

Asian Domain Name Dispute Resolution Center
Beijing Office
Administrative Panel Decision
Case No. CN-1100455

Complainant: SEIKO EPSON CORPORATION

Respondent: yunyun zhou

Domain Name: printerparts-epson.com

Registrar: GODADDY.COM, INC.

1. Procedural History

On April 21, 2011, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the "ADNDRC Beijing Office"), in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules"), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "ADNDRC Supplemental Rules").

On April 26, 2011, the ADNDRC Beijing Office confirmed the receipt of the Complaint and forwarded a request for verification of registration information to ICANN and the Registrar of the domain name in dispute, GODADDY.COM, INC.

On April 27, 2011, the ADNDRC Beijing Office received the Registrar's confirmation of registration information of the domain name in dispute.

On June 2, 2011, the ADNDRC Beijing Office transmitted the Complaint to the Respondent by email.

On June 15, 2011, the ADNDRC Beijing Office notified the Complainant by email that the Complaint was reviewed and

forwarded to the Respondent and confirmed with the parties, ICANN and Registrar by email that the captioned case was formally commenced. The ADNDRC Beijing Office also requested the Respondent to file a Response within 20 calendar days scheduled time.

On July 11, 2011, the ADNDRC Beijing Office confirmed that No Response was received from the Respondent and notified both parties that the panelist would be shortly appointed and the case would be heard by default.

On July 11, 2011, the ADNDRC Beijing Office gave notice to the candidate of the Panelist Mr. Zhao Yun, requesting him to confirm whether he would accept the appointment as a Panelist for this case, and if so, whether he could maintain impartiality and independence between the parties in this case.

On July 11, 2011, the ADNDRC Beijing Office received a declaration of impartiality and independence and a statement of acceptance from Mr. Zhao Yun.

On July 13, 2011, the ADNDRC Beijing Office informed by email the Parties that Mr. Zhao Yun would be the sole Panelist who would form the one-member Panel for this case and transferred the files of this case to the Panel formally on the same day. The Panel should render the Decision within 14 days, i.e. on or before July 27, 2011.

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, thus the Panel determines English as the language of the proceedings.

2. Factual Background

For the Complainant

The Complainant in this case is SEIKO EPSON CORPORATION. The registered address is Head Office 3-5 Owa 3-chome, Suwa-shi, Nagano-ken, 392-8502 JAPAN. The authorized representative in this case is Linda Liu & Partners.

For the Respondent

The Respondent in this case is yunyun zhou. The address is lushanqu, jiujiangshi, jiangxisheng 332005, China. The Respondent is the current registrant of the disputed domain name “printerparts-epson.com” according to the Whois information.

3. Parties’ Contentions

Complainant

(1) The disputed domain name is confusingly similar to the trademark “EPSON” of the Complainant. It is well-known that “EPSON” is a worldwide famous trademark which is owned by the Complainant. The validity and fame of its trademark are beyond dispute. The disputed domain name “printerparts-epson.com” consists of “EPSON” and phrase “printerparts”. “EPSON” is the well-known trademark and trade name of the Complainant. The phrase “printerparts” consists of “printer” and “parts”, and it seems that phrase means “spare parts of the printer”. It is obvious that the use of the disputed domain name will mislead the relevant consumers to believe that the products or services of the registrant are related to EPSON’s products and services. Accordingly, the domain name “printerparts-epson.com” is confusingly similar to the trademark “EPSON” owned by the Complainant and infringes the Complainant’s legal rights.

(2) The registrant has no rights or legitimate interests in respect of the disputed domain name. “EPSON” is a trademark and trade name originally created by the Complainant. The Complainant has

registered the trademark EPSON in a lot of countries. And its corporation name includes “EPSON”. It is beyond question that the Complainant has the prior right on “EPSON”. The registrant has nothing to do with the Complainant, and there was no association between the trademark and his activities before registering the disputed domain name. The Complainant has never authorized the registrant to use “EPSON” by any means. Besides these, the registrant registered the disputed domain name on March 1, 2011, much later than the date when the Complainant registered the trademark or its style.

(3) The disputed domain name has been registered in bad faith. Since the trademark “EPSON” is so well-known in the world, and was granted the well-known trademark in September 2007 in China. And the disputed domain name was registered on March 1, 2011, later than the recognition of the well-known trademark. The trademark “EPSON” owned by the Complainant has a high reputation in China, thus the registrant knew clearly the existence of this famous trademark. Moreover, after noticing this domain name was preemptively registered by the registrant, the Complainant sent a C&D letter via email in respect of the infringement of the Complainant’s trademark right and trade name right on March 22, 2011. However, after receiving the C&D letter from the Complainant, though the registrant gave a reply, acknowledging its infringement on EPSON trademark, he refused to transfer the disputed domain name at the price of registration fees or cancel the registration.

In accordance with Paragraph 4(b)(i) of the Policy, the Complainant requests the panel to issue a decision to transfer the disputed domain name to the Complainant.

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:

- (1) 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
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identity/Confusingly Similarity

The Complainant is a well-known company in the area of electronic equipment and other IT products. “EPSON” was first registered as trademark in Japan in 1975. Since its entry into the Chinese market in 1984, the Complainant has registered the trademark “EPSON” in China as early as 1989. This registration date is much earlier than the registration of the disputed domain name (1 March 2011). The Panel has no problem in finding that the Complainant enjoys the prior rights in the trademark “EPSON”.

The disputed domain name is “printerparts-epson.com”. The suffix “.com” only indicates that the disputed domain name is registered under this gTLD and is not distinctive. The main part of the disputed domain name consists of “printerparts” and “epson”. The second part “epson” is the same as the Complainant’s trademark. The first part “printerparts” consists of two words “printer” and “parts”; when

putting together, it simply means certain products, which is exactly one major product of the Complainant. The addition of “printerparts” to the Complainant’s trademark “epson” does not differentiate the main part of the disputed domain name from the Complainant’s trademark; with “printer parts” being one major product of the Complainant, such an addition, on the contrary, strengthens the connection between the disputed domain name and the Complainant’s trademark.

Therefore, main part of the disputed domain name “printerparts-epson.com” is confusingly similar to the Complainant’s trademark “EPSON”. Accordingly, the Panel holds that the Complaint fulfills the condition provided in Paragraph 4 (a)(i) of the Policy.

Rights and Legitimate Interests

The Complainant contends that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant’s assertion is sufficient to establish a *prima facie* case under Policy 4 (a)(ii), thereby the burden is shifting 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 planning to use the disputed domain name bona fide to offer 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 followings 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 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.

Evidence shows that the Complainant's trademark "EPSON" has achieved a strong reputation through use and the worldwide significance of the brand name. As such, the public has come to recognize and associate the Complainant's trademarks as originating from the Complainant and no other. Through extensive use, promotion and advertisement, the trademark "EPSON" has been well known by Chinese consumers. The Respondent, a resident in China, knows or should have known the existence of the Complainant and the trademark. The evidence further shows that

the Respondent acknowledged its infringement on the Complainant's trademark. As such, the act of registration itself has constituted bad faith. The Panel further finds that it is impossible to conceive of any plausible active use of the disputed domain name by the Respondent that would not be 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 Paragraph 4 (a) of the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the "printerparts-epson.com" domain name should be TRANSFERRED to the Complainant, SEIKO EPSON CORPORATION.

Sole Panelist:



DATED: July 26, 2011