

**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTER  
(Beijing Office)**

**Administrative Panel Decision**

**Case No. CN-1200530**

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**Complainant: Lenovo (Beijing) Limited**

**Respondent: Peng Deng**

**Domain Name: lenovo2008.com**

**Registrar: GoDaddy.com, LLC**

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**1. Procedural History**

On February 21, 2012, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (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"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") approved by ICANN, and Asian Domain Name Dispute Resolution Center Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "ADNDRC Supplemental Rules"), and chose to have a sole panel to hear this case.

On February 22, 2012, the ADNDRC Beijing Office confirmed the receipt of the Complaint. On February 22, 2012, the ADNDRC Beijing Office transmitted by email to ICANN and Godaddy.com, Inc. (the Registrar of the disputed domain name) a request for verification of registration information in connection with the domain name in dispute. On February 24, 2012, Godaddy.com, Inc. transmitted by email to the ADNDRC Beijing Office its verification response confirming that, the domain name in dispute was registered under its domain registrar and the Respondent is listed as the registrant.

The ADNDRC Beijing Office sent by email the Transmittal of Claims attached by the Complaint to the Respondent on March 5, 2012.

On March 9, 2012, the ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded and the proceedings commenced on March 9, 2012. On the same day, the Notifications of

Commencement of Proceedings were notified to the Respondent, ICANN and the Registrar.

On March 31, 2012, having received no response from the Respondent, the ADNDRC Beijing Office notified the Complainant that the hearing will take place by default.

On April 1, 2012, the ADNDRC Beijing Office notified the Proposed Panelist Dr. GAO Lulin to see whether he is available to act as the Panelist in this case and if so, whether he is in a position to act independently and impartially between the parties.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Dr. GAO Lulin, on April 1, 2012, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist and the constitution of the Panel, transferred the case file to the Panel, and asked the Panel to submit a decision on or before April 15, 2012.

## **2. Factual Background**

### **For the Complainant**

The Complainant is Lenovo (Beijing) Limited. Its address is at No. 6 Chuangye Road, Haidian District, Beijing. Its authorized representative is Zheng Hong and Zhang Jie.

### **For the Respondent**

The Respondent is Peng Deng with the address at Liyuan Road 33, Guizhou, Guizhou , China. The Respondent registered the disputed domain name on August 13, 2011. The Respondent is the current registrant of the disputed domain name “lenovo2008.com” according to the Whois information.

## **3. Parties' Contentions**

### **For the Complainant**

The Complainant's contentions are as follows:

#### **3.1 The introduction of the Complainant and its trademarks**

The Complainant Lenovo (Beijing) Limited, a subsidiary solely-funded by Lenovo Group, is a world-leading PC company. The Complainant has registered

over 50 trademark registrations for “Lenovo” in all 45 classes, notably the following three registrations in respect of the goods “computers; computer peripheral devices, etc.”:

Trademark	Reg. No.	Class	Registration Date	Expiry Date
Lenovo	3462586	9	2004-07-14	2014-07-13
Lenovo	3368147	9	2004-03-14	2014-03-13
Lenovo	3510838	9	2004-09-14	2014-09-13

The Complainant’s “Lenovo” was officially recognized by the Trademark Office under the State Administration for Industry and Commerce as a well-known trademark on March 3, 2008.

The registration dates of the Complainant’s Lenovo trademarks precede that of the disputed domain name, i.e. August 13, 2011, so the Complainant shall have indisputably prior trademark right to “Lenovo”. Moreover, the Complainant holds that the disputed domain name is confusingly similar to its “Lenovo” well-known trademark and the Registrant who has no legitimate right to “Lenovo” had obvious bad faith in registering and using the disputed domain name.

The Complainant accordingly requests that the disputed domain name be transferred to the Complainant in accordance with the Policy and the Rules.

### 3.2 The factual and legal grounds on which the Complaint is made

3.2.1 The Complainant is a world-leading PC company, and its “Lenovo” trademark enjoys prestigious fame in respect of computers and the related products around the world. The domain name at issue is confusingly similar to the Complainant’s well-known trademark “Lenovo”

#### 3.2.1.1 A brief introduction to the Complainant

The Complainant, a subsidiary solely-funded by Lenovo Group in 1984, is a world-leading PC company.

Since its inception, the Complainant has been devoting itself to providing its global users with advanced high-tech products and premier services. The Complainant boasts a wide range of products, including personal computers,

servers, notebooks, printers, digital products, hand-held devices, etc. From 1997 onward the Complainant's Lenovo computers have been taking the leading position in China in terms of market share for over 10 consecutive years. In 2010-2011, the Complainant's global operating revenues reached about USD21.6 billion and market share surpassed 13.5%, ranking the 2nd among all the global competitors.

