



## ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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### Decision Submission

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Decision ID	DE-0500055
Case ID	CN-0500062
Disputed Domain Name	www.epsonamrica.com
Case Administrator	jinxi
Submitted By	Matthew A. Murphy
Participated Panelist	

Date of Decision	25-10-2005
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### The Parties Information

<b>Claimant</b>	Seiko Epson Corporation
<b>Respondent</b>	Birgit Klostermann

### Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on August 28, 2005. On September 1, 2005, the Center transmitted by email to eNom Inc. (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue. On September 8, 2005, eNom Inc. transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant. The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the Centre’s Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”). In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on 15 September, 2005. In accordance with the Rules, paragraph 5(a), the due date for Response was 5 October, 2005. The Respondent did not submit any response. Accordingly, the Center notified the Respondent of its default on October 10, 2005.

The Center appointed Matthew Murphy as the sole panelist in this matter on October 10, 2005. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### Factual Background

#### For Claimant

The Complainant is a well known multinational company that was established in 1942 in Japan. Its main products include information products such as printers, projectors, consuming materials, electronics, watches etc. In 2003, the Complainant claimed to have 84,889 employees and sales reaching 1.4132 billion yen. The Complainant is the registered owner of the trademark EPSON and has been using it for over 25 years – the Complainant has provided evidence to show that it has registered the mark in a large number of classes in many countries throughout the world including China, Japan, the UK, the USA and Germany. The Complainant also claims to have registered over 70 domain names containing EPSON – a list has been provided by the Complainant. The EPSON trademark was first registered by the Complainant in Japan in 1975. The Complainant claims that its EPSON trademark, therefore, has attained the status of a famous mark through decades of use and consumer recognition. None of these claims have been refuted by the Respondent.

The Claimant discovered that the Respondent registered the domain name and had not activated any website using this domain name. The Claimant asserts that the Respondent’s registration of this domain name will confuse existing and

future customers of Claimant. None of these claims have been refuted by the Respondent.

### **For Respondent**

The Respondent did not provide any submissions or evidence.

### **Parties' Contentions**

#### **Claimant**

The Claimant asserts that the Respondent's registration of this domain name will confuse existing and future customers of the Claimant, that the Respondent has no legitimate interests in respect of this domain name, and that the domain name has been registered and is being used in bad faith.

#### **Respondent**

The Respondent has not asserted any claims, defenses or contentions.

### **Findings**

#### **Identical / Confusingly Similar**

The Panel finds that Complainant has established that it is the owner of the trademark EPSON. The validity and fame of this trademark are beyond dispute. The Respondent's domain name includes the Complainant's trademark and adds a reference to "America" in the domain name - no evidence or submissions to refute this claim has been provided by the Respondent. Internet users may easily understand the domain name to refer to the Complainant's American operations, since the Complainant is a well-known multi-national company. Accordingly, the domain name is confusingly similar to the trademark EPSON owned by the Complainant.

#### **Rights and Legitimate Interests**

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the well-known trademark EPSON, or that there was any association between the trademark EPSON and its activities, before registering the domain name. Given that the Respondent has not provided any evidence to support a right or legitimate interest in the domain name, the Panel finds that the Respondent has no rights or legitimate interests in respect of the domain name.

#### **Bad Faith**

The trademark EPSON is well-known enough that it is presumable that the Respondent knew about its existence when registering the domain name (see Banca Sella S.p.A. v. Mr. Paolo Parente, WIPO Case No. D2000-1157; Expedia, Inc. v. European Travel Network, WIPO Case No. D2000-0137). No argument has been submitted by the defaulting Respondent in order to counter these findings. The Panel concludes that the domain name has been registered in bad faith.

As far as use of the domain name in bad faith is concerned, the Panel concludes that the Respondent's holding of the domain name in this particular case satisfies the requirement of paragraph 4(a)(iii) of the Policy in that the domain name "is being used in bad faith" by the Respondent (see Telstra Corporation Limited v Nuclear Marshmallows, WIPO Case No. D2000-0003; Espirito Santo Financial Group S.A. v. Peter Colman, WIPO Case No. D2001-1214) - the Complainant's trademark has a strong reputation and is widely known, as evidenced by its substantial use in various countries throughout the world, and the Respondent has provided no evidence of any actual or contemplated good faith use by it of the domain name.

### **Status**

www.eponamrica.com

Domain Name Transfer

## Decision

Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, this Panel orders that the domain name <epsonamerica.com> be transferred to the Complainant.

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