

**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE**  
**(Beijing Office)**  
**ADMINISTRATIVE PANEL DECISION**  
**Case No. CN -1300681**

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**Complainant: Pierre Cardin**  
**Respondent: Lai Gui Di**  
**Domain Name: pierrecardin-cn.com**  
**Registrar: ENOM, INC.**

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## **1. Procedural History**

On 28 April 2013, the Complainant submitted a Complaint on domain name <pierrecardin-cn.com> with Lai Gui Di as Respondent to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC) 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 9 May 2013, the ADNDRC transmitted by email to ICANN and the Registrar a request for registrar verification in connection with the disputed domain name. On 10 May 2013, the Registrar transmitted by email to the ADNDRC its verification response, confirming that Lai Gui Di is listed as the registrant and providing the contact details.

On 29 May 2013, the ADNDRC notified the Complainant to amend the Complaint and resubmit in the English language. On 16 July 2013, the Complainant submitted the amended Complaint in the English language.

On 18 July 2013, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent, and the case officially commenced on 18 July 2013. On the same day, The ADNDRC transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC had sent the

complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC notified ICANN and registrar of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 14 August 2013, the ADNDRC notified both parties of the Respondent's default, and informed both parties that the ADNDRC would proceed to appoint the panel for this case.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Zhao Yun, Mr. Wang Fanwu and Mr. Guo Shoukang, the ADNDRC notified the parties on 17 September 2013 that the Panel in this case had been constituted.

On 17 September 2013, the Panel received the file from the ADNDRC and should render the Decision within 14 days, i.e., on or before 1 October 2013.

Pursuant to Paragraph 11(a) of the Rules, unless otherwise agreed by the parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English and no request has been made to carry out the proceeding in a language other than English, thus the Panel determines English as the language of the proceeding.

## **2. Factual Background**

### **For the Complainant**

The Complainant in this case is Pierre Cardin. The registered address is Paris, France. The authorized representative in this case is ZHANG Lianjun of CCPIT Patent and Trademark Law Office.

### **For the Respondent**

The Respondent in this case is Lai Gui Di. The address is 147 Zhongxindadao Road, Zhongxin Town, Heyuan City, Guangdong 517139, China. The Respondent is the current registrant of the disputed domain

name <pierrecardin-cn.com> according to the Whois information.

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

#### **The Complainant**

1) The identifying part in the disputed domain name "pierrecardin-cn.com" is confusingly similar to the trademark "Pierre Cardin" in which the Complainant enjoys prior interests and rights.

The trademark "Pierre Cardin" is a well-known trademark owned by the Complainant in the world. In 1950, the Complainant, Mr. Pierre Cardin, finally set up his own eponymous fashion house. He presents his first collection in 1953, which marks the official start of his career as a costume designer. With nearly twenty years of unremitting efforts, the Complainant fulfilled his entrepreneurial dream: he became a world famous costume designer. His success was acknowledged when he was awarded three times for the "*De d'Or*", the highest prize for French Haute Couture. One nomination for the award will be the haute couturier's dream, but to win it three times is unheard of and remains to this day unsurpassed. In 1992, the Complainant confirmed his position at the top of the haute couture world by taking his place among the elite of the *Academie Francaise*. Today, the Pierre Cardin fashion empire owns 400 brand franchise contracts throughout the world, manufacturing and sales centers in more than 130 countries and a staff numbering 200,000. Nowadays the Pierre Cardin label is quite well-known. Searching in search engines of [www.google.com.hk](http://www.google.com.hk) and [www.baidu.com](http://www.baidu.com) with "Pierre Cardin" as the keyword, the search results all directed to relevant information of the Complainant. To sum up, the Complainant owns the trademark "Pierre Cardin" in which the Complainant enjoys greater fame and prior rights.

The Complainant enjoys relevant civil rights and interests in trademarks "Pierre Cardin" and "皮尔-卡丹 (Pierre Cardin in Chinese)" already approved for registration in China abide by the law. The Complainant has registered the trademark "Pierre Cardin" in China and therefore enjoys the legitimate exclusive right of the registered trademark "Pierre Cardin" in China. Trademarks "Pierre Cardin" and "皮尔-卡丹 (Pierre Cardin in

Chinese)” are also the English and Chinese names of the Complainant.