The remarkable achievements of the Complainant have been highly acknowledged by statesmen such as Chinese president Hu Jintao and former Chinese vice premier Wu Yi, renowned entrepreneurs like Microsoft CEO Steve Ballmer, and the famous economist Prof. Wu Jinglian who all thought highly of the Complainant and its unparalleled contributions to the whole society during their visits to Lenovo. In the meanwhile, the Complainant and its Lenovo products were awarded by many domestic and international government organizations and media. For instance, Lenovo computers were awarded "China's Well-known Products" by PRC General Administration of Quality Supervision, Inspection and Quarantine. Lenovo KaiTian Series were awarded "2000-2005 China Most Valuable Desktop PC" by China Center for International Industry Development. In 2005 Lenovo computers were awarded "Reader's Best Choice" by the magazine MicroComputer.

3.2.1.2 The Complainant's trademark "Lenovo" enjoys extremely prestigious fame thanks to sustaining and years of use, registrations and promotion around the world.

The Complainant has been investing a considerable amount of resources and manpower in promoting its brand Lenovo. For example:

- ▶ Lenovo became China's first global partner of the International Olympic Committee (IOC) in 2004
- ▶ As a global sponsor of the IOC, Lenovo Group rendered equipment, financial and technical supports to 2006 Torino Olympic Winter Games
- ▶ The Complainant sponsored 2008 Beijing Olympic Games, through which its Lenovo brand became much better known to the whole world
- ▶ The Complainant became the senior sponsor of 2010 Shanghai Expo

In a word, the Complainant's Lenovo has become a household brand around the

world and shall be granted stronger and more forceful protection.

3.2.1.3 The domain name at issue is confusingly similar to the Complainant's well-known trademark "Lenovo"

".com" in the domain name is a generic Top-Level Domain and does not play any distinctive role. Rather than a common figure, 2008 has acquired a special meaning because of 2008 Beijing Olympic Games. The domain name at issue consists of both the Complainant's well-known trademark "Lenovo" and the special figure 2008. When the public see and visit the website "www.lenovo2008.com" or conduct Internet searches for the website, they will be misled to believe that the website was created by the Complainant or should be somewhat related to the Complainant given the extremely high fame of the Complainant and its trademark "Lenovo" as well as its sponsorship to 2008 Beijing Olympic Games. So the domain name at issue is confusingly similar to the Complainant's trademark "Lenovo" and might cause confusion among the public, and its use and registration will inevitably harm the rights and legitimate interests of the Complainant.

3.2.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant has never authorized nor licensed the Respondent to use Lenovo trademark, so the Respondent has no rights or interests to the domain name at issue.

3.2.3 The Respondent had obvious bad faith in registering and using the disputed domain name

"Lenovo" is a highly creative trademark coined by the Complainant, among which "le-" was originated from the Complainant's previous trademark "Legend", "-novo" as a Latin suffix means "innovation" which is the essence of the Complainant and its Lenovo brand. On account of long-term use, registration and promotion, "Lenovo" has acquired extremely high fame and reputation around the world and the public have solely associated "Lenovo" with the Complainant.

The Respondent must have known the Complainant's well-known trademark "Lenovo", so the registration of the disputed domain name itself suffices to prove the bad faith of the Respondent. Instead of taking the initiative to avoid

conflict with the Complainant's prior trademark right, the Respondent used the domain name to set up a website "www.lenovo2008.com" named "联乐小说网" in which a lot of pornographic novels and pictures are contained. Not only has the website infringed upon the Complainant's trademark right to "Lenovo" but its pornographic contents have greatly tarnished the brand image of "Lenovo".

On December 21, 2011, the Complainant entrusted Beijing Hengdu Law Firm to send a cease and desist letter to the Respondent (via his email mei\_369@qq.com as shown in the Whois Inquiries) demanding the party to stop its infringing acts and transfer the domain name to the Complainant. Though the Respondent promised in his email to shut down the infringing website, he has been actually running the website all the time. More importantly, the Respondent asked for astonishing price of RMB4,000,000 in his email dated February 15, 2012 for transferring the disputed domain name to the Complainant.

Evidently the Respondent would take free ride of the high fame of the Complainant's trademark "Lenovo" and daydreamed to reap illegal high profits through transferring the domain name to the Complainant. The malicious conducts of the Respondent not only infringed upon the Complainant's trademark right but also violated the governing principles of honesty and credit in PRC civil laws.

In the light of the above facts, the Complainant requested that the disputed domain name be transferred to the Complainant pursuant to the Policy and the Rules.

#### **For the Respondent**

After being served of the claim and all the accompanying documents submitted by the Complainant, and of all the procedural documents by the ADNDRC Beijing Office, the Respondent makes no response by any means in the whole course of the proceeding.

#### **4. Panel's Findings**

As stipulated in the Paragraph 4(a) of the Policy, when claiming a domain name registered by Respondent, the Complainant must prove each of the followings:

(i) that the domain name of the Respondent's is identical or confusingly similar

- to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and
  - (iii) that the domain name has been registered and is being used in bad faith.

Based on the relevant stipulations under the Policy, the Rules and ADNDRC Supplemental Rules, the Panel needs to determine whether the Complainant satisfies each of the afore-said prerequisites. If the answer is yes, the Panel will make a final decision in accordance with the facts and relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules; if not, the Complainant's claims shall be rejected.

