

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE
(Beijing Office)
ADMINISTRATIVE PANEL DECISION
Case No. CN-1300709

Complainant: Tottenham Hotspur plc

Respondent: wang songxu

Domain Name: tottenhamfc.info

Registrar: WildWest Domains, LLC

1. Procedural History

On 26 July 2013, 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 31 July 2013, 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 the same day, the ADNDRC transmitted by email to ICANN and the Registrar, WildWest Domains, LLC, a request for registrar verification in connection with the disputed domain name. On 3 August 2013, the Registrar sent by email its Whois Search link to the ADNDRC.

On 5 September 2013, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. 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 disputed domain name and the ADNDRC had sent the complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC notified ICANN and registrar, WildWest Domains, LLC, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period.

The ADNDRC notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC informed the Complainant and the Respondent that the ADNDRC would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Lian Yunze, the ADNDRC notified the parties on 22 October 2013 that the Panel in this case had been selected, with Mr. Lian Yunze 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 25 October 2013, the Panel received the file from the ADNDRC and should render the Decision within 14 days, i.e., on or before 8 November 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 Tottenham Hotspur plc. The registered address is 748 High Road, N17OAP, United Kingdom. The authorized representative of the Complainant is Joseph Lee & Associates Ltd.

For the Respondent

The Respondent in this case is wang songxu with addressed at dongfