



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101570
Complainant:	Charles Schwab & Co., Inc.
Respondent:	Tian Tao
Disputed Domain Name(s):	<SCHWAB-CHINA.COM>

1. The Parties and Contested Domain Name

The Complainant is CHARLES SCHWAB & CO., INC., of 211 Main Street, San Francisco, CA 94105, United States of America. Authorized representative is Chang Tsi & Partners (Shanghai Office).

The Respondent is Tian Tao, of Jian An Xiang Su Hui 2619, Changsha, Hunna, 410000, China.

The domain name at issue is <SCHWAB-CHINA.COM>, registered by the Respondent with DYNADOT, LLC, of 210 S Ellsworth Ave #345, San Mateo, CA 94401, U.S.A..

2. Procedural History

On 15 November 2021, pursuant to the Uniform Domain Name Dispute Resolution Policy (“the Policy”), the Rules for the Uniform Domain Name Dispute Resolution Centre Policy (“the Rules”) and the Asian Domain Name Dispute Resolution Centre Supplemental Rules (“the ADNDRC Supplemental Rules”), the Complainant submitted a complaint to the Hong Kong Office of the ADNDRC (“the Centre”) and elected this case to be dealt with by a single-member panel. The Centre acknowledged receipt of the complaint and notified the registrar of the disputed domain name on 17 November 2021 and received a reply from the registrar on 18 November 2021.

On 19 November 2021, the Centre notified the Complainant of the deficiency of the complaint and requested Complainant to rectify, within 5 calendar days (on or before 24 November 2021), the deficiency by updating the information of the Respondent in accordance with the WHOIS information provided by the registrar. On 26 November 2021, the Centre received a revised complaint submitted by the Complainant. After reviewing the revised complaint, the Centre confirmed the complaint is in administrative compliance with the Policy and the Rules on 29 November 2021.

On 29 November 2021, the Centre sent a Written Notice of Complaint to the Respondent, notifying the Respondent that a complaint had been filed against the Respondent by the Complainant and the deadline for submitting a response was 19 December 2021. The Respondent did not file a response with the Centre within the prescribed period.

On 20 December 2021, the Centre listed Prof. Jyh-An Lee as a candidate of the sole panelist. Prof. Jyh-An Lee confirmed his availability and position to act independently and impartially between the parties on 21 December 2021, and was appointed as the sole Panelist for the captioned case. Both parties were informed of the appointment on the same day.

3. Factual background

A. For Complainant

The Complainant, Charles Schwab & Co., Inc. (嘉信股份有限公司, hereinafter referred to as “Schwab”), has been operating in the financial sector with a headquarter in San Francisco and offices in Austin, Cleveland, Denver, Indianapolis, Chicago, Phoenix, Orlando, El Paso and Dallas/Fort Worth for four decades. Schwab operates more than 345 branches and has approximately 1,200 financial consultants. The Complainant’s Hong Kong subsidiary, Charles Schwab, Hong Kong, Limited (嘉信理財香港有限公司, Index No. 0581566), has been in operation since 1996. Schwab and affiliates offer a complete range of investment services and products including an extensive selection of mutual funds; financial planning and investment advice; retirement plan and equity compensation plan services; compliance and trade monitoring solutions; referrals to independent fee-based investment advisors; and custodial, operational and trading support for independent, fee-based investment advisors through Schwab Advisor Services. Schwab was ranked No. 271 and No. 251 respectively on Fortune Magazine’s America 500 Largest Companies List in 2020 and 2021. Schwab was also listed as one of Fortune World’s Most Admired Companies of 2021.

The Complainant owns a series of valid trademark registrations incorporating the word “SCHWAB”, including “SCHWAB”, “Charles SCHWAB”, “Charles SCHWAB 嘉信理財” and “Charles SCHWAB 嘉信理財 and device” (hereinafter collectively referred to as “SCHWAB marks”), in class 36 in Mainland China and in various classes in Hong Kong SAR. The Complainant has adduced evidence to show that its SCHWAB marks have been extensively used in its business activities and promotional materials. Meanwhile, the Complainant is also the registrant of the domain name <SCHWAB.COM>.

B. For Respondent

The Respondent did not file any response with the Centre within the prescribed period.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The Complainant has prior rights in the disputed domain name

The Complainant is the rightful owner of its trademarks “SCHWAB”, “Charles SCHWAB”, “Charles SCHWAB 嘉信理财” and similar marks in Mainland China and Hong Kong SAR. The Complainant also has prior rights in its trade name “SCHWAB” and its domain name <SCHWAB.COM>.

- ii. The domain name in dispute is identical or confusingly similar to the Complainant’s registered trademarks

The disputed domain name is combined by SCHWAB and CHINA with a dash. The Complainant contends that the distinctive part of the disputed domain is “SCHWAB”, as the country name CHINA, the dash and the domain extension “.com” show no distinctiveness. Hence, the distinctive part “SCHWAB” is identical to Complainant’s trademarks, trade name and the distinctive part of Complainant’s domain name.