2) The Respondent does not enjoy any right or interest in the disputed domain name “pierrecardin-cn.com”.

The Complainant enjoys prior rights of the trademark “Pierre Cardin” abide by the law. The Complainant has never authorized or licensed the Respondent to use trademarks “Pierre Cardin”, “皮尔-卡丹 (Pierre Cardin in Chinese)” and “P & Device” or to register any domain name identical with or similar to “pierre cardin”.

3) The Respondent registered the disputed domain name in bad faith.

The Respondent tried to attract users to visit the website “pierrecardin-cn.com” in a deliberate manner out of commercial profits through registration and usage of such website and provision of goods or services on such website and link from such website to a on-line shop at Taobao.com to sell “皮尔卡丹 (Pierre Cardin)” clothing so as to cause confusion as to the source, sponsor, affiliates, supporters, etc., which severely damaged the business of the Complainant.

The main part, “pierrecardin”, of the disputed domain name “pierrecardin-cn.com” registered by the Respondent is identical with the trademark “pierrecardin” owned by the Complainant. The word “cn” is short for China on the Internet. Therefore, “pierrecardin-cn.com” can be comprehended as “Pierre Cardin in China” to ordinary network users or customers.

As to the usage of the domain name “pierrecardin-cn.com”, the logo “P & Device”, highlighted at the upper left corner of the webpage, is duplicated from the trademark No. 211048 “P & Device”, a remarkable, well-known trademark of the Complainant; the spell of the words “Pierre cardin”, used below such logo, is identical with the trademark No. 137016 “Pierre Cardin” of the Complainant. As to the on-line shop at Taobao.com linked from the disputed domain name/website, the abovementioned logo “P & Device” and words of “pierre cardin” are also used on the homepage of that shop.

Furthermore, the Respondent links the disputed domain name to Taobao.com for distributing such goods as “Pierre Cardin down jackets”,

men's jeans, women's jeans, men's clothing, women's clothing, etc. The logo "P & Device", confusingly similar to the trademark No. 211048 "P & Device", and the words of "pierre cardin", confusingly similar to the trademark No. 137016 "Pierre Cardin", are used on the upper left part of the exhibiting pictures of those goods offered for sale by the Respondent. It should be noted that the goods mentioned above are covered by the trademark of the Complainant, the act of the Respondent has not been authorized or licensed by the Complainant.

The evidence mentioned above shows that the Respondent tried to attract users to visit the website "pierrecardin-cn.com" in a deliberate manner out of huge commercial profits through registration and usage of such website and provision of goods or services on such website and link from such website to on-line at Taobao.com for selling goods without authorization or license from the Complainant so as to cause confusion as to the source, sponsor, affiliates, supporters, etc., which severely damaged the business of the Complainant. In accordance with the provisions regulated in UDRP 4(b)(iii) and (iv), such acts in bad faith shall be prohibited by the law.

Enjoying high reputation in China, trademarks and goods of the Complainant have become the counterfeit target by many infringers. Domain names identical with or similar to "pierrecardin" have emerged continuously. These acts cause serious damages to the legitimate rights and interests of the Complainant, violate the principle of honesty and credibility favored by the market-oriented economy, and also deceive the ordinary customer at the meantime, which causes severe damages to the legitimate rights and interests of the ordinary customers.

On the basis of the aforementioned facts and grounds, the Complainant hereby requests the panel to decide that the disputed domain name shall be transferred to the Complainant. The Complainant believes that a decision favorable to the Complainant shall help the Chinese enterprises to develop respect for intellectual property rights and the principle of honesty and credibility, to contain acts of infringement and unfair competition, and to protect and promote intellectual property rights as active roles.

For the reasons above, the Complainant requests the Panel to issue a decision to transfer the disputed domain name from the Respondent to the Complainant.

