Asian Domain Name Dispute Resolution Centre

ADNDRC hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1600909
Complainant:	Shangri-la International Hotel Management Limited
Respondent:	Hakob Kostanyan
Disputed Domain Name(s):	<TRADERSHOTELKUALALUMPUR.COM>

1. The Parties and Contested Domain Name

The Complainant is Shangri-la International Hotel Management Limited, of Trident Chambers, P.O. Box 146, Road Town, Tortola, British Virgin Islands.

The Respondent is Hakob Kostanyan, of Chernishevski 65, Yerevan, Erebuni.

The domain name at issue is TRADERSHOTELKUALALUMPUR.COM, registered by Respondent with Dynadot, LLC, of PO Box 345, San Mateo, CA 94401, US.

2. Procedural History

On October 18, 2016, the Complainant submitted a Complaint in English language to the Hong Kong Office of Asian Domain Name Dispute Resolution Centre ("ADNDRC").

On the same day, ADNDRC transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2016, the Registrar transmitted by email to ADNDRC confirming that the Respondent is the registrant.

On October 20, 2016, ADNDRC transmitted the notification of deficiency to the Complainant.

On October 25, 2016, the Complainant submitted a revised Complaint to the ADNDRC.

On October 25, 2016, ADNDRC transmitted the Complaint to the Respondent by email and informed the Respondent of the 20-day period to file a Response. However, no Response has been filed.

On November 22, 2016, ADNDRC informed the parties of the appointment of Mr. William Law as the sole panelist and the decision would be rendered on or before December 6, 2016.

3. Factual background

The Complainant or its group companies manage the Hong Kong based hotel chain Shangri-La Hotels and Resorts, which is the largest Asian-based deluxe-hotel group in the region, and the group's sister brand Traders Hotel, which was established in 1989 to cater predominantly to business travellers.

The first Traders Hotel opened in Beijing in 1989. Since then, "TRADERS" has been used as the Complainant's trademark for more than twenty-five years. The first trademark registration for "TRADERS" was granted by the Thai authority Bor1523 back on 3 September 1992.

Nowadays, Traders Hotels are running business in Beijing, Changzhou, Kuala Lumpur and Abu Dhabi. The gross operating revenue of Traders Hotels is almost 46 million U.S. dollars up to August 2016 and 81 million U.S. dollars for 2015 while the advertising expenses up to August 2016 almost amounts to 2 million U.S. dollars and 3 million U.S. dollars for 2016. The Traders Hotels are widely recognized by the public and the consumers, and received many awards such as "Top Partner by Room Nights 2015" by Expedia; TripAdvisor's Certificate of Excellence 2015 - Hall of Fame" by TripAdvisor; "Guest Review Score: 9/10" by Booking.com; "Best Experience Hotel" by Expatriate Lifestyle.

Complainant owns the following trademarks:

(1)"TRADERS", Bahrain Reg. No. 4186, registered 27 January 2001, in International Class 41;

(2)"TRADERS", Bahrain Reg. No. 4187, registered 27 January 2001, in International Class 42;

(3)"TRADERS", Chinese Reg. No. 769775, registered 14 October 1994, in International Class 39;

(4)"TRADERS", Chinese Reg. No. 769448, registered 7 October 1994, in International Class 42;

(5)"TRADERS", Cuba Reg. No. 2012-0395, registered on 18 July 2012, in International Classes 35, 43 and 44;

(6)"TRADERS", European Community Reg. No. 3430121, registered 3 August 2005, in International Classes 35, 41 and 43;

(7)"TRADERS", Ghana Reg. No. 41603, registered 26 July 2011, in International Class 35;

(8)"TRADERS", Ghana Reg. No. 41605, registered 26 July 2011, in International Class 43;

(9)"TRADERS", Ghana Reg. No. 41606, registered 26 July 2011, in International Class 44;

(10)"TRADERS", Indonesian Reg. No. IDM000016251, registered 18 January 1994, in International Class 41;

(11) "TRADERS", Indonesian Reg. No. IDM000016399, registered 18 January 1994, in International Class 44;

(12)"TRADERS", Japanese Reg. No. 3185272, registered 30 August 1996, in International Class 42;

(13) "TRADERS". Kenya Reg. No. 70994, registered 6 April 2011. In International Classes 35, 43 and 44;

(14) "TRADERS HOTEL", Macau Reg. No. N/017767, registered 9 November 2005, in International Class 35;

(15) "TRADERS HOTEL", Macau Reg. No. N/017768, registered 5 January 2006, in International Class 41;

(16) "TRADERS HOTEL", Macau Reg. No. N/017769, registered 9 November 2005, in International Class 42;

(17) "TRADERS", Malaysia Reg. No. 97022063, registered 26 December 1997 in International Class 43;

(18) "TRADERS", Mozambique Reg. No. 19119/2011, registered 26 May 2011 in International Class 35;

(19) "TRADERS", Mozambique Reg. No. 19117/2011, registered 26 May 2011 in International Class 43;

