

# **ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE**

**(Beijing Office)**

## **PANEL DECISION**

**Case No. CN-1200644**

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**Complainant: Beijing Sohu Internet Information Service Co., Ltd**

**Respondent: zhao zhanchun**

**Domain Name: sohu.tv**

**Registrar: NETWORK SOLUTIONS, LLC.**

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### **1. Procedural History**

On 6 December 2012, 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 11 December 2012, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar of the domain name in dispute, Network Solution, LLC., a request for registrar verification in connection with the disputed domain name.

On 24 December 2012, the ADNDRC Beijing Office received the Registrar's confirmation of registration information of the domain name in dispute.

On 28 December 2012, the ADNDRC Beijing Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced on 28 December

2012. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the complaint and its attachments to the Respondent by email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar of the commencement of the proceedings.

On 18 January 2013, 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 Ms. XUE Hong, on 22 January 2013, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist on the same day.

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 Beijing Sohu Internet Information Service Co., Ltd with address at Level 15, Sohu.com Internet plaza, No.1 Park, Zhongguancun East Road, Haidian District, Beijing 100084, P.R.China.

The Complainant is an Internet company holding the registered trademarks “搜狐”, “搜狐 sohu.com” and “sohu.com” in China.

### *For the Respondent*

According to the record in the Whois database, the Respondent is zhao zhanchun with address at hrbyuandashangwugongyu1203 herbin, heilongjiang 150001 cn. The disputed domain name “sohu.tv” was registered on February 14, 2005 through the registrar NETWORK

SOLUTIONS, LLC.

### **3. Parties' Contentions**

*The Complainant [contentions of which are quoted from the original text of the Complaint with slight formatting but substance intact]*

(1) Sohu is a well-known trademark.

“Sohu” trademark has been used as an important brand of the Complainant so far since the Complainant was founded in 1996. The Complainant has registered “搜狐及图” trademark in Category 35 in 1999 with registration number 1284825 and “搜狐及图形” trademark in Category 9 with registration number 1303643; in 2006, it also registered “搜狐” trademark in Category 16 and “搜狐 sohu.com” in Categories 9, 16, 38, 41 and 41. To expand protection scope for “搜狐” trademark, the Complainant also applied for the registration of trademarks including “搜狐”, “狐狸和图形” and “sohu.com” in Categories 18, 25, 28 and 36.

Sohu is a leading new media, electronic business, communication and mobile value added service suppliers in China, a famous interest brand in Chinese language world. From the first large classification search engine in China, the Complainant developed into a general portal the most popular with the users. Sohu network has been selected as 1998 and 1999 Top 10 Chinese Internet Networks by China Internet Information Center, Chinese Outstanding (General and Portal) and Network Contributing to Chinese Informationization by Chinese Internet Competition Organizing Committee. In 2002, a data of survey Sinomonitor International shows, the Complainant had the highest coverage among citizens in 30 cities; in 2005, sohu became the first internet sponsor of 100-year Olympic Games; in 2008, sohu won the title “Chinese Internet Top 10 In terms of User Scale” and “Award of Best User Experience in Chinese Internet Olympic Transmission” from DCCI. In 2008, Beijing Administration for Industry and Commerce recognized it as “Beijing’s Famous Trademark”.

Since 1999, the Complainant has introduced over 50 channels and products such as news, sports, finance, IT, automobile, woman, life,

education, job opportunity, games, men, foods, golf, maternal and child, culture, book reading, public welfare, video, blog and micro-blog to provide ideal social, learning, life, financing and other online platforms for citizens as the best channel for Chinese network users to access to Internet. On July, 2000, the Complainant was listed on NASDAQ:SOHU. It finally developed itself from a domestic famous enterprise into a world brand.