- iii. The Respondent has no rights or legitimate interests in the registration of the domain name in dispute

The Complainant confirms that neither the Respondent nor the disputed website is affiliated with, licensed by, or shares any business link with the Complainant, nor is it in any other way associated with the Complainant or its affiliates. The Respondent has been using the mark identical with or similar to the Complainant’s SCHWAB marks without the Complainant’s permission. Moreover, the disputed domain name was registered on 20 September 2021, much later than the registration and use of the SCHWAB marks by the Complainant. Therefore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

- iv. The Respondent has registered and used the domain name in bad faith

The disputed domain name was registered much later than the Complainant’s reputation had been established. Meanwhile, the Complainant has preserved and notarized evidence showing the use of the Complainant’s SCHWAB marks on the disputed website to promote the Complainant’s financial and investment services. With the above findings, the Complainant believes that the Respondent intentionally registered the disputed domain name, which is confusingly similar to the Complainant’s trade name and trademarks, in bad faith to mislead the public into believing that the services provided on the disputed website is related to the Complainant. Such behavior would damage the reputation of the Complainant and the interests of consumers.

B. Respondent

The Respondent did not file any response to defend himself within the prescribed period.

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

In the present case, the Complainant has adduced evidence to show that it owns live and valid trademark registrations for its SCHWAB marks in multiple classes in Hong Kong and in class 36 in Mainland China.

The disputed domain name is <SCHWAB-CHINA.COM>. When assessing whether the disputed domain name is identical or confusingly similar to the Complainant's trademark, it has been well established that the generic top-level part ".com" should not be considered. Furthermore, the Panel accepts the Complainant's contention that the part "-CHINA" incorporating the country name in the second-level domain name is less distinctive, especially considered the Complainant's worldwide presence with branch offices and affiliated subsidiaries in different locations, including those in the Greater China area. Therefore, the distinctive part in the disputed domain name is "SCHWAB", which is identical to the Complainant's trademark "SCHWAB" (PRC TM Nos. 10104935, 30838199 and HK TM No. 200012415AA) and entirely incorporated in the other trademarks owned by the Complainant.

Under such circumstances, the Respondent's registration and use of the disputed domain name would easily mislead the public to believe that the Respondent is authorized by the Complainant to carry out the Complainant's financial and investment services in China on the disputed website. Therefore, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's registered trademark as stipulated by Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant has declared in its complaint that the Respondent is not in any form associated with the Complainant or its subsidiary, nor is the Respondent's registration and use of the disputed domain name authorized by the Complainant. The Respondent did not submit a response with the Centre and consequently failed to adduce evidence to prove it has any right or legitimate interest in the disputed domain name. It is therefore inferred that the Respondent in this case does not have any right or legitimate interest in the disputed domain name as stipulated by Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Paragraph 4(b) of the ICANN Policy specifies four types of circumstances that could be evidence of the registration and use of a domain name in bad faith. They include: (i) circumstances indicating that the holder of the domain name has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or (ii) the holder of the domain name has registered the domain name in order to prevent the owner of the

trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or (iii) the holder of the domain name has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the holder of the domain name has intentionally attempted to attract, for commercial gain, Internet users to his web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site or location or of a product or service on his web site or location.

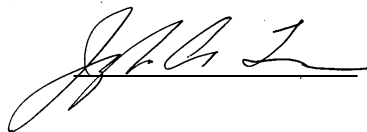
In the present case, the Complainant has shown that it has been in operation in Hong Kong since 1996, which precedes the registration date of the disputed domain name. The disputed domain name was also registered far later than the registration and use of most of the Complainant's SCHWAB trademarks.

As of the date of this decision, the disputed domain website is no longer active or accessible. However, the Complainant has taken the efforts to preserve and notarize the Respondent's use of the disputed domain name on 27 October 2021. The notarized screenshots of the disputed website show that the Complainant's financial services, bearing the Complainant's own house mark, were widely introduced and promoted on the disputed website. This indicates that the Respondent was aware of the Complainant and its services when the disputed domain name was registered and had nevertheless registered the disputed domain name with the intention to free ride on the Complainant's reputation to attract Internet users to the infringing website instead of the Complainant's own homepage.

Therefore, the Respondent is intentionally attempting to attract, for commercial gains, Internet users to the infringing website by creating a likelihood of confusion with the Complainant's mark. As such, the Panel holds that the disputed domain name has been registered and used in bad faith as stipulated by Paragraph 4(a)(iii) of the Policy.

6. Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is confusingly similar to the Complainant's registered trademark, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent's domain name has been registered and is being used in bad faith. Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel orders that the registration of the domain name < SCHWAB-CHINA.COM > be transferred to the Complainant.



Jyh-An Lee
Sole Panelist

Dated: 31 December 2021