(20) "TRADERS", Mozambique Reg. No. 19121/2011, registered 26 May 2011 in International Class 44;

(21)"TRADERS", Nigeria Reg. No. 98968, registered 6 April 2011 in International Class 43;

(22) "TRADERS", Nigeria Reg. No. 98969, registered 6 April 2011 in International Class 44;

(23) "TRADERS", OAPI Reg. No. 67482, registered 30 September 2011, in International Classes 35, 43 and 44;

(24)"TRADERS", Oman Reg. No. 24984, registered 18 January 2005, in International Class 41;

(25) "TRADERS", Oman Reg. No. 24990, registered 18 January 2005, in International Class 42;

(26)"TRADERS", Philippines Reg. No. 4-1992-65797, registered 15 May 1998, in International Class 42;

(27) "TRADERS", Qatar Reg. No 24736, registered 24 January 2011 in International Class 41;

(28) "TRADER", Qatar Reg. No 24738, registered 24 January 2011 in International Class 42;

(29) "TRADERS", Russia Reg. No 345165, registered 3 March 2008 in International Class 35;

(30) "TRADERS", Russia Reg. No 322003, registered 5 March 2007 in International Classes 43 and 44;

(31) "TRADERS", Saudi Arabian Reg. No.723/21, registered 12 April 2003, in International Class 41;

(32) "TRADERS", Saudi Arabian Reg. No.640/63, registered 27 August 2002, in International Class 43;

(33) "TRADERS", Saudi Arabian Reg. No.640/64, registered 27 August 2002, in International Class 44;

(34) "TRADERS", Singapore Reg. No. T0707803D, registered 12 April 2007, in International Class 35;

(35) "TRADERS", Singapore Reg. No.T93/09600H, registered 4 December 1993, in International Class 42;

(36) "TRADERS", Singapore Reg. No. T0707804B, registered 12 April 2007, in International Class 43;

(37) "TRADERS", Singapore Reg. No. T0707805J, registered 12 April 2007, in International Class 44;

(38) "TRADERS", South African Reg. No. 2011/07303, registered 29 March 2011, in International Class 35;

(39) "TRADERS", South African Reg. No. 2011/07304, registered 29 March 2011, in International Class 43;

(40) "TRADERS", South African Reg. No. 2011/07305, registered 29 March 2011, in International Class 44;

(41) "TRADERS", South Korean Reg. No. 41-23814, registered 13 May 1994, in International Classes 35, 41, 43 and 44;

(42) "TRADERS", Taiwanese Reg. No. 62775, registered 1 March 1993, in International Class 43;

(43) "TRADERS", Thai Reg. No. Bor1523, registered 3 September 1992, in International Class 43;

(44) "TRADERS", Tanzania Reg. No. TZ/S/2011/148, registered 11 April 2011, in International Class 43;

(45) "TRADERS", Tanzania Reg. No. TZ/S/2011/156, registered 11 April 2011, in International Class 44;

(46) "TRADERS", United Arab Emirates Reg. No. 33719, registered 12 October 2002, in International Class 41;

(47) "TRADERS", United Arab Emirates Reg. No.32077, registered 1 February 2002, in International Class 42;

(48) "TRADERS", U.K. Reg. No. 2301235, registered 22 May 2002, in International Classes 41, 43 and 44;

(49) "TRADERS", Zanzibar Reg. No ZN/S/2011/000103, registered 4 April 2011, in International Class 35;

(50) "TRADERS", Zanzibar Reg. No ZN/S/2011/000104, registered 4 April 2011, in International Class 43; and

(51) "TRADERS", Zanzibar Reg. No ZN/S/2011/000105, registered 4 April 2011, in International Class 44.

Copies of the registration certificates for the above mentioned trademarks are provided as Exhibit 2.

In addition, all Shangri-La Hotels and Resorts are managed by the Complainant or its group companies, and the Complainant's group has registered the "tradershotels.com" domain name in the name of "Shangri-La Hotels & Resorts" since 25 July 1996.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

(i) The identifiable portion of the Disputed Domain Name is identical with the trademarks and service marks in which the Complainant has rights

Since .com is merely the extension portion of the gTLD domain, the word "hotel" is merely a description of a service, and "Kuala Lumpur" is a city, the identifiable portion of the Disputed Domain Name is "traders". It is identical with the Complainant's trademarks and service marks, which are listed above. Most of the Complainant's service marks cover hotels, which is the Complainant's main scope of business.

Moreover, the Disputed Domain Name is confusingly similar to "tradershotels.com", which is owned by Shangri-La Hotels & Resorts, the group of hotels managed by the Complainant or its group companies.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name or the major portion of it

To the best of the Complainant's knowledge, the Respondent does not have any rights or legitimate interests in respect of the Disputed Domain Name or the major portion of it.

(iii) The Disputed Domain Name has been registered and is being used in bad faith

By using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website of the service on his website.