#### *The Respondent*

The Respondent failed to submit a Response within the specified time period.

#### **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 cancelled 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.

#### ***Identityl or Confusing Similarity***

The Complainant is a world-famous fashion designer set up in 1950. His name “Pierre Cardin” is used as trademark for his products and has been successfully registered as trademarks in many countries. “Pierre Cardin” was first registered as trademark in China as early as of 1980, much earlier than the registration date of the disputed domain name. This trademark is still within the trademark protection period. The Panel has no problem in finding that the Complainant enjoys the prior rights in the trademark “Pierre Cardin”.

The disputed domain name is “pierrecardin-cn.com”. The suffix “.com”

only indicates that the domain name is registered under this gTLD and is not distinctive. The major part of the disputed domain name is “pierrecardin-cn”. This main part consists of two sub-parts: “pierrecardin” and “cn”, which are linked by a hyphen. Obviously, the first sub-part (“pierrecardin”) is identical to the Complainant’s trademark “Pierre Cardin”. The second sub-part (“cn”) is considered to be an abbreviation of “China” and is not distinctive. The Panel finds that the addition of the name of a place/country to a trademark, such as the addition of “cn” to “pierrecardin”, is a common method for specifying the location of business provided under the trademark. The addition of a place name generally does not alter the underlying mark to which it is added. In this case, the combination of two sub-parts cannot effectively differentiate the main part of the disputed domain name from the Complainant’s trademark; on the contrary, such a combination strengthens the links between the disputed domain name and the Complainant, misleading the consumers to believe that this domain name is to show the Complainant’s existence in China.

Accordingly, the Panel holds that the Complaint fulfills the condition provided in Paragraph 4(a)(i) of the Policy.

### ***Rights or Legitimate Interests of the Respondent***

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant has never authorized the Respondent to use the trademark or the disputed domain name. The Complainant’s assertion is sufficient to establish a *prima facie* case under Policy 4(a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests.

The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name. No evidence has shown that the Respondent is using or plans to use the domain name for a *bona fide* offering of goods or services. The Respondent is not commonly known by the domain name. The evidence submitted by the Complainant further shows that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The act of registering the disputed domain name does not automatically endow any legal rights or interests with the Respondent.

The Panel therefore finds that the Complaint fulfills the condition provided in Paragraph 4(a)(ii) of the Policy.

### ***Bad Faith***

Under Paragraph 4(b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use in bad faith:

- (i) Circumstances indicating that you have registered or you have 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) You have 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) You have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your website 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 your website or location or of a product or service on your website or location.

The Complainant is a world-famous fashion designer. The trademark, the same as his name, has been registered in many countries, the earliest one in China being registered in 1980. The trademark "Pierre Cardin" has achieved a strong reputation through many years of use and promotion. As such, the public has come to recognize and associate the Complainant's trademark as originating from the Complainant and no other. Evidence shows that the website of the disputed domain name contains logos of the Complainant's other trademarks and sells the same products trademarked "Pierre Cardin". It is thus obvious that the



Respondent is aware of the existence of the Complainant and its trademark. The action of registering the disputed domain name *per se* has constituted bad faith. Actually, it is impossible to conceive of any plausible active use of the disputed domain name by the Respondent that would not be illegitimate.

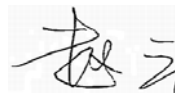
The evidence submitted by the Complainant shows that the Respondent is using the website of the disputed domain name to sell the same kind of products with Complainant's trademark, such as jackets, jeans and clothing. In fact, the Complainant has never authorized the Respondent to use the trademark to sell these products. This is exactly the typical bad-faith use of the domain name contemplated by Paragraph 4(b)(iv) of the Policy, i.e., the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

The Panel concludes that the Respondent has registered and used the domain name in bad faith. Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4(a)(iii) of the Policy.

## 5. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name <pierrecardin-cn.com> should be TRANSFERRED to the Complainant, Pierre Cardin.

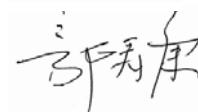
Panelist:



Panelist:



Panelist:



Dated: 1 October 2013