

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

(Beijing Office)

ADMINISTRATIVE PANEL DECISION

Case No. CN-1100500

Complainant: SEIKO EPSON CORPORATION

Respondent: zhang lin

Domain Name: epson-printer.info

Registrar: GODADDY.COM, INC.

1. Procedural History

On 22 August 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 26 August 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 27 August 2011, the ADNDRC Beijing Office received the Registrar's confirmation of registration information of the domain name in dispute.

On 1 September 2011, the ADNDRC Beijing Office sent the Transmittal of Complaint to the Respondent.

On 9 September 2011, the ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded, and

the ADNDRC Beijing Office notified the Respondent, the Registrar and the ICANN of the commencement of the case proceeding.

On 10 October 2011, the ADNDRC Beijing Office sent the Notification of No Response Received and Hearing by Default.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Lian Yunze, on 28 October 2011, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panel, and transferred the case file to the Panel on 1 November 2011.

The Panel finds that it was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules. The Panel should render the Decision within 14 days, i.e., on or before 15 November 2011.

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

The Complainant that is primarily in the business of information products, electronic equipment products and high precision products is the owner of the trademark "EPSON" that was firstly registered on 20 May 1988 in China. The registration number is 341841 and the registration class is 9.

For the Respondent

According to the record in the Whois database, the Respondent is zhang lin. Its address is chengguanzhen jiangxian, shanxi 043600 China. The

disputed domain name “epson-printer.info” was registered on July 6, 2011 through the registrar GODADDY.COM, INC.

3. Parties’ Contentions

The Complainant

(1) Background of the Complainant and its “EPSON” trademark

SEIKO EPSON CORPORATION (hereinafter referred to as the Complainant) is a well-known global company which was established in 1942 in Japan. Its main products include information products such as printers, projectors, consuming materials and so on; electronic equipment products such as semi-conduct, LCD, Quartz Crystal Oscillator and so on; high precision products such as watch and so on. In 2003, the Complainant had 84,889 employees and the sale reached 14,132 billion JP ¥.

The Complainant began to invest in China since 1984 and has established several sole or joint subsidiary companies. It has 18 enterprises and research institutions with 32,897 employees in China. Its investment in China amounts to RMB 5.76 billion. The Complainant owns the world biggest factory producing printer and Quartz Crystal Oscillator in China. In 2003, its total output value is RMB27.4 billion and the sales value is RMB 7.67 billion in China. In addition, the Complainant is the main supplier of printer products in Chinese market, Epson Printer owns a high reputation among the consumers and gains numerous awards and honors by authoritative professional Medias.

A. “EPSON” is the trademark created by the Complainant.

In Japan, the trademark “EPSON” was registered in 1975 at first and has been registered in all 1 ~ 45 classes. It has been recognized as the well-known trademark in Japan for many years. In China, the trademark “EPSON” was registered in 1989 at first and has been registered in class 7, class 9, class 10, class 11, class 14, class 16, class 17, class 21, class 26, class 38, class 40 and class 42. It is still in the term of validity. Furthermore, the Complainant also has registered the trademark

“EPSON” in different classes in different countries, such as America, Germany, etc. In all, the Complainant has registered “EPSON” trademark for 1,157 times (in various classes) in most of countries in the world. In these countries, the “EPSON” trademark is registered in Class 9. This class of commodity is: line printers, printers, magnetic drums, marked card readers, paper tape punchers, paper tape readers, cash registers and parts thereof.

The Complainant is the register and owner of the trademark “EPSON” and has used “EPSON” as trademark in business field over 36 years. Owing to excellent management and extensive promotion, products and services, the “EPSON” brand is in the front rank around the globe. Moreover, in 2007, the trademark “爱普生 EPSON” owned by the Complainant was granted the well-known trademark in China.

B. The Complainant has registered plenty of domain names including “EPSON” in China and the world.

Using “EPSON” as the etyma, the Complainant sets up plenty of websites in different countries and regions, such as: www.epson.co.jp (Japan), www.epson.com (America), www.epson.com.hk (Hong Kong), www.epson.com.tw(Taiwan), www.epson.fr(France), www.epson.de (Germany), etc. The Complainant has registered over 70 domain names containing “EPSON”.

To sum up, “EPSON” is the registered trademark of the Complainant, the Complainant thus has undisputed prior right on “EPSON”.

(2) The disputed domain name is confusingly similar to the trademark “EPSON” of Complainant.

It is well-known that “EPSON” is a worldwide famous trademark which is owned by the Complainant. The validity and fame of its trademarks are beyond dispute.

The disputed domain name “epson-printer.info” consists of “EPSON” and “printer”. “EPSON” is the well-known trademark and trade name of the Complainant; and the “printer” is the product of the Complainant, Thus, it’s obvious that the use of the disputed domain name will mislead the

relevant consumers to believe that the services of the registrant are related to EPSON's products and services. Accordingly, the domain name "epson-printer.info" is confusingly similar to the trademark "EPSON" owned by Complainant and infringes the Complainant's legal rights.

(3) The registrant has no rights or legitimate interests in respect of the 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 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 July 6, 2011, much later than the date when the Complainant registered the trademark or its style.

Therefore, the registrant should be considered as having no rights or legitimate interests in respect of the domain name.

(4) The 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 July 6, 2011, later than the recognition of well-known trademark.

The trademark "EPSON" owned by the Complainant has a high reputation in China, thus the registrant knew clearly or should know 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 July 14, 2011. However, after receiving the C&D letter from the Complainant, the registrant has not given any reply to the Complainant.

In addition, we also found that there is a website (www.epson-printer.info) which is linked to the disputed domain name. On this website, there is much sales information regarding products of EPSON PINTER, EPSON PRINTER INK AND EPSON PRINTER PAPER, etc. Thus it's obvious that the registrant has intentionally attempted to attract internet users to the website or other on-line location for commercial gain by using the disputed domain name.

Accordingly, the disputed domain name "epson-printer.info" should be considered as having been registered in bad faith.

According to the Rules for Uniform Domain Name Dispute Resolution Policy, and based on the reasons above-mentioned, the Complainant requests the panel to make a decision that the disputed domain name "epson-printer.info" should be transferred to the Complainant.

The Respondent

The Respondent did not submit the Response.

4. Findings

Identity or Confusing Similarity

Pursuant to the Policy, paragraph 4(a)(i), a Complainant must prove that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. In line with such requirement, the Complainant must prove its trademark rights and the identity or confusing similarity between the disputed domain name and its trademark.

According to the evidence filed by the Complainant and the on-line searches in the database of the China Trademark Office, the Panel notes that the trademark "EPSON" has been registered (Registration Number 341841) by the Complainant in class 9 in respect of line printers, printers, magnetic drums, marked card readers, paper tape punchers, paper tape readers, cash registers and parts thereof in China on March 10, 1989. After renewal, it is still in the term of validity. The Complainant therefore enjoys the exclusive trademark rights therein.

The disputed domain name is “epson-printer.info”. Apart from the generic top-level domain suffix “.info”, the disputed domain name consists of “epson-printer”. The former part “epson” is identical with the Complainant’s trademark “EPSON”. The latter part “-printer” is an English word as a reference to the Complainant’s main products.

Given that the disputed domain name “epson-printer.info” begins with “epson” that is identical with the Complainant’s registered trademark “EPSON” and follows with “-printer” on which the Complainant’s trademark is primarily used, the Panel finds that the disputed domain name, as a whole, is confusingly similar to the Complainant’s registered trademark “EPSON.” Accordingly, the Complainant has proved the first element required by paragraph 4(a) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name and, as stated above, the Respondent did not provide any information to the Panel asserting any right or legitimate interest it may have in the disputed domain name.

It is apparent from the Complaint that there is no connection between the Respondent and the Complainant or its business. Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent’s rights or legitimate interests in a domain name. However, there is no evidence before the Panel that any of the situations described in paragraph 4(c) of the Policy apply here. To the contrary, the lack of a response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name “epson-printer.info”. Accordingly, the Complainant has proven the second element required by paragraph 4(a) of the Policy.

Bad Faith

The Complainant contends that the Respondent had bad faith. The Respondent did not respond.

Through examining the evidence submitted, the Panel finds that there is a website “www.epson-printer.info” which is linked to the disputed domain name. On this website, there exists sales information regarding products of EPSON PRINTER, EPSON PRINTER INK AND EPSON PRINTER PAPER, etc. Furthermore, the Complainant’s trademark “EPSON” is a distinctive word without any meaning other than the trademark and has acquired considerable reputation and recognition in the market through registration and use in China. Therefore, the Respondent’s holding of the disputed domain name that is confusingly similar to the Complainant’s trademark is a serious threat to the rights and legitimate interests of the Complainant. Thus the Panel holds that the registrant has intentionally attempted to attract internet users to the website or other on-line location for commercial gain by using the disputed domain name. Accordingly, the disputed domain name “epson-printer.info” should be considered as having been registered in bad faith.

The Panel rules that this is adequate to conclude that the Respondent has bad faith under the Policy, paragraph 4(b). Therefore, the Complainant has successfully proven the third element required by paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name “epson-printer.info” be transferred to the Complainant SEIKO EPSON CORPORATION.

Panelist:



Dated: 15 November 2011