February 11, 2022.

On February 13, 2022, Alibaba Cloud Computing (Beijing) Co., Ltd. confirmed by e-mail to the FORUM that the **<eezycosequins.com>** domain name is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. and that Respondent is the registrant of the names. Alibaba Cloud Computing (Beijing) Co., Ltd. has verified

that Respondent is bound by the Alibaba Cloud Computing (Beijing) Co., Ltd. registration agreement and has agreed to resolve domain disputes brought by third parties under ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On February 22, 2022, the FORUM served the Complaint and all Annexes, including a Written Notice, setting a deadline of March 14, 2022 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons on Respondent's registration as technical, administrative, and billing contacts, and to postmaster@eezycosequins.com.

A timely Response was received and determined to be complete on March 10, 2022.

On March 16, 2022, under Complainant's request to have the dispute decided by a single-member Panel, the FORUM appointed David L. Kreider as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2.

RELIEF SOUGHT

Complainant requests that the domain name be transferred from Respondent to Complainant.

LANGUAGE

The Registration Agreement is in Chinese, a language that the Complainant does not apprehend, whereas the Respondent relies on English phrases and exhibits, demonstrating a knowledge of English. Following Rule 11 and having regard to the circumstances, the Panel has decided in its discretion that the language of these proceedings shall be the English language. All English translations from the original Chinese documents are those of the Panel.

PARTIES' CONTENTIONS

A. Complainant

The Complainant, Nutramax, owns United States Trademark Registration No. 1791253, registered on September 7, 1993, and various international registrations for COSEQUIN (the "Marks"), a dietary supplement for veterinary use. The Complainant and its affiliated companies owns domain names featuring the COSEQUIN trademark, including <cosequin.com> and uses the website at this domain name to sell and promote its COSEQUIN branded products. The Respondent, huang xu hui (黄旭辉), registered the <eezycosequins.com> Domain Name ("Domain Name") on September 6, 2015.

The Complaint avers that the Domain Name is identical or confusingly similar to the Complainant's COSEQUIN Marks as it contains the mark in its entirety as a plural word, "Cosequins", and adds "eezy" at the beginning, a phonetic misspelling of the word "easy" to convey that the Domain Name is an "easy" source to obtain COSEQUIN branded product. The addition of the generic term "EEZY" and the gTLD is insufficient, the Complainant argues, in distinguishing the Domain Name from the Marks under the Policy. COSEQUIN is a coined word, with no meaning in the dictionary.

The Complaint alleges the Respondent is not commonly known by the Marks and is also not affiliated with or otherwise endorsed or authorized to use the Complainant's Marks .

The Domain Name does not currently resolve to a webpage with substantive content. The Respondent does not appear to have made any active use of the Domain Name in connection with any *bona fide* offering of goods or services under Policy Paragraph 4(c)(i), nor does it reflect a legitimate noncommercial or fair use under Policy Paragraph 4(c)(iii). These circumstances indicate that the Respondent lacks rights or legitimate interests in the Domain Name.

The Respondent violates subparagraphs 4(b)(iii) and 4(b)(iv) of the Policy because there is no colorable rationale for use and registration of the Domain Name other than to 1) disrupt the business of Complainant by causing people to mistakenly believe they are visiting an authorized seller of authentic COSEQUIN products, or 2) attract for commercial gain, people to Respondent, falsely believing it is Complainant's online location, by creating a likelihood of confusion with Complainant's COSEQUIN Marks to extract personal information and/or money from people.

The Respondent, the Complainant argues, in registering the Domain Name, provided no ownership or contact information, presumably so it could avoid detection. This, coupled with the absence of any active or legitimate use of the COSEQUIN name, makes it reasonable to infer that Respondent registered the Domain Name intending to use it in a manner calculated to create and exploit confusion with Complainant and its mark.

B. Respondent

The Response, written in Chinese, identifies the "Respondent" ("被投诉人") as "Shenzhen Si Yan Technology Limited Company" ("深圳思言科技有限公司") (the

“Purported Respondent”), and identifies the Registrant, huang xu hui, as the “Respondent’s Representative” (“被投诉人代表”).

The Response alleges that the Purported Respondent applied to register the EEZYCO trade mark in China under registration application number 20569772 and has used the EEZYCO trade mark, along with the “eezyco.com”, “eezycosequins.com” and “eezycosequins.aliexpress.com” domains in connection with its business of selling sequined and other sewing materials and “DIY” handicrafts over the Internet for the past 15 years.

The Response asserts that the Domain Name was registered on September 6, 2015, for use selling sequins and other goods under the EEZYCO mark. As the Purported Respondent is restructuring its various websites and revising its product lines, the Response asserts, under legal requirements the website to which the Domain Name resolves displays the message: “The website is currently inaccessible ...”.

The Response avers that “eezy” and “co” are used in the Domain Name because “co” is phonetically similar to the Chinese word “购” (pronounced “go”), meaning “to purchase”. Thus, “eezyco” as used in the Domain Name is intended to convey simple and easy shopping.

The Response includes as annexures screen shots from the AliExpress website, in English, displaying “EEZYCO DIY SEWING AND CRAFT DECORATIVE SUPPLIES”, including various sequined and beaded materials. The screen shot reads: “EEZYCO SEQUINS AND SEWING CRAFT SUPPLIES STORE” and “open 8 years”, “100.0% Positive Feedback”, and “FOLLOW 1061 Followers”.

Annexed to the Response is a print-out from a Chinese government website of a trademark application reflecting that the Purported Respondent applied to

register the EEZYCO trade mark in China under registration application number 20569772 on July 7, 2016 and that the mark was published on August 28, 2017.

The Respondent alleges it was unaware of the Complainant and the Complainant's COSEQUIN products when the Domain Name was registered.

FINDINGS

1. The Respondent, huang xu hui, is shown by the Registrar's verification to be the Registrant of the Domain Name.
2. The Response erroneously identifies the Purported Respondent, a third-party Chinese Company, "Shenzhen Si Yan Technology Limited Company" ("深圳思言科技有限公司"), as the "Respondent", while the Domain Name Registrant, the Respondent, huang xu hui, is identified as the "Registrant's Representative."
3. The Response makes no further mention of the Registrant, huang xu hui, and no evidence has been adduced regarding the relationship of the Respondent, huang xu hui, to the Purported Respondent, if any.
4. Screen shots purporting to show registration by the Purported Respondent of the trade mark "eezyco" show that the representative of the Purported Respondent is an intellectual property agent, Suzhou Huicheng United IP Agency Co., Ltd., ("苏州汇诚联合知识产权代理有限公司"), and not the Respondent, huang xu hui.
5. The purported proof of registration in China by the Purported Respondent of the trade mark "eezyco", bears a cautionary annotation in red print: "for reference only, has no legal effect" ("仅供参考, 不具有法律效力")
6. Significantly, even if the Chinese trade mark registration is true and correct, no evidence has been adduced by the Respondent to reflect the relationship between the Respondent, huang xu hui, and the Purported Respondent.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of these three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

The Panel finds that adding the generic term "EEZY", which is pronounced as and used to convey the meaning of "easy", and the gLTD ".com", is insufficient to distinguish the Domain Name from the Complainant's COSEQUIN Marks under the Policy. *See, Hormel Foods Corp. v. NOOS*, FA 103574 (Forum Feb. 11, 2002) (finding that adding "easy" to the trademark SPAM does not change that <easyspam.com> is confusingly similar with SPAM). The term "eezy" is insufficient to distinguish the Domain Name from Complainant's mark, and such a generic term suggests that the Domain Name is sanctioned by Complainant, further creating a likelihood of confusion between the Domain Name and Complainant's mark.

The first element at Policy Paragraph 4(a)(i) is satisfied.

Rights or Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent, huang xu hui, has made no use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services, nor is the Respondent commonly known by the Domain Name. Once, as here, the Complainant's *prima facie* case under element two is made out, the burden of producing evidence to show rights or legitimate interests in the Domain Name shifts to the Respondent.

The Respondent, huang xu hui, the Registrant of the Domain Name, submitted an unverified Response by which he purports to act on behalf of a third-party Chinese company, Shenzhen Si Yan Technology Limited Company, which is purported to have trade mark rights in China to the trade mark "eezyco", a seller of sequins and craft products on the Internet.

The Respondent, huang xu hui, has adduced no evidence of any legal relationship, or any relationship with the Company or the purported "eezyco" trade mark.

Further, although the Respondent claims to have submitted the Response in his capacity as the Respondent's Representative, the screen shots upon which the Respondent relies show that a third party, Suzhou Huicheng United IP Agency Co., Ltd., and not the Respondent, huang xu hui, is the Company's representative.

Using the Wayback Internet Archive, the Panel notes that the Domain Name has never been in active use with a website. The Panel finds the Respondent's representations that the website to which the Domain Name resolves in not active because the Purported Respondent is currently restructuring its various

websites and revising its product lines implausible. Most significant, however, is the Respondent's, huang xu hui's, failure to produce evidence of any legal relationship, or of any relationship, with the Company, the Purported Respondent and registered owner of the "eezyco" mark in China.

The Panel rejects the Respondent's bare and unsubstantiated representations and finds that the Respondent has produced no credible evidence to refute the Complainant's case or prove that the Respondent has rights or legitimate interests in the Domain Name.

The second element at Policy Paragraph 4(a)(ii) is satisfied.

Registration and Use in Bad Faith

By incorporating the COSEQUIN mark in the Domain Name, the Panel considers that it is reasonable to infer that the Respondent seeks unfairly to benefit commercially from the Complainant's mark, even though there is no content associated with the resolving webpage. *See e.g., State Farm Mutual Automobile Insurance Co. v. Deborah Sanders* (Forum January 11, 2022) (finding that where respondent did not have active use of the domain name and provided no explanation for domain name, it was "reasonable to infer the Respondent registered the domain name intending to use it in a manner calculated to create and exploit confusion with the Complainant and its mark, most likely either by selling the domain name or by using it to attract Internet users seeking the Complainant, and that the Respondent is maintaining the domain name for that purpose".)

The Respondent's information in the domain name registration does not provide a specific postal address, reflecting further the Respondent's intention to conceal his identity. Against the above-described background, the Panel finds that the

Respondent has attempted in these proceedings to construct a fictitious narrative and identity involving a purported third-party Chinese company having no proven connection with the Respondent, huang xu hui. The Panel finds, by the greater weight of the evidence, that the Respondent registered and is using the Domain Name in bad faith within the meaning and purview of the Policy.

The third element at Policy Paragraph 4(a)(iii) is satisfied.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

It is Ordered that the <eezycosequins.com> domain name be **TRANSFERRED** from the Respondent to the Complainant.

David L. Kreider, Panelist

Dated: March 21, 2022