Court Of Appeal Blocks Attempt To Relitigate WIPO Domain Ruling In Malaysian Court

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The Court of Appeal has rejected an attempt to use Malaysian court proceedings to challenge an adverse World Intellectual Property Organization (WIPO) domain-name determination, holding that the Malaysian courts cannot be used as a back-door avenue to overturn an international administrative decision where there is no independent domestic cause of action.

In *Junzhi Wang & Anor v T C Pharmaceutical Industries Co Ltd* [2026] MLJU 1306, the Court of Appeal upheld the High Court's dismissal of the appellants' claim and it's finding that the proceedings amounted to a collateral abuse of process.

This decision provides important guidance for brand owners and domain-name registrants on the limits of domestic court intervention following proceedings under WIPO's Uniform Domain Name Dispute Resolution Policy (UDRP).

Dispute Over Red Bull Domain Names

The dispute arose from a commercial relationship involving the Red Bull trademarks. The respondent, a Thai company and proprietor of the Red Bull marks, had entered into a joint venture in China in 1995 to manufacture and distribute its products. The relevant trademark licences permitted the use of the Red Bull marks in China but expired on 6 October 2016 and were not renewed.

The licences also did not authorise the registration of domain names incorporating the Red Bull marks.

Despite the expiry of the licences, the first appellant, an employee of the Chinese joint-venture company, acquired by transfer 11 domain names, including redbullchina.com and redbullbeijing.com. After the Supreme People's Court of China confirmed the respondent's ownership of the Red Bull trademarks in China in 2020, the respondent commenced UDRP proceedings before WIPO.

The WIPO panel found that the domain names were confusingly similar to the respondent's trademarks, that the appellants had no legitimate interests in the domain names and that the registrations had been made in bad faith. It ordered that the domain names be transferred to the respondent.

Twenty-four days later, the appellants commenced proceedings in the High Court, alleging unlawful interference with trade and seeking, among other relief, an order setting aside the WIPO determination.

The High Court dismissed the claim and allowed the respondent's counterclaim for collateral abuse of process. The appellants appealed.

Substance Of The Claim Mattered

The Court of Appeal rejected the argument that the Malaysian proceedings constituted an independent tort claim rather than an appeal against the WIPO decision. The court held that the character of an action must be determined by the substance of the pleadings and the relief sought, rather than by the labels attached to the claim.

Here, the principal relief sought was effectively to nullify the WIPO determination. The court also noted evidence from the first appellant that the Malaysian proceedings would not have been commenced but for the appellants' loss before WIPO.

The court therefore concluded that the Malaysian action was, in substance, an attempt to challenge the WIPO determination through domestic proceedings.

Private Agreement Could Not Create Malaysian Jurisdiction

The court then considered whether the Malaysian High Court nevertheless had jurisdiction to hear the claim. Under Article 121 of the Federal Constitution, the jurisdiction and powers of the High Court are those conferred by or under federal law.

The court found no provision in Part II of the Courts of Judicature Act 1964 (CJA) giving the High Court original, appellate or revisionary jurisdiction to review or set aside a decision of an international administrative panel such as WIPO.

The appellants also relied on a jurisdiction clause in their registration agreement with Webnic.cc. The agreement provided for Malaysian law and the exclusive jurisdiction of Malaysian courts.

This argument was not accepted by the court following the Federal Court's reasoning in *Hap Seng Plantations (River Estates) Sdn Bhd v Excess Interpoint Sdn Bhd & Anor* [2016] 3 MLRA 345, the Court of Appeal reiterated that a contractual jurisdiction clause does not itself confer jurisdiction on a court.

The respondent was not a party to the Webnic agreement. More fundamentally, parties to a private contract cannot confer on a Malaysian court a jurisdiction that has not otherwise been granted by federal law.

UDRP Rules Did Not Create An Independent Cause Of Action

The appellants also relied on paragraph 4(k) of the UDRP, which permits a losing registrant to submit the dispute to a court of competent jurisdiction in certain circumstances.

