



## ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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### Decision Submission

English Print

Decision ID	DE-0800148
Case ID	CN-0700170
Disputed Domain Name	www.远洋地产.com www.远洋地产.net
Case Administrator	Xinmin Cui
Submitted By	Hong Xue
Participated Panelist	
Date of Decision	22-01-2008

### The Parties Information

<b>Claimant</b>	Sino-ocean Land Limited
<b>Respondent</b>	Beijing Panshi Jiayu Jianzhu Zhuangshi Gongcheng Co., Ltd.

### Procedural History

On 26 October 2007, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”), in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “ADNDRC Supplemental Rules”).

The Centre confirmed the receipt of the Complaint and forwarded a copy of the Complaint to the Registrar of the domain names in dispute, Web Commerce Communications Limited DBA WEBNIC.CC on 29 October 2007. On the same day, the Centre received the Registrar’s confirmation of registration information of the domain names in dispute.

On 9 November 2007, the Centre sent the Transmittal of Complaint to the Respondent.

On 10 December 2007 the Centre notified the Complainant that the Complaint had been confirmed and forwarded, and the Centre notified the Respondent, the Registrar and the ICANN of the commencement of the case proceeding. The Respondent was required to submit the Response by 30 December 2007.

On 3 January 2008, the Centre notified the parties that the Respondent did not submit the Response within the required period and the case should be decided by default.

On 4 January 2008, the Centre sent the notice to the candidate panelist. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Xue Hong, on 7 January 2008, the Centre informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist by email as well as by post.

The Panelist finds that the Panel was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

The Panel did not receive any further requests from the Complainant or the Respondent regarding other submissions, waivers or extensions of deadlines.

The language of the proceeding is English, as being the language of the Domain Name Registration and Service Agreement, pursuant to Paragraph 11(a) of the Rules, and also in consideration of the fact that there is no express agreement to the contrary by the Parties.

## Factual Background

### For Claimant

China Ocean Shipping (Group) Company (COSCO) registered the trademark “远洋” on 21 February 2004. The Complainant was licensed by COSCO to use the mark “远洋”.

### For Respondent

The Respondent registered the domain names in dispute “远洋地产.com, 远洋地产.net” on 29 August 2006.

## Parties' Contentions

### Claimant

1. The domain names of the respondent are same with the proprietary service trademark of Complainant. The Complainant legally uses the trademark “远洋”. It backs to Feb 21, 2004 when COSCO applied and was approved for the registration of this trademark “远洋”, which bears the registration number 1955271 and was verified to be used in the 36th classification, including insurance consulting, financial consulting, issue of securities, credit union, capital investment, guarantee, bonds transaction, or broking, act-for and intermediate of estate. The valid term of registration is from Feb 21, 2004 to Feb 20, 2014. COSCO is the proprietor of this trademark and has granted the general use to the Complainant. And COSCO has authorized the Complainant to lodge for resolution of the domain names, in connection with “远洋地产”, to The Center.

The Complainant mainly engages in the real estate industry. Since 1993, it has been using the trademark “远洋” (Ocean in English). During the more than a dozen of years, it has developed Ocean Building, Ocean Scenery, Ocean Metro Net-View, Ocean Deyi, Ocean World, Ocean Water and Mountain, Ocean Nature, Ocean International Center, Ocean new Trunk, Ocean Kaichen Plaza and other large-scale and famous resident or public building projects. As the Company develops, the above-mentioned real estate projects conducted by the Complainant has been called “远洋地产” (Ocean real estate) in a general way by those within the industry. The “远洋地产” (Ocean real estate) has been a branding name for the projects that Complainant makes. After years of use and promotion by advertisement, the brand “远洋地产” is well-known by the public and reputed within the real estate industry. A tremendous brand power has been created and when people mention “远洋地产” (Ocean real estate), they will naturally think of the Complainant. The disputed domain names in this case, “远洋地产.com” and “远洋地产.net”, hold the principal part in “远洋地产”. The “地产” (Real Estate) is a title for an industry, and free from any differentiation but expressing the nature and characteristic of the service. Based on the Trademark Law of PRC, this phrase has no exclusive right. In the practice of trademark, the register agencies will ask to delete the phrase and have “远洋” (Ocean in English) left only. The domain names of the Respondent has the principal part “远洋地产” (Ocean Real Estate), which is identical with the trademark “远洋” (Ocean in English). Further, the domain names of the Respondent are identical with the “远洋地产” (Ocean Real Estate in English), a title used in those projects by the Complainant. Moreover, the Respondent has similar business scope and service range with the Complainant. Notably, those domain names have given the description of the service range. As a result, this will surely make the public believe that there exists a specific and certain relationship between the domain names and the Respondent, or mistake the domain names are held by the Complainant or the Respondent is affiliated enterprise of the Complainant. Then, the respondent can make illegal benefit and hurt the legal benefit and right of Complainant.

2. The Respondent has no legal right for benefit from the disputed domain names or their principal knobs. “远洋” is the registered trademark legally owned and used by the Complainant. The phrase “远洋地产” (Ocean Real Estate) is the title of the project by the Complainant long time ago, and is famous and known by the public widely. The Respondent does not hold the legal use right for the “远洋” or “远洋地产”. At its own decision, the Respondent take the phrases as the principal parts of the domain names it registered. The behavior is infringing the exclusive right, the title right and domain name right for the registered trademark, and is illegal behavior.

