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ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (HONG KONG OFFICE)

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Decision Submission

English	Print
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Version	
Decision ID	DE-0700097
Case ID	HK-0700112
Disputed Domain Name	www.palmrite.com
Case Administrator	Dennis CAI
Submitted By	Jeffrey Elkinson
Participated Panelist	

Date of Decision 19-03-2007

Language Version : English

The Parties Information

Claimant	Dipped Products Limited
Respondent	Mr. Eddy Tsai/Palmrite Corp

Procedural History

On the 21st December 2006, the Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("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 the 26th August 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 Supplemental Rules"). The Complainant elected to have the Complaint decided by one Panelist. On the 21st December 2006, the Complainant paid the required filing fee. On the 12th January 2007, an official copy of the Complaint was forwarded to the Respondent and the Respondent was notified that a response could be submitted within 21 calendar days from the date of receipt of the Complaint.

No response having been received, on the 7th day of March 2007 the Domain Name Case administrator informed the Claimant and the Respondent that I had been appointed, the ADNDRC having received from me on the 5th March 2007 a Declaration of Impartiality and Independence.

The case having been transferred to me, I find that the Panel has been properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

The Panelist has not received any request from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines. There is no need to hold any in person hearings for deciding the Complaint, as provided for in paragraphs 12 and 13 of the Rules, there being no matters of an exceptional nature.

Factual Background

For Claimant

(Refer to Parties' Contentions)

For Respondent

(Refer to Parties' Contentions)

Parties' Contentions**Claimant**

Dipped Products Limited is a publicly quoted company established in Colombo, Sri Lanka. The word “Palmrite” is registered in Sri Lanka being its country of origin as a word mark and device mark. It is the original creation of the Complainant and Complainant states that this is a very distinctive name with particular reference for hand protection wear gloves. The Complainant has sought and obtained registration of the mark in various countries; including the European Union, India and Taiwan. Of particular note is that there had been an attempt to register the mark “Palmrite” in Taiwan by a company associated with Respondent but, after objection by Complainant, the mark was assigned to the Complainant without any consideration. Complainant puts forward a Deed of Assignment, dated 8th July 2006, to evidence this.

Complainant explains that Respondent had previously acted as a buyer of Complainant’s products and that they had done business together for ten years. Over that time, Respondent had purchased quantities of the Complainant’s products and Complainant states that Respondent is fully aware that “Palmrite” is a registered mark of Complainant. Additionally, Respondent had attempted to become the marketing agent for the “Palmrite” range of gloves in Taiwan.

Respondent

THE RESPONDENT DID NOT PROVIDE ANY RESPONSE OR PARTICIPATE IN ANY WAY.

Findings

I find that:-

- (i) The disputed domain name which was registered by the Respondent is identical and confusingly similar to a trade mark in which the Complainant has rights;
- (ii) The Respondent has no right or legitimate interest in respect of the disputed domain name;
- (iii) The disputed domain name has been registered and used in bad faith by the Respondent.

Identical / Confusingly Similar

The Complainant has provided substantial evidence of its right in the mark “Palmrite.” I have had sight of the trademark registrations for “Palmrite” held by the Complainant in various countries and in particular have been provided with Certificates of Registration in the EU, India and Taiwan. I find that the domain name registered by the Respondent is identical to the registered trademark of the Complainant in which the Complainant has established rights.

Rights and Legitimate Interests

The Complainant has alleged that the Respondent has no such rights or legitimate interests and there is no contest made to this allegation. Further, the use by the Respondent to date of the domain name gives support to the Complainant’s position and certainly, from a review of the website, I cannot discern any legitimate interests held by the Respondent in this name.

Bad Faith

Bad faith can be held to exist in circumstances where the Panel can determine that the Respondent registered the domain name in order to prevent the Complainant from doing so. Certainly from the history of the business relationship of the parties, there can be little doubt that the Respondent was aware of the Complainant’s right in the name “Palmrite” and the fact that the Respondent has registered the name “Palmrite” in the face of the clear entitlement of Complainant to the mark indicates to me that Respondent has done so in order to prevent Complainant from obtaining this domain. I do not have to go so far as to determine whether or not the Respondent was seeking to sell the same to Complainant for profit as it is sufficient for the purposes of paragraph 4(b) of the Policy that I make the determination as I have done above.

Status

www.palmrite.com

Domain Name Transfer

Decision

From what has been set out above, I conclude that the disputed domain name "palmrite.com" is identical to the mark owned by the Complainant and used in the course of its business, that the Respondent has no rights or legitimate interests in respect of the domain name and that the domain name has been registered and used in bad faith by Respondent. Therefore, pursuant to paragraph 4(i) of the Policy, I hereby order that the registration of the domain name "palmrite.com" be transferred to the Complainant, Dipped Products Limited.
DATED this 19th March, 2007.

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JEFFREY P. ELKINSON,
PANELIST

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