### **Identity or Confusing Similarity**

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right to. The Panel notes that the Complainant mainly proves the rights on the trademarks "Lenovo" to claim the disputed domain name is identical or confusingly similar to above trademarks. So the Panel has to first analyze and decide if the Complainant owns prior trademark rights on aforesaid marks.

According to the registration certificates and information printouts of the Complainant's trademarks in China provided by the Complainant, the Complainant has registered over 50 "Lenovo" trademarks in all 45 classes. For example, as early as 2004, the Complainant registered "Lenovo" trademark on designed goods "computers; computer peripheral devices, etc." in Class 9 (Reg. Nos.: 3462586, 3368147 and 3510838).

All of the above trademarks are in validity period, and the registration dates are much earlier than the registration date of the disputed domain name. Thus, the Panel is of the view that the Complainant enjoys prior trademark right to the marks "Lenovo".

As such, what the Panel needs to do is to make a conclusion on the identity or confusing similarity between the Complainant's registered trademarks and the disputed domain name.

The identifying part "lenovo2008" of the disputed domain name consists of

“lenovo” and “2008”. The part “lenovo” is identical to the Complainant’s trademarks “lenovo”. Meanwhile, “Lenovo” is a highly fanciful trademark created by the Complainant, and bears strong inherent distinctiveness. While the other part “2008” is a pure number, which is of less distinctiveness and can be taken as the special year of 2008 Beijing Olympic Games. And the Complainant sponsored 2008 Beijing Olympic Games. Therefore, the word “2008” used together with “lenovo” will easily make the relevant public associate the disputed domain name with the Complainant and believe that the website is created by the Complainant, or is related to the Complainant in a certain way and thus may cause confusion.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and the Complainant has satisfied the first condition under Paragraph 4(a) of the Policy.

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

The Complainant argues that it has never authorized nor licensed the Respondent to use “Lenovo” trademark, so the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Panel finds that the Complainant has already fulfilled the burden of proof required by the second condition under Paragraph 4(a) of the Policy, thus the burden of proof regarding “rights or legitimate interests” is generally on the party making the defense in the dispute resolution of a domain name, the Respondent.

The Respondent did not make any response within the scheduled time, nor did it make any explanation or provide any evidence to prove its trademark rights, legitimate interests or any other legal rights to the disputed domain name.

In view of the foregoing, the Panel comes to the conclusion that the Complainant has provided preliminary evidence required by 4(a)(ii), and the burden of proof should be transferred to the Respondent, who has to prove its rights or legitimate interests over the disputed domain name. However, the Respondent did not make any response or provide any evidence, and failed to furnish the responsibility for submitting proof or evidence. Hence, the Panel can not come to the conclusion that the Respondent has rights or legitimate interests in respect of the disputed domain name based on the evidence in hand.

Accordingly, the Panel finds the Complainant has satisfied the second condition

under Paragraph 4(a) of the Policy.

### **Bad Faith**

The Complainant also needs to establish the Respondent's bad faith as set forth in the Paragraph 4(a)(iii) of the Policy. Under Paragraph 4(b) of the Policy, the following circumstances in particular shall be considered as evidence of the registration and use of a domain name 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 web site 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 web site or location or of a product or service on your web site or location.

As aforesaid, "lenovo" is a highly creative trademark coined by the Complainant independently. And the evidence submitted by the Complainant shows that the Complainant's trademarks "levono" have been registered before the registration date of the disputed domain name in China, and enjoy high fame in the computer industry, especially, "lenovo" has been recognized well-known trademark by the Trademark Office under the State Administration for Industry and Commerce in 2008. Thus, the Panel views that it is inconceivable that the Respondent was unaware of the Complainant and its trademark "lenovo" when registering the disputed domain name.

As demonstrated by the evidence submitted by the Complainant, the Respondent

has using the disputed domain name to set up a website “www.lenovo2008.com” named “联乐小说网” in which a lot of pornographic novels and pictures are contained. The Panel believes this behavior may bring unhealthy influence on the Complainant’s brand image of “lenovo”.

Besides, based on of the evidence submitted by the Complainant, the Respondent asked for unreasonable high price of RMB4,000,000 in its email dated February 15, 2012 for transferring the disputed domain name to the Complainant. The Panel is of the view that, the Respondent registered the disputed domain name confusingly similar to the renowned trademarks of the Complainant under the circumstance that it had no legitimate interests over the disputed domain name. This act of the Respondent is primarily for the purpose of transferring the domain name to the Complainant who is the owner of the trademark for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name, which is the exact circumstance of the Paragraph 4(b)(i) of the Policy.

To conclude, the Panel holds that the Complainant has satisfied the third condition under Paragraph 4(a) of the policy, and the Respondent registered and uses the disputed domain name in bad faith.

## **5. Decision**

For all the forgoing reasons, the Panel has decided that the Complainant has proved sufficiently all the three elements of Paragraph 4(a) of the Policy. Accordingly, the Panel supports the Complainant’s request that the disputed domain name “lenovo2008.com” shall be transferred to the Complainant ,Lenovo (Beijing) Limited.

Sole Panelist:



Dated: April 15, 2012