The Disputed Domain Name "TRADERSHOTELKUALALUMPUR.COM" actually advertises the Complainant's hotel in Kuala Lumpur without permission. Furthermore, the Respondent appears to have copied the Complainant's own photographs of the Traders Hotel in Kuala Lumpur which are used on its own website at http://www.shangri-la.com/kualalumpur/traders/photos-videos/.

When you click on "Make a Reservation", the Disputed Domain Name re-directs visitors to Hotelscombined.com website (Exhibit 4). The Complaint has no dealings with Hotelscombined.

In brief, the Respondent's intention is to divert prospective hotel customers, who originally intend to visit the Complainant's website, to his website. By creating the likelihood between the domain name of the Complainant's hotel group "tradershotels.com" and the Disputed Domain Name, the Respondent tries to cause confusion amongst consumers as to the source and affiliation of the Disputed Domain Name. The "Hotelscombined" website to which the Disputed Domain Name redirects likely gives the Respondent a "clicking fee" and commercial gain.

The Respondent has repeatedly registered other well-known domain names for the purpose of disrupting the business of a competitor and intentionally attempting to attract, for commercial gain, internet users to its website and other on line locations.

The Respondent has registered domain names, which are identical or confusingly similar to famous marks or trade names of others, and set up websites which appear to be genuine. See Exhibit 5 for a list of these domain names.

The Respondent's acts actually constitute bad faith.

The Respondent's registration of the Disputed Domain Name disrupted the business of the Complainant

The Disputed Domain Name attracted some of the Internet users, who originally want to visit the Complainant's website.

In summary, the Respondent is intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the

Complainant's marks and "tradershotels.com" domain name, as to the source, sponsorship, affiliation or endorsement of the website. The list of domain names provided at Exhibit 5 prove the Respondent's bad faith of registering domain names, which are identical and similar to the trade names and trademarks of others.

B. Respondent

The Respondent has not filed any submission within the prescribed time.

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 distinctive part of < TRADERSHOTELKUALALUMPUR.COM > is "TRADERS", which is identical to the registered trademark of the Complainant worldwide. The prior date of the earliest trademark registration in Thailand (03/09/1992) pre-dates the date of registration of the Disputed Domain (23/02/2015). The Complainant has been marketing and promoting its services using the word "TRADERS" through various websites of the Complainant (see Exhibit 3). As such, with no evidence to the contrary, I am satisfied that the Complainant has civil rights or interests in the mark, "TRADERS", and that the distinctive part of the Disputed Domain is identical to such mark.

B) Rights and Legitimate Interests

The Complainant, as the registrant of various trademark registrations, submitted that it has never licensed or granted any rights to the Respondents. The Respondents have the burden of proof to establish that they have rights or legitimate interests in the Disputed Domain. However, since the Respondents defaulted in contesting the Complainant's allegations, with no evidence to the contrary, I accept the Complainant's submissions that:

(1) the Respondent's use of the Disputed Domain is not in connection with a bona fide offering of goods or services;

(2) the Respondent has not been commonly known by the Disputed Domain Name, but the Complainant; Further there has been no evidence to show that the Respondent has acquired any trademark or service mark rights and/or reputations in connection with the mark.

I am therefore satisfied that the Respondent has no rights or legitimate interest to register and use the Dispute Domain.

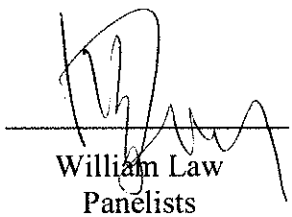
C) Bad Faith

According to the materials submitted by the Complainant, the sister brand, Traders Hotel, of the Complainant was established in 1989. I accept that the Complainant and "TRADERS"are well-established marks among the public. Had the Respondent conducted a simple search on popular internet search engines such as Google or Yahoo, the Respondent would very likely have been aware of the "TRADERS" mark and the Complainant. The registration of the Disputed Domain Name by the Respondent is in bad faith in this circumstances.

Secondly, the Disputed Domain Name is likely to mislead users into believing that the Disputed Domain Name and Website is the website for the Complainant's operations and/or associated with the Complainant and their "TRADERS" trademark in order to increase the number of Internet users that access the Website for commercial gain. According to the Complainant, the Disputed Domain in fact advertises the Complainant's hotel in Kuala Lumpur without permission. Pictures of the Complainant's website are found in the Disputed Domain without authorization. In addition, the Disputed Domain re-directs visitors to www.hotelscombined.com, a commercial website which the Complainant has no dealings with. As such, I am satisfied that the Respondent have registered the Disputed Domain in bad faith with an intention to create confusion amongst consumers to attract them to his website.

6. Decision

In conclusion, the Complainant has satisfied all the 3 grounds laid down in Article 4(a) of the ICANN Policy. I therefore order that the Dispute Domain Name <TRADERSHOTELKUALALUMPUR.COM> **be transferred** to the Complainant.



William Law
Panelists

Dated: December 5, 2016