

**Asian Domain Name Dispute Resolution Centre  
(Beijing Office)  
ADMINISTRATIVE PANEL DECISION  
Case No. CN-1200613**

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**Complainant: Wang Liansheng**

**Respondent: whoisguard**

**Domain Name: onlylz.com**

**Registrar: ENOM, INC.**

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## **1. Procedural History**

On 16 October 2012, the Complainant submitted a Complaint in English to the Beijing Office of Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) and selected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules).

On 17 October 2012, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and reviewed the format of the Complaint in compliance with the Policy, the Rules and the Supplemental Rules. On the same date, the ADNDRC Beijing Office transmitted by email to ICANN and the Registrar, ENOM, INC., a request for registrar verification in connection with the disputed domain name.

On 22 October 2012, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 25 October 2012, the ADNDRC Beijing Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced on 25 October 2012. On the same date, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the Respondent over the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments to the Respondent through

email according to the Rules and the Supplemental Rules. On the same date, the ADNDRC Beijing Office notified ICANN and the Registrar of the commencement of the proceedings.

On 5 November 2012, the Respondent submitted a Response to the ADNDRC Beijing Office.

On 12 November 2012, the ADNDRC Beijing Office notified the Proposed Panelist Mr. Lian Yunze to see whether he is available to act as the Panelist in this case and if so, whether he is in a position to act independently and impartially between the parties.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Lian Yunze, on 14 November 2012, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist and asked the Panel to submit a decision on or before 27 November 2012.

The Panel finds that it was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

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 in this case is Wang Liansheng with the address at Zhengzhou City, Henan Province, two road bus station.

### **For the Respondent**

The Respondent in this case is whoisguard with the address at 11400 W. Olympic Blvd. Suite 200 Los Angeles, CA 90064 US. The disputed domain name “onlylz.com” was registered on 7 March 2010 through the Registrar ENOM, INC. according to the WHOIS information.

### **3. Parties' Contentions**

#### **The Complainant**

"onlylz.com" has been transferred to the registrar ENOM, INC illegally, and the domain name also changed into "http://www.enom.com", ENOM's tel number is 425-974-4689, facsimile is 425-974-4796, E-mail address is legal@enom.com and its incorporation place is 5808 lake Washington Blvd.VESSte.300Kirland, WA 98033 USA.

The Complainant certifies that he is the owner of the domain name "onlylz.com", who registered this domain with his ID card two years ago, but it was transferred to ENOM on 16th, September 2012. He claims that he is the only owner required by law.

The Complainant submitted the registration information, Onlylz.com's business orders numbers in China, his records of payment, Whois information before 16th September, the respondent's malicious rush registration, application and the use of the credibility to carry out cheating of soccer gambling.

The Complainant states that onlylz.com got in line in 2009, which provides the netizen with the qualified information and information arrangement and sorting, and this web site was named regional innovation model by Government and some kinds of evaluation mechanisms.

The Respondent's domain name is similar to the Complaint's trade mark, which could lead to confusion. Onlylz.com has the standard registration in the Ministry of Industry and Information Technology of the People's Republic of China. The registration with administration can be divided into two parts: profitable registration and non-profitable registration. The Onlylz.com is a profitable site. The property of onlylz.com provides netizen and incorporation with information.

The Respondent should not enjoy the legitimate right and interest of the involved domain name. The legitimate domain name "onlylz.com" was registered and run two years ago. The Respondent took advantage of the ICANN's bugs to operate and it was illegal. The Respondent does not have the legitimate rights and interests in this domain name.

The Respondent illegally and maliciously holds and uses the involved domain name. The Respondent makes use of the credibility to carry out cheating of soccer gambling, etc, Gambling is illegal in China. It is a serious fraud. The

Respondent's registration and use of the domain name are in bad faith.

In view of the reasons above, the Complainant requests the disputed domain name be returned to the Complainant.

### **The Respondent**

(1) On 10 September 2012, the operator of the website contacted the Respondent regarding the sales of the disputed domain name as well as the web programs. They reached an agreement on the price of RMB 100,000.00 and the terms of payment, i.e. the first installment of RMB 20,000.00 be paid for transferring web programs and the second installment of RMB 80,000.00 be paid thereafter for changing the registrant of the disputed domain name into the Respondent.

(2) The disputed domain name was registered on 7 March 2010 and will expire on 7 March 2015. The Complainant's statement that the disputed domain name was cybersquatted by the Respondent in bad faith is not true. Furthermore, the Complainant did not provide any evidence to prove the Respondent acquired the disputed domain name by virtue of loopholes in ICANN's policies.

(3) The WHOIS information and the purchase order provided by the Complainant shows only the original ownership of the disputed domain name, but not the change of the ownership.

(4) The disputed domain name cannot be found in the ICP database of Ministry of Industry and Information Technology of China. Moreover, the database provides only the ID information of the contact person or administrator of the disputed domain name and should not be deemed as ownership by the Complainant.

(5) The disputed domain name was ever hacked for days with soccer gambling and lottery advertisements, which, though illegal in China, cannot be used to claim ownership over the disputed domain name.

(6) The Complainant's act is typical of domain name fraud, aiming to retrieve the disputed domain name after selling it.

To conclude, the Respondent requests the disputed domain name be unlocked.

### **4. Findings**

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is

to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Paragraph 4 (a) of the Policy requires that the Complainant should prove each of the following three elements to obtain an order that a domain name should be canceled or transferred:

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

Based upon itself on the stipulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements can be proved. If the answer is yes, the Panel will make a favorable decision for the Complainant in accordance with the fact-finding and the relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If not, the claims of the Complainant shall be rejected.

Pursuant to Paragraph 4(a) (i) of the Policy, the 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 claims to have such a trademark, but did not provide any evidence to prove his rights on the trademark. By referring to the database of China Trademark Office, the Panel did not find any trademark registered in the Complainant’s name. The Complainant failed to prove the first element of Paragraph 4(a)(i) of the Policy.

Paragraph 4(a) of the Policy requires the Complainant to prove all the three elements simultaneously when claiming the transfer of the disputed domain name. If he fails to prove anyone of the three, the Panel could not support his claim of transfer, As the Complainant failed to prove the first element, it is not necessary for the Panel to make further comments on the other two elements, “Respondent’s rights or legitimate interests” and “Bad faith” mentioned in Paragraph (a) (ii) and (iii).

In view of the above reasons, the Panel can not make a decision in favor of the Complainant.

## 5. Decision

For all the foregoing reasons, the Complaint is denied.

Panelist:



Dated: 27 November 2012