

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

(Beijing Office)

ADMINISTRATIVE PANEL DECISION

Case No. CN 09000316

Complainant: Seiko Epson Corporation

Respondent: youzhou huang

Domain Name: impresorasepson.info

Registrar: GoDaddy.com Inc.

1. Procedural History

On 20 November 2009, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the "ADNDRC"), 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 Disputes (the "Rules"), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "ADNDRC Supplemental Rules").

On 23 November 2009, the Beijing Office of ADNDRC confirmed the receipt of the Complaint and notified the Registrar of the domain name in dispute, GoDaddy.com Inc, of the Complaint. The Registrar was requested to provide the registration information of the domain name in dispute.

On 23 November 2009, the Beijing Office of ADNDRC received the Registrar's confirmation of registration information of the domain name in dispute.

On 25 November 2009, the Beijing Office of ADNDRC sent the Transmittal of Complaint to the Respondent.

On 29 November 2009, the Beijing Office of ADNDRC notified the Complainant that the Complaint had been confirmed and forwarded, and; the Beijing Office of ADNDRC notified the Respondent, the Registrar and the ICANN of the Commencement of the case proceeding.

The Respondent did not submit the Response by due date. On 19 January 2010, the Beijing Office of ADNDRC notified the parties that no Response was received within the required period of time and the case shall be heard by default.

On 25 January 2010, the Beijing Office of ADNDRC sent invitation to Ms. Hong Xue to serve as the sole panelist in this matter. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Hong Xue, on 26 January 2010, the Beijing Office of ADNDRC informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panel.

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.

2. Factual Background

For the Complainant

The Complainant is Seiko Epson Corporation of Head Office 3-5 Owa 3-chome, Suwa-shi, Nagano-ken, 392-8502 Japan. The Complainant produces printers and other electronic products. The Complainant's trademark EPSON has been registered in Japan, China and many other countries.

For the Respondent

The Respondent is youzhou huang of #49 dian zi zheng jie xi an shi shan xi xi an, xi an 710065. According to the record in the Whois database, the Respondent's domain name "impresorasepson.info" was registered on 25 July 2009.

3. Parties' Contentions

The Complainant

(a) The disputed domain name is confusingly similar to the trademark "EPSON" of the Complainant.

In Japan, the trademark "EPSON" was registered in 1975 at first and has been registered in all 1~45 classes. It has been recognized as the well-known trademark in Japan for many years. In China, the trademark "EPSON" was registered in 1989 at first and has been registered in class 7, class 9, class 10, class 11, class 14, class 16, class 17, class 21, class 26, class 38, class 40 and class 42. It is still in the term of validity. Furthermore, the Complainant also has registered the trademark "EPSON" in different classes in different countries, such as America, Germany, etc. In all, the Complainant has registered "EPSON" trademark for 1,157 times (in various classes) in 273 countries and regions in the world. In all 273 countries and regions, the "EPSON" trademark is registered in Class 9. This class of commodity is: LINE

PRINTERS, PRINTERS, MAGNETIC DRUMS, MARKED CARD READERS, PAPER TAPE PUNCHERS, PAPER TAPE READERS, CASH REGISTERS AND PARTS THEREOF.

The Complainant is the register and owner of the trademark “EPSON” and has used “EPSON” as trademark in business field over 33 years. Owing to excellent management and extensive promotion, products and services, the “EPSON” brand is in the front rank around the globe. Moreover, in 2007, the trademark “爱普生 EPSON” owned by the Complainant was granted the well-known trademark in China.

The Complainant has registered plenty of domain names including “EPSON” in China and in the world. Using “EPSON” as the etyma, the Complainant sets up plenty of websites in different countries and regions, such as: www.epson.co.jp (Japan); www.epson.com (America); www.epson.com.hk (Hong Kong); www.epson.com.tw (Taiwan); www.epson.fr (France); www.epson.de (Germany) , etc. The Complainant has registered over 70 domain names containing “EPSON”.

“EPSON” is the registered trademark of the Complainant, the Complainant thus has undisputed prior right on “EPSON”.

The disputed domain name “impresorasepson.info” consists of “impresoras” and “epson”. “EPSON” is the well-known trademark and trade name of the Complainant. The Chinese translation of “impresoras” is “打印机“(means printer). And the products of Seiko Epson Corporation also include printers. After the combination of these two words, the internet users may easily misunderstand that this domain name has some relation with Seiko Epson Corporation or its products as well as business. Accordingly, the domain name is confusingly similar to the trademark “EPSON” owned by Complainant, this kind of act has brought bad effect to the Complainant and infringes the Complainant’s legal rights.