3. The Respondent has vicious intention in the registration and use of the domain names.

The Complainant was Sino Ocean Land Co., Ltd, founded under the background of “Go to sea, land and sky”, a multiply development strategy made by COSCO in June 1993. The complainant is the core establishment of COSCO in the industry of real estate. After development for more than ten years, the Complainant and “远洋” products have been famous in China’s real estate market because of fine-quality products and services, the formidable strength of the

company and brand advantage. To date, the company has explored its business in Tianjin, Dalian, Zhongshan and other cities with resource advantage or bright future. In a short period, it has made its development arrangement in Bohai Bay, Pearl River Delta and other strategic regions. Currently, the Complainant has 50 fully-funded or share-controlled enterprises, and participates in four enterprises. It has a registered capital at 3.8 billion RMB and its business scope covers the real estate development, operation of office building and hotel, properties management and other fields. The Complainant has been one of the most-potential and most-competitive developers, service providers, and capital operators in China. In 2007, the complainant changed its name into SINO-OCEAN LAND LIMITED.

We can see that the Complainant and its registered trademark “远洋” have great influential in the real estate industry in Beijing and even in China. They have been familiar with the public and are highly reputed and trusted.

Investigation has found that the Respondent auctioned these domain names in dispute. The Respondent has, without any approval, registered the “远洋地产.com”, “远洋地产.net” and other series domain names, with a purpose to resort to the good reputation acquired by “远洋” (Ocean) and “远洋地产” (Ocean real estate) for improper benefit via those domain names. The behavior is obviously of bad intention.

In conclusion, the domain names of the respondent are same with the trademark of Complainant, and the Respondent does not have the legal right for the registered domain names. The Respondent has vicious intention in the registration and use of these domain names. Therefore, the Complainant solicits the Center and the experts to make timely judge decision, i.e. to transfer the domain names in dispute to the Complainant so as to avoid any confusion or mistake lead by the domain names under the vicious behavior of the Respondent, stop the behavior that disturbs the market order in serious degree and hurts the legal rights of consumers and the Complainant.

The Complainant requested the disputed domain names be transferred to it.

### Respondent

The Respondent did not submit the Response.

### Findings

#### Identical / Confusingly Similar

Pursuant to Paragraph 4(a) (i) of the Policy, a complainant must prove that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

“远洋” is a registered trademark of China Ocean Shipping (Group) Company (COSCO). The Complainant was licensed by COSCO to use the mark “远洋”. As the licensee of the mark, the Complainant has the right in the mark. The domain names in dispute are “远洋地产.com” and “远洋地产.net”. Apart from the gTLD suffixes “.com” and “.net”, what the Respondent chose to register is “远洋地产”. “远洋” is the trademark of the Complainant and “地产” is a generic word meaning “land or real estate”. Since the Complainant has been using the trademark “远洋”, inter alia, on real estate projects it developed, the word “地产” is closely related to the Complainant’s business on which the mark “远洋” is used. It has been established that adding a word that related to the Complainant’s business to Complainant’s mark will usually not preclude a finding of confusing similarity (see L.F.P., Inc v. Hotpics International, NAF Case No. FA0204000109576, “use of the generic term 'video' does not defeat a confusing similarity claim, because the generic term directly relates to Complainant's business, which increases the likelihood of confusion”).

The Panel in any event finds that the disputed domain names “远洋地产.com” and “远洋地产.net” are confusingly similar to the Complainant’s “远洋” trade mark and that the Complainant has proven paragraph 4(a)(i) of the Policy.

#### Rights and Legitimate Interests

The Complaint asserts that the Respondent has no rights or legitimate interests in the disputed domain names and, as stated above, the Respondent has provided no information to the Panel asserting any right or legitimate interest it has in the disputed domain names.

It is apparent from the Complaint that there is no connection between the Respondent and the Complainant or its business. Paragraph 4(c) of the Policy lists a number of circumstances which, if proven to exist by the Respondent, can be taken to demonstrate a Respondent’s rights or legitimate interests in the domain names. However, there is no evidence whatsoever before the Panel that any of the situations described in paragraph 4(c) of the Policy apply in the case of the Respondent.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

Accordingly, the Complainant has proven paragraph 4(a)(ii) of the Policy.

#### Bad Faith

Per the notarized evidence provided by the Complainant, the Respondent was selling the two disputed domain names for RMB 2 million Yuan on the website, which also showed the Complainant's names, logs and real estate projects. The Respondent did not dispute such submission.

The Complainant has been in the business of real estate since 1993 and has long been using the mark “远洋”. The Respondent's act of selling two disputed domain names that are highly confusing to the Complainant's mark and closely referential to the Complainant's business at a high-rocketed price demonstrates that the Respondent's acquisition of the disputed domain names was primarily for the purpose of unjustifiably capitalizing on the Complainant's trademark and reputation.

The evidence, therefore, shows the Respondent's bad faith in registering and using the disputed domain names as per in paragraph 4(b)(i). The Complainant has thus established the third and final element stipulated in paragraph 4(a)(iii) of the Policy, which is necessary for a finding that the Respondent has engaged in abusive domain name registration.

### Status

www.远洋地产.com	Domain Name Transfer
www.远洋地产.net	Domain Name Transfer

### Decision

The Complainant has established each of the three requirements set forth in the Policy paragraph 4(a) - the disputed domain names are confusingly similar to the Complainant's 远洋 trademark, the Respondent does not have any rights or legitimate interests in the disputed domain names, and the Respondent registered and is using the disputed domain names in bad faith. In accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel therefore directs that the registration of the disputed domain names “远洋地产.com” and “远洋地产.net” should be transferred from the Respondent to the Complainant.

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