In 2000, the Complainant purchased domestic biggest young social network ChniaRen.com so as to hold the position of China's biggest Chinese language network: in 2003, it merged China's biggest online game consultation network 17173.com and Beijing's most influential real estate focus network focus.cn. in 2004, it introduced the third generation of interactive search engine-sogo and officially completed the acquirement for domestic leading WAP service provider, goodfeel.com.cn. in 2010 the Complainant's business began to involve internet website, wireless value added services, new media business, network advertising, online game, electronic publications, etc. and constructed local versions for a number of cities so as to form the portal matrix and cultural matrix with the biggest traffics in Chinese internet industry.

With proper operation of the Complainant, sohu brand enjoys high reputation among internet users and partners. It has established close long-term cooperation with thousands of famous enterprises home and abroad including Microsoft, Intel, AMD, IBM, Dell, Apple, Coca-Cola, Pepsi, China Mobile, China Unicom, China Telecom, Motorola, Sony Ericsson, Nokia, BMW, GM, Volkswagen, Toyota, Honda, P&G, Lenovo, Haier, Bank of China, China Merchants Bank, Industry and Commerce Bank of China, etc.

All media home and abroad give full affirmation on the successful operation of sohu network. Since 1998, a number of domestic media including "Science and Technology Daily", "China Business Times", "Beijing Youth Daily", "Wen Wei Po", "Computer Business Information", "China Internet Weekly" have reported development of sohu network and the growth of sohu brand with great description. The Complainant has own a number of big honors: in 2007, on China Brand Forum Annual

Conference, the Complainant was elected as the “Internet Media with the Most Valuable Brand in China” and sohu image has become the icon of the time of internet. Based on the performance of the Complainant, in 1998, Mr. Charles Zhang, the founder and CEO of the Complainant was appraised as one of “50 Digital Heroes” by “Time”; in 2001, he was selected by one of “Global 25 New Stars of Enterprise” by “Fortune”; in 2004, he won the highest honor of international management science field :”Outstanding Manager of the Year”; in 2008, he got the honors of “30 Figures of Chinese Economy in 30 Years Since Development and Reform” and “Award of Outstanding Contribution in 30 Years” on the 6th Chinese Enterprise Leader Summit.

To publicize sohu brand, the Complainant has been inputting a lot of labors, properties and funds in large and middle cities all over the country and releasing advertising materials on TV, papers, magazines, large-sized outdoor broads, bus, bus stops, subway media, telephone boxes, etc. During the period from 1999 when “搜狐 sohu” brand was founded to 2009, up to RMB 1 billion (the expenses for physical, network advertising and other non-currency exchange resource promotion excluded) has been input in advertising promotion alone.

As the first brand of Chines internet industry, the Complainant’s operating incomes show a rising trend. The total incomes were USD 233 million in quarter 3, 2011 alone, a year-on-year growth rate of 42%. In 2010 the total incomes exceeded USD 600 million.

Due to recognition of “sohu” brand, a lot of companies and illegal networks use “搜狐” trademark or the domains similar to sohu’s domains on their commodities without permission of the Complainant. In 2003, the Complainant brought out a complaint about use of sohu.com trademark in its domain by Beijing Xinsilu Technologic Development Co., ltd without permission at Beijing Administration for Industry and Commerce. In 2006, the Complainant brought a complaint about domain name “xjsohu.com” run by Xinjiang Jiasheng Technology Company and domain name “sohuit.com” run by Beijing Xinwang Digital Information Technology Co., Ltd. at the Beijing Office of ADNDRC; in 2011, the Complainant brought a complaint about domain name “sohubook.com” run by natural person

Zhang Fan. All complaints mentioned above have been supported.

The domain name in dispute “sohu.tv” registered by the Respondent with network name in China “搜媒网”, confusing with video channel of the Complainant’s network, and misleading netizens and consumers that “sohu.tv” is a network run by the Complainant or a cooperative between the Complainant and the Respondent.

According to “Trademark Law of PRC”, “Uniform Domain Name Dispute Resolution Policy”, “Rules on Uniform Domain Name Dispute Resolution Policy” and “Supplementary Rules of ADNDRC on Uniform Domain Name Dispute Resolution Policy”, the domain name in dispute registered by the Respondent and the famous trademark owned by the Complainant are confusing.

