



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-18010183
<b>Complainant:</b>	Disney Enterprises, Inc.
<b>Respondent:</b>	Ji Tan Liu
<b>Disputed Domain Name(s):</b>	< <b>disneysverige.com</b> >

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**1. The Parties and Contested Domain Name**

The Complainant is Disney Enterprises, Inc, of 500 S Buena Vista Street, Burbank, CA 91521, USA.

The Respondent is Ji Tan Liu, of si ming qu fu bin xi lu, Sha Men Shi, Fujian, China.

The domain name at issue is disneysverige.com, registered by Respondent with Go.Daddy.com, LLC. (**the "Registrar"**)

**2. Procedural History**

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre ("the Center") on 5 November 2018.

The Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules")

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on 14 November 2018. In accordance with the Rules, paragraph 5, the due date for Response was 4 December 2018. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on 5 December 2018.

The Center appointed Douglas Clark as the sole Panelist in this matter on 11 December 2018. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### **3. Factual background**

The Complainant, Disney Enterprises, INC, founded in 1955, is one of world's top entertainment companies. It first opened its Disneyland theme park in Los Angeles. It currently has theme parks all over the world, including Hong Kong, Shanghai, Tokyo, Paris, Orlando and Tokyo.

The Complainant has worldwide registrations for "DISNEY" and "THE DISNEY STORE" including China. These trademarks include, Chinese Trademark Registration Nos. 4253768, 3253769, 3253770, 3253771, 3253772, 3330180, 391472; Hong Kong Trademark Registration Nos. 1987B2623, 1987B2624, 1988B0506, 1988B0507, 1988B0507, 199305267, 199405197, 199405197AA, 199405330, 199703008, 200314279, 200314572, 200314894, 200407119, 300081620, 300742996 and 303266136 and U.S. Trademark registration No. 07006957-11.

The Complainant has also been the owner of domain names [www.disney.com](http://www.disney.com) and [www.disneyland.com](http://www.disneyland.com) since 1990 and 1995 respectively.

The disputed domain name was registered on 26 February 2018.

The disputed domain name resolves to a page that appears to be selling Disney products.

The Respondent is an individual from Fujian, China.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

##### **i. Identical or Confusingly Similar**

The Complainant contends that the disputed domain name is confusingly similar to the trademark DISNEY because it incorporates the whole of the Complainant's trademark with the addition of the geographical description "sverige" which means "Sweden". The fact that the Respondent included a country name does not affect the confusing similarity.

##### **ii. No rights or Legitimate Interests**

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registrations for DISNEY. He, therefore, has no rights or legitimate interests in the disputed domain name.

##### **iii. Registered and used in Bad Faith**

The Complainant has marketed and operated its business with the trademark DISNEY since 1955. Before acquiring the disputed domain name, it is highly likely that the Respondent knew of the Complainant's rights in the mark DISNEY and acquired the disputed domain name to disrupt the Complainant's business and/or divert business from the Respondent's website to attract business to its own website. Even if the Respondent is selling genuine products, it has not identified clearly that it is not related to the Complainant as required by the decision of the panel in *Oki Data Americas, Inc. v. ASD, Inc.* WIPO Case No. D2001- 0903 ("*Oki Data*")

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **5. Findings**

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

### **A) Identical / Confusingly Similar**

The disputed domain name is made up of the Complainant's registered trademark DISNEY. It is identical to the Complainant's registered Trademark. The country name "Sverige" has been added. The addition of a geographical description does not give the domain name any other meaning. The disputed domain name is, accordingly, confusingly similar to the Complainant's mark "DISNEY".

The first part of paragraph 4(a) of the Policy is therefore satisfied.

### **B) Rights and Legitimate Interests**

The Respondent is selling Disney branded goods on the site under the disputed domain name.

In *Oki Data Americas, Inc. v. ASD, Inc.* WIPO Case No. D2001- 0903 ("*Oki Data*"), the panel in that case held that to be "*bona fide*" within the meaning paragraph 4(c)(i), the offering should meet the following requirements:

- The Respondent must actually be offering the goods or services at issue;
- The Respondent must use the site to sell only the trademarked goods; otherwise, it could be using the trademark to bait Internet users and then switch them to other goods;

- The site must accurately disclose the registrant's relationship with the trademark owners; it may not, for example, false suggest that it is the trademark owner, or that the website is the official site; and
- The Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

In this case the Respondent does not meet, at least, the third requirement set out above. The website under the domain name does not accurately disclose its relationship with the Complainant. The copyright notice on the site "© CopyRight 2018, www.disneysverige.com - All Rights Reserved." suggest some link to the Complainant.

The Respondent has not responded to the Complaint to assert any other rights or legitimate interests.

The Panel finds that the second element of the Policy is made out.

#### **D) Bad Faith**

The Panel has no hesitation in finding that the disputed domain name was registered in bad faith and is being used in bad faith.

The Complainant is the owner of the DISNEY trademark and its theme parks and trademark are well-known around the world. From the contents of the website under the disputed domain name, the Respondent clearly knows of the Complainant.

The disputed domain name is being used to attract, for commercial gain, internet users to the webpage, by creating a likelihood of confusion with the Complainant's mark of the service of the website contrary to paragraph 4(b)(iv) of the Policy.

In addition, the registration of the disputed domain name comprised of the trademark DISNEY together with a country name will prevent the Complainant (or its authorized dealers) from reflecting the trademark in corresponding domain name contrary to paragraph 4(b)(ii) of the Policy.

For the above reasons, The Panel finds that the third element of the policy is made out.

#### **6. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <www.disneysverige.com> be transferred to the Complainant.

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Douglas Clark  
Panelist

Dated: 1 January 2019