

Asian Domain Name Dispute Resolution Center
Beijing Office
Administrative Panel Decision
Case No. CN-1300653

Complainant: 王松
Respondent: Wang yaohui
Domain Name: 6543.com
Registrar: GoDaddy.com, LLC

1、 Procedural History

On 21 February 2013, the Complainant submitted a Complaint in the English language 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 26 February 2013, the ADNDRC sent to the Complainant by email an acknowledgement of the receipt of the Complaint. On the same day, the ADNDRC transmitted by email to the Registrar and ICANN a request for registrar verification in connection with the disputed domain name. On the same date, 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 8 March 2013, 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 the Complainant that the Complaint has been confirmed and transmitted to the Respondent, and notified the

ICANN and the Registrar of the commencement of the proceedings.

The Respondent failed to submit a Response before the deadline. Accordingly, the ADNDRC notified the Respondent's default on 3 April 2013. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. ZHAO Yun on 23 April 2013, the ADNDRC notified the parties on 24 April 2013 that the Panel in this case had been selected, with Mr ZHAO Yun acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 24 April 2013, the Panel received the file from the ADNDRC and should render the Decision within 14 days, i.e., on or before 8 May 2013.

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 王松. The registered address is 北京市通州区果园巴克寓所 18 号楼 B 单元-1219.

For the Respondent

The Respondent in this case is Wang yaohui. The registered address is anhuihefei. The Respondent is the current registrant of the disputed domain name "6543.com" according to the Whois information.

3. Parties' Contentions

Complainant

The Complainant found the WHOIS information of the disputed domain name had been modified on 28th January 2013 and the last modification date was 6th December 2012. The Complainant does not know any of the current domain name holder.

The Complainant somehow cannot log on account in godaddy.com which is the domain agent of the Complainant. The Complainant submitted relevant information and document via online claim procedure. However, after 40 emails had been sent out, the Complainant did not receive any valuable feedback from any departments in godaddy.com, including support, undo, change after 40 emails had been sent out in 15 days. Godaddy.com did not take the request seriously.

The Complainant is the account owner in godaddy from the very beginning, and the account truly exists. The Complainant can manage the domain name until 28th October 2012. Now the Complainant cannot log on the account with the notice invalid Email address. WHOIS information has been modified in the account. As the email password is as same as godaddy, it is perhaps stolen by hacker. The mails are all deleted. The Complainant soon later got back the E-mail box through google, but did not receive any mail from godaddy from November 2012.

The Complainant once took online payment service on July 2010 card No: 4392267080111035. Considering user safety, Godaddy should take more complicated info verification procedure when user wants to do any changes in the account. The Complainant tried to reach the current holder, but failed by invalid phone number and no feedback via email.

The domain name “6543.com” has been purchased from an agent of sedo.com in June 2010, possession transition procedure had been completed on 7th July 2010. The Complainant once requested to godaddy for the information on the current domain holder, but godaddy did not respond.

The domain name “6543.com” is still available to visit. The DNS information did not change, because the current holder clearly knows godaddy’s policy. As soon as the current holder modify DNS

information, the Complainant can lodge a complaint to godaddy, and this transfer must be revoked within 15 days according to godaddy's regulation. The Complainant thinks the current holder knows the domain name 6543.com has strong influence in China. At the end of 14th February 2013, the Complainant's web still has business cooperation with Baidu.

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 before the deadline.

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.

Rights of the Complainant

In this case, the Panel needs, first, to consider the issue of whether the Complainant has trademark or service mark rights in the disputed domain name ("6543.com") or the main part of the disputed domain name ("6543"). Unfortunately the Complainant failed to submit any evidence to prove that "6543.com" or "6543" has been registered or used as trademark or service mark. It is also

noted that “6543”, only an Arabic number, is not a distinctive identifier for any goods or services in the current case.

As such, the Complaint fails to satisfy the first element of the ICANN Policy. Since the Complainant needs to satisfy all three elements of the ICANN Policy to be granted relief, the failure to satisfy the first element renders the consideration of the other two elements unnecessary.

Accordingly, the Panel finds that the Complaint fails to satisfy the condition provided in Paragraph 4 (a) (iii) of the Policy. Since the Complainant needs to establish all three elements required under the ICANN Policy, it follows that the Complainant’s request cannot be supported in this case.

5. Decision

For the foregoing reasons, the Complaint is denied.

Panelist: 

DATED: 3 May 2013