With regard to registration of domain name, any enterprise will choose using Pinyin or English letters related to the business activities, name or other elements of the enterprise, while the domain name “sohu.tv” registered by the Respondent and the domain name “sohu.com” and secondary domain name “tv.sohu.com” registered by the Complainant are easy to mislead public that “sohu.tv” is the network established by the Complainant or the cooperative between the Complainant and the Respondent. Therefore the registration infringes the trademark right of the Complainant.

(2) Reasons why the Respondent has no legal right over the domain in dispute

The registration behavior of the Respondent violates the provisions of Article 13 of “Trademark Law”. Item 2, Article 13 of “Trademark Law” provides for that, when applying for registration of a trademark which copies, simulates or translates a famous trademark registered by others in China, misleads public and cause possible damage of the interest of the registration holder of the famous trademark for a different or non-similar commodity, the application will be refused and use will be forbidden. The Complainant’s trademark “sohu.com” has been registered in multiple categories and the Respondent has infringed the legal right of the famous trademark of the Complainant.

The registration behavior of the Respondent violates the provisions of Article 31, “Trademark Law”. According to provisions of Article 31 of “Trademark Law”, the application for trademark registration should not impair existing prior right of others or take over the registration of a trademark used by others with certain influence with inappropriate approach.

The Complainant’s trademark “Sohu.com” has high recognition home and abroad and “Sohu.com” has been recognized as a famous trademark, so the use of the Complainant’s trademark by the Respondent obviously infringes trademark right of the Complainant.

(3) The registration of “sohu.tv” by the Respondent is a behavior of vicious registration and use.

The Respondent registered the domain name in dispute with reputation of the Complainant to seize interest by intention.

To sum up, the domain name in dispute is very similar to the domain name and secondary domain name of the Complainant, and the coexistence of both will cause misleading of consumers and thus impair interest of consumers and have adverse social influence.

The Complainant requests the disputed domain name “sohu.tv” 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, a complainant must prove its trademark rights and the similarity between the disputed domain name and its trademark.

The Panel notes that the Complainant registered trademarks “**搜狐 SOHU.COM**” and therefore enjoys the exclusive trademark rights therein.

The disputed domain name is “sohu.tv”. Apart from the generic top-level domain suffix “.tv”, the disputed domain name consists of “sohu”, directly embraces the substantive part of the Complainant’s mark “搜狐 SOHU.COM”.

The Panel therefore finds that the disputed domain name “sohu.tv” is confusingly similar to the Complainant’s registered trademarks “搜狐 SOHU.COM”. Accordingly, the Complainant has proven the first element required by paragraph 4(a) of the Policy.

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

The Respondent did not provide any information to the Panel asserting any right or legitimate interest it may have in the disputed domain name.

There is no information revealed to the Panel that the Respondent may have any trademark registration related to the disputed domain name or any 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 “sohu.tv”. 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 the marks “搜狐 SOHU.COM” have acquired considerable reputation and recognition, through many years’ consistent use and promotion, in relation to the Internet information services, including “搜狐 电视” or “Sohu TV”.

The Panel notes that the disputed domain name is being used for a

website named as “搜媒网”(meaning “media-searching network”), on which “中国媒体网络交易中心”(meaning “China Media Network Transaction Center”) and “大型网站建设中” (meaning “A Large-Scale Website Under Construction”).

The Panel finds that the disputed domain name’s website, www.sohu.tv, once becoming a large-scale media network transaction center, would highly likely to create confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or of services offered on that website. Even if the dispute domain name website is not yet to be put into substantive commercial use, its current use is already sufficient to cause initial confusion among the Internet users searching for the pertinent services from the Complainant.

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 “sohu.tv” be transferred to the Complainant, Beijing Sohu Internet Information Service Co., Ltd.

Sole Panelist: 薛虹

Dated: 5 February 2013