The court held that paragraph 4(k) does not itself confer judicial jurisdiction or create a substantive cause of action. In other words, the provision may permit a party to commence proceedings in an appropriate court, but the party must still establish an independent legal basis for the court to hear and determine the dispute.

The court's approach was consistent with persuasive English authorities including, Pankajkumar Patel v Alios Therapeutics Inc [2008] All ER (D) 172, Yoyo.Email Limited v Royal Bank of Scotland Group plc [2016] FSR 537 and Toth v Emirates [2012] FSR 719.

The practical point is significant: paragraph 4(k) should not be treated as a standalone route for bringing a UDRP dispute before the Malaysian courts.

Unlawful Interference Claim Also Failed

The appellants' substantive claim of unlawful interference with trade failed as well. Applying the principles in *Megnaway Enterprise Sdn Bhd v Soon Lian Hock* [2009] 3 MLJ 525, the court considered the requirements of the tort, including unlawful interference, intention to injure and resulting damage.

The claim faced an immediate difficulty: the appellants had no trade or business presence in Malaysia. By contrast, the respondent had invoked the UDRP process to protect its trademark rights. The court accepted that this was a lawful exercise of an available remedy and relied on *Gasing Heights Sdn Bhd v Aloyah Bte Abd Rahman & Ors* [1996] 3 MLJ 259 in rejecting the allegation of unlawful interference.

Abuse Of Process Carries A Significant Price

The Court of Appeal also upheld the finding of collateral abuse of process. Relying on *Conweld Engineering Sdn Bhd & Ors v Goh Swee Boh* [2022] 6 MLJ 810 and the three-part test in *Malaysia Building Society Bhd v Tan Sri General Ungku Nazaruddin Ungku Mohamed* [1998] 2 MLJ 425, the court found that the proceedings had been brought for an improper collateral purpose.

In particular, the appellants had commenced the Malaysian proceedings shortly after losing before WIPO, with the effect of delaying the transfer of the domain names.

The court considered the conduct sufficiently serious to justify substantial damages. It upheld an award of RM200,000 in general damages and RM300,000 in exemplary damages, together with RM80,000 in appeal costs.

The court also took into account the appellants' attempt to rely on a disputed 50-year licence agreement, which had previously been rejected by the Chinese courts and the WIPO panel.

What The Decision Means For Brand Owners

The decision is a useful reminder that losing a UDRP proceeding does not automatically open the door to a second round of litigation in Malaysia.

A party seeking to invoke the jurisdiction of the Malaysian courts must establish an independent domestic cause of action and satisfy the applicable jurisdictional requirements under the CJA. A private jurisdiction clause or paragraph 4(k) of the UDRP cannot, by itself, overcome those requirements.

The position is different where a brand owner has a genuine domestic claim. For example, a trademark proprietor whose UDRP complaint has been unsuccessful may, depending on the facts, pursue an independent action for trademark infringement or passing off where the Malaysian courts have jurisdiction and the relevant elements of the domestic cause of action are established. In such a case, the court is being asked to determine the local infringement claim rather than simply review the correctness of the WIPO decision.

For businesses operating across borders, the case therefore highlights the importance of choosing the appropriate enforcement mechanism at the outset. UDRP proceedings can provide an effective route for addressing abusive domain-name registrations, but they should not be viewed as a substitute for domestic litigation where the dispute ultimately turns on rights that must be established under local law.

The decision also illustrates the risks of commencing domestic proceedings primarily to delay the implementation of an adverse administrative determination. Where the court concludes that litigation has been brought for a collateral purpose and without a proper domestic cause of action, the financial consequences can be substantial.

For brand owners and intellectual property practitioners, the *Junzhi Wang* case reinforces a straightforward proposition: access to the Malaysian courts depends on an established legal right and jurisdictional foundation. A UDRP dispute cannot simply be given a second hearing in Malaysia because one party is dissatisfied with its outcome.

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