



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101511
Complainant(s):	BB IN Technology Co., Ltd; YANG, JEN-CHIEH (楊仁傑)
Respondent(s):	Domain Admin (for bbinas.com); Domain Admin (for bbinoa.com)
Disputed Domain Name(s):	< bbinas.com >; < bbinoa.com >

1. The Parties and Contested Domain Name

The First Complainant is BB IN Technology Co., Ltd, of 60 Market Square, P.O. Box 364, Belize City, Belize. The Second Complainant is 60 Market Square, P.O. Box 364, Belize City, Belize, of 60 Market Square, P.O. Box 364, Belize City, Belize.

The First Respondent for bbinas.com is Domain Admin, of Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, New Providence, BS. The Second Respondent for bbinoa.com is Domain Admin, of Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, New Providence, BS.

The domain names at issue are bbinas.com and bbinoa.com, registered by Respondent with Internet Domain Service BS Corp (Address: N/A).

2. Procedural History

The Complaint was filed by the Complainant with the Asian Domain Name Dispute Resolution Centre (the “Centre”) on 20 July 2021. The Complainant chose a sole panelist to review this case in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) which was adopted by the ICANN and came into effect on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) became effective on 28 September 2013 and the Supplemental Rules thereof which come into effective on 31 July 2015.

On 22 July 2021, the Centre confirmed receipt of the Complaint and Annexures, and transmitted by email to Internet Domain Service BS Corp (the Registrar of the domain names) a request for registrar verification in connection with the domain names at issue. On 22 July 2021, the said Registrar verified to the Centre that, (i) the Policy is applicable to the domain names at issue, (ii) the Respondent verified that the Policy is applicable to the Complaint and (iii) the language used in the registration agreement is English.

On 2 August 2021, the Centre confirmed that the Complaint filed by the Complainant was consistent with the requirements of the Policy and the Rules, and sent the formal Written Notice of Complaint to the Respondent and requested the Respondent to reply within twenty days from 2 August 2021 (on or before 22 August 2021), in accordance with the Rules and Supplemental Rules, and forwarded the Complaint as well as all the Annexures thereto. The procedures for this case formally commenced on 2 August 2021.

On 23 August 2021, the Centre issued a Default Notice, which confirmed that the Respondent had not filed any formal Response with the Centre, within the required time limit.

On 23 August 2021, the Centre sent Mr. Matthew Murphy a Notice of Panelist Appointment. On the same day, the Panelist candidate considered that it was properly constituted and submitted the acceptance notice as well as a statement of impartiality and independence. Later on that same day of 23 August 2021, the Centre notified both parties and the Panelist Mr. Matthew Murphy by email, that Mr. Matthew Murphy had been appointed the sole panelist for arbitrating this case. The Centre then formally transferred the case to the Panelist. The Panelist agreed to deliver his decision with respect to the disputed domain names on, or prior to, 6 September 2021.

3. Factual background

For the Complainants

The First Complainant, BB IN Technology Co., Ltd, claims that it is a leading gaming software developer and supplier in Asia, with successful collaborations with more than 500 clients around the world. The First Complainant also claims that it has been the beneficial owner of the domain name “bb-in.com” since 1 September 2005, and that it licensed State Leader Co., Ltd. to hold the domain name “bb-in.com” on its behalf until April 2015, and has always used its official website www.bb-in.com to promote its online gaming products.

The Second Complainant, YANG, JEN-CHIEH (楊仁傑), claims himself as the CEO of the First Complainant.

The Complainants claim that the First Complainant is the beneficial owner of the trademark “bbin” (in various forms) (“bbin” Trademark) and has authorised the Second Complainant to hold the aforesaid trademark registrations on its behalf.

The Complainants also claim that their “BBIN” group is an active participant in gaming events and exhibitions in Asia. They further claim that their group has taken part in the Global Gaming Expo Asia (“G2E Asia”), a premier Asian trade event and the largest regional sourcing platform for global gaming and entertainment products, for seven consecutive years, and more than 95% of the top Asian gaming operators attend the show.

