

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE
(Beijing Office)
ADMINISTRATIVE PANEL DECISION
Case No. CN-1200598

Complainant: SEIKO EPSON CORPORATION

Respondent: liu feng hong

Domain Name: epsonte.com

Registrar: ENOM, INC.

1. Procedural History

On 1 August 2012, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules). On the same date, the ADNDRC sent to the Complainant by email an acknowledgement of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules.

On 2 August 2012, the ADNDRC transmitted by email to ICANN and the Registrar, ENOM, INC., a request for registrar verification in connection with the disputed domain name.

On 4 August 2012, the Registrar transmitted by email to the ADNDRC its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 11 September 2012, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced on 11 September 2012. On the same day, the ADNDRC transmitted the Written Notice of the Complaint to the

Respondent, which informed that the Complainant had filed a Complaint against the Respondent over the disputed domain name and the ADNDRC had sent the Complaint and its attachments to the Respondent through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC notified ICANN and registrar of the commencement of the proceedings.

On 9 October 2012, the ADNDRC 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 Ms. Xue Hong, on 9 October 2012, the ADNDRC informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist on 12 October 2012.

The Panel finds that it was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

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. The 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.

The Complainant that is primarily in the business of information products and electronic equipment is the owner of the trademark“EPSON”that has been registered in Japan, China and other countries.

For the Respondent

According to the record in the Whois database, the Respondent is liu feng hong and the disputed domain name “epsonte.com” was registered on 22 April 2012 through the registrar ENOM, INC.

3. Parties' Contentions

The Complainant

(1) The disputed domain name is confusingly similar to the trademark “EPSON” of 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, class40 and class42. 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 U.S.A, Germany, etc. In all, the Complainant has registered “EPSON” trademark for 1,157 times (in various classes) in a lot of countries in the world. In all those 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 33 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. It is well-known that “EPSON” is a worldwide famous trademark which is owned by complainant. The validity and fame of its trademarks are beyond dispute.

The disputed domain name “epsonte.com” consists of “EPSON” and suffix “te”. “EPSON” is the well-known trademark and trade name of the Complainant. The suffix “te” only contains two letters and has no meaning. “epsonte” is thus confusingly similar to “epson”. It’s 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 the Complainant’s products and services. Accordingly, the

domain name “epsonte.com” thus infringes the Complainant’s legal rights. In addition, the registrant set up a website with the name of “epsonte.com” as a home page for an office furniture company. The website contains many furniture advertisements.

(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 the registrant has no business relationship with the complainant. The complainant has never authorized the registrant to use “EPSON” by any means. Besides, the registrant registered the disputed domain name on Apr 22, 2012, which is much later than the date when the Complainant registered the trademark or its style.

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

(3) The disputed domain name has been registered in bad faith.

The trademark “EPSON” is famous in the world and it was recognized as the well-known trademark in September 2007 in China. The disputed domain name was registered on Apr 22, 2012, which is later than the recognition of well-known trademark.

As the trademark “EPSON” is owned by the Complainant and has a high reputation in China, the registrant should know 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 May 10, 2012. But the registrant fails to give any response till now.

Accordingly, the disputed domain name “epsonte.com” should be considered registered in bad faith.

The Complainant requests the disputed domain name “epsonte.com” be transferred to Complainant.

The Respondent

The Respondent did not submit the Response.

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 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, a complainant must prove its trademark rights and the similarity between the disputed domain name and its trademark.

The Panel notes that the Complainant has registered the trademark “EPSON” in a lot of countries, including Japan and China, for more than 30 years.

The disputed domain name is “epsonte.com”. Apart from the generic top-level domain suffix “.com”, the disputed domain name consists of “epsonte”. The Panel finds that addition of a meaningless suffix “te” to

“epson” that is identical with the Complainant’s registered trademark cannot make the disputed domain name distinct from the Complainant’s trade mark “EPSON”.

The Panel therefore finds that the disputed domain name “epsonte.com” is confusingly similar to the Complainant’s registered trademark “EPSON.” Accordingly, the Complainant has proven 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.

The Complainant proves that the Respondent does not have any trademark registration in China and confirms that the Respondent has no connection with 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 “epsonte.com”. 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.

The evidence submitted by the Complainant shows that “EPSON” is a distinctive sign without any meaning other than the Complainant’s trademark and has acquired considerable reputation and recognition in the Chinese market through consistent use for almost thirty years.

The Panel notes that the disputed domain name “epsonte.com” is being used to a website which commercialize the office furniture from “Suzhou Xipudun Office Furniture Ltd.”. Although the connection between the Respondent and “Suzhou Xipudun Office Furniture Ltd.” is unknown, the Respondent, as the registrant, should be responsible for any use of the disputed domain name. Given the long history and reputation of the Complainant’s mark “EPSON” in Chinese market, the Respondent’s use of the disputed domain name that is confusingly similar to the Complainant mark for a Chinese furniture company is most likely confused the consumers as to the source, sponsorship, affiliation, or endorsement of the disputed domain name’s website or of furniture being sold on that website.

The Panel therefore rules that this is adequate to conclude that the Respondent has bad faith under the Policy, paragraph 4(b)(iv). 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 “epsonte.com” be transferred to the Complainant, SEIKO EPSON CORPORATION.

Panelist: 薛虹

Dated: 26 October 2012