(b) The registrant has no rights or legitimate interests in respect of the domain name.

“EPSON” is a trademark and trade name originally created by Complainant. The Complainant has registered the trademark EPSON in a lot of countries. And its corporation name includes “EPSON”. It is beyond question that the Complainant has the prior right on “EPSON”.

The registrant has nothing to do with the Complainant, and there was no association between the trademark and his activities before registering the domain name. The Complainant has never authorized the registrant to use “EPSON” by any means. Besides these, the registrant registered the disputed domain name on July 25, 2009, much later than the date when

Complainant registered the trademark or its style.

So the registrant should be considered as having no rights or legitimate interests in respect of the domain name in dispute.

(c) The disputed domain name has been registered in bad faith.

Since the trademark “EPSON” is so well known in the world, and was granted the well-known trademark in September 2007 in China. And the disputed domain name was registered on July 25, 2009, later than the recognition of well-known trademark.

The trademark “EPSON” owned by the Complainant has a high reputation in China, thus the registrant knew clearly the existence of this famous trademark. However, the registrant set up the website www.impresorasepson.info, there are some linkages of keywords, including “EPSON” on its website. However, this website has nothing to do with Seiko Epson Corporation. In addition, there is also the linkage of keyword “TOSHIBA”, which is the trademark of another printers manufacturer TOSHIBA CORPORATION. Considering the well-knownness of “EPSON” in China, we firmly believe that the registrant confused the differences with Seiko Epson Corporation and intended to mislead the public so as to gain improper interests. Accordingly, the disputed domain name “impresorasepson.info” should be considered as having been registered in bad faith.

The Complainant requests the panel to find that the disputed domain name “impresorasepson.info” be transferred to Complainant.

The Respondent

The Respondent did not submit the Response.

4. Findings

Identical or Confusing Similarity

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.

The Complainant, Seiko Epson Corporation, presents a number of trademark registration certificates issued by the trademark authorities of Japan, China and other countries and proves that “EPSON” is the registered trademark that the Complainant has the exclusive right.

The domain name in dispute is “impresorasepson.info”. The Panel notes that, apart from the

gTLD suffix ".info", the disputed domain name consists of "impresorasepson", which can easily be read as "impresoras" and "epson". In addition to the fact that the latter part is identical to the Complainant's registered mark "EPSON", the former part "impresoras" is the Spanish word meaning "printers", on which the Complainant's "EPSON" mark is primarily used. It is established by numerous decisions made under the Policy that adding a generic word that is related to a Complainant's business or products is more likely to lead the panel to find a confusing similarity between the disputed domain name and the Complainant's trademark (*Marriott International, Inc. v. Cafe au lait*, NAF Claim No. FA93670). Therefore, the Panel finds the disputed domain name is confusingly similar to the Complainant's registered mark and the Complainant have proven paragraph 4(a) (i) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name and, as stated above, the Respondent did not provide any information to the Panel asserting any right or legitimate interest it may have in the disputed domain name.

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 can be taken to demonstrate a respondent's rights or legitimate interests in a domain name. However, there is no evidence before the Panel that any of the situations described in paragraph 4(c) of the Policy apply here. To the contrary, the lack of a Response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and the Complainant have proven paragraph 4(a) (ii) of the Policy.

Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Respondent, on the other hand, did not present any rebuttals.

Given that the disputed domain name "impresorasepson.info", *per se*, directly refers to the Complainant's trademark and products, the Panel believes that the Respondent had the knowledge of the Complainant's mark and related business when registering the disputed domain name. The evidence submitted by the Complainant shows that the disputed domain name was used for a website "www.impresorasepson.info", on which the Complainant's mark EPSON was repeatedly shown along with Toshiba, a competing brand to the Complainant's

products. Therefore, after knowingly registered a domain name that is confusingly similar to the Complainant's mark, the Respondent used the disputed domain name for a website that contains commercial contents and may further confuse the internet users.

The Panel determines that Respondent's acts demonstrate the evidence of bad faith provided in the paragraph 4 (b) (iv) of the Policy. Complainant have 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.

5. Decision

The Complainant have established each of the three requirements set forth in the Policy paragraph 4(a) – the disputed domain name is confusingly similar to the Complainant's "EPSON" trademark, the Respondent does not have any rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name 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 name "impresorasepson.info" be transferred from the Respondent to the Complainant.

Panelist: 薛虹

Dated: 9 February 2010