For the Respondents

The First Respondent for bbinas.com is Domain Admin, of Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, New Providence, BS. The First Respondent’s telephone number is +1.5163872248, and email address is bbinas.com-owner-rqr1@customes.whoisprivacypcorp.com. The Second Respondent for bbino.com is Domain Admin, of Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, New

Providence, BS. The Second Respondent's telephone number is +1.5163872248, and email address is bbinoa.com-owner-sjce@customes.whoisprivacypcorp.com. The Respondents did not file a Response, nor any information/submissions, with the Centre to reveal its identity, background information or claims to the disputed domain names.

4. Parties' Contentions

A. Complainants

The Complainants' contentions may be summarized as follows:

- i. Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights

Rights of the Complainants

The Complainants claim that they enjoy trademark rights under the "bbin" Trademark in many jurisdictions by way of trademark registrations of the "bbin" Trademark (in various forms) including in Taiwan, Mainland China, Hong Kong, Japan and Singapore. The Complainants claim that they have also built up a protectable goodwill in the "bbin" Trademark through active use of the "bbin" Trademark on the First Complainant's website and through other activities in Asia (e.g. participation at G2E Asia).

The Complainants also claim that in previous cases, the panelists have concluded 1) the Complainants have a relatively high reputation in Asia and that their "bbin" mark/name is distinctive and is a creative combination of "bb" and "in"; 2) the Complainants' "bbin" Trademark is well-known in the field of gaming in Asia; 3) the Complainants have provided evidence that they commenced use of and have been using for a long time the trade mark "bbin" and own various trademark registrations in Taiwan and several countries in Asia as well; and 4) the inclusion of the numerals "77", "66", "33" and "22" does not distinguish the disputed domain names from the Complainants' "bbin" Trademark.

Disputed Domain Names are identical or confusingly similar to the Complainants' trade mark

The Complainants claim that the distinguishing element of the disputed domain names is "bbin", which is identical to the "bbin" Trademark in which the Complainants have rights. The first four letters of the disputed domain names and the Complainants' "bbin" Trademark are identical and could be easily mistaken. Given the visual and aural similarities of the disputed domain names and the Complainants' official domain name "bb-in.com", the disputed domain names are very likely to mislead people into thinking that the disputed domain names relate to the Complainants' businesses. The other parts of the disputed domain names could not practically distinguish them from the "bbin" Trademark to reduce the likelihood of confusion.

The Complainants also claim that the likelihood of confusion is further increased due to the domain name address of the First Complainant's Website, "bb-in.com" being almost identical to the disputed domain names.

- ii. The Respondents have no rights or legitimate interests in the disputed domain names

The Complainants claim that the Respondents have no rights or legitimate interests in the disputed domain names for the following reasons: 1) The disputed Domain names currently lead to an empty website, and they have not been used in connection with a bona fide offering of goods and services by the Respondents; 2) The Complainants have not authorised or licensed anyone to use or register any domain names consisting of their “bbin” Trademark or “bb-in”; and 3) the prolonged non-use and passive holding of the Dispute Domain Names supports a finding of bad faith.

- iii. Disputed domain names have been registered and used in bad faith

The Complainants claim that the disputed domain names have been registered and are being used in bad faith, for the following reasons: 1) The Respondent was and is clearly aware of the Complainants, the “bbin” Trademark and the associated goodwill; and 2) it is apparent that the Respondent must have been aware of the Complainants’ businesses and associated goodwill, and deliberately registered the disputed domain names primarily for the purpose of disrupting the business of a competitor (i.e. the Complainants), and using the disputed domain names in an attempt to attract, for commercial gain, Internet users to the Respondent’s websites, by creating a likelihood of confusion with the “bbin” Trademark.

B. Respondents

The Respondents did not file any Response, nor other submissions with the Centre.

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 Complainants, by submitting its trademark registration certificates/information, including but not limited to “BBIN with design (and Chinese characters 寶盈集團)” Hong Kong registrations under Registration No.’s 302035890, 303248343, and 303920058, China registrations under Registration No.’s 9987511, 16158219, and 16158428, Taiwan registrations under Registration No.’s 01537666, 01711095, and 01711146, Japan registrations under Registration No.’s 5764174, 5777537, 5953283, and 5953284, Singapore registrations under Registration No. T1113232C, 40201402784Q, and

40201616158Y, has proved that the Second Complainant is entitled to the ownership of the “bbin” Trademark. Obviously, the disputed domain names <bbinas.com>, and <bbinoa.com> completely incorporate the Complainants’ “bbin” Trademark.

The following discussion from an earlier case, applies to this case on this point - “The fact that a trademark is incorporated in its entirety in a domain name is a solid indication of, but does not ipso facto mean, that the domain name is confusingly similar to the trademark. The similarity of the trademark and the domain name depends on many factors, including the relative distinctiveness of the trademark and the non-trademark elements of the domain name, and whether the non-trademark elements detract from or contradict the function of the trademark as an indication of origin” - See: Pfizer Inc v. The Magic Islands, WIPO Case No. D2003-0870.

In the present case, the Panelist considers that the disputed domain names are confusingly similar to the “bbin” Trademark for the following reasons: 1) the “bbin” Trademark has obtained a high level of distinctiveness and reputation among the relevant public, due to many years of prior use and wide registration in terms of geography and coverage, and 2) the addition of the letters “as” or “oa” does not decrease the similarity between the distinctive part of the disputed domain names and the “bbin” Trademark. The disputed domain names continue to be confusingly similar to the “bbin” Trademark, despite the addition of the letters.

As to the gTLD “.com” in the disputed domain names, it should be ignored when it comes to decide confusingly similarity - see: Rohde & Schwarz GmbH & Co. HG v. Pertshire Marketing, Ltd., WIPO Case No. D2006-0762.

Thus, the disputed domain names and the Complainants’ “bbin” Trademark possess the similarity that is sufficient to cause confusion.

In conclusion, the Panelist finds that the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

Upon comprehensively considering the circumstances of the case, the Panelist considers that the Respondents do not have legal rights and interests in the disputed domain names on the grounds that:

(1) without submitting any evidence to prove that the Respondents have any legal rights and interests in the disputed domain names, the Respondents could not sufficiently prove that they “owns legal right and interest thereof” by the mere registration of the disputed domain names - See: Adobe Systems Incorporated v. Domain OZ, WIPO Case No.: D2000-0057.

(2) The Complainants have expressed that it has not authorized nor permitted the Respondents in any way to register domain names using the “bbin” Trademark, nor use the “bbin” Trademark in general.

(3) The Respondents did not provide a Response, nor any evidence, and there is no indication to show, that there is any connection or association between the Respondents

and the “bbin” Trademark, nor any circumstances that might indicate that it has legal rights and interest in the disputed domain names as stated in Paragraph 4(c) of the Policy.

In conclusion, the Panelist finds that the Complainant has satisfied Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

The Complainants, by submitting evidence such as website screenshots showing participation at G2E Asia by the Complainants’ “BBIN” group, and other materials, have proved that the First Complainant has operated for many years using the BBIN series of trademarks; and therefore, it has obtained high reputation in its field of business. Based on that, the Complainants further claimed that the Respondents must have registered the disputed domain names when it was familiar with the Complainants’ “bbin” Trademark and business.

Upon comprehensively considering circumstances as follows, it is reasonable for the Panelist to infer that the Respondents ought to have known of the First Complainant and the “bbin” Trademark whilst registering the disputed domain names, and such registrations were in bad faith: 1) the fame of the First Complainant and the “bbin” Trademark; 2) the similarity between the disputed domain names and the Complainants’ “bbin” Trademark; 3) the similarity between the disputed domain names and the First Complainant’s relevant domain name “bb-in.com”; 4) the absence of any legal or factual relationship or connection between the Respondents, the disputed domain names, the “bbin” Trademark and/or the Complainants’ business, nor any other justification for the registration or use of the disputed domain names by the Respondents.

With respect to the use of the disputed domain names, although the disputed domain names might not be used, as discussed in *Telstra Corporation Limited v. International Electronic Communications Inc.*, WIPO Case No.: D2000-0003, “the concept of a domain name ‘being used in bad faith’ is not limited to positive action; inaction is within the concept.” Given that the Respondents’ bad faith in terms of its intention of use when registering the disputed domain names, it is reasonable for the Panelist to infer that the Respondents use the disputed domain names, in bad faith.

In conclusion, the Panelist finds that the Complainants have satisfied Paragraph 4(a)(iii) of the Policy.

6. Decision

Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, the Panelist orders that the disputed domain names <bbinas.com>, <bbinoa.com> be transferred to the First Complainant.

Matthew Murphy

Matthew Murphy
Panelist

Dated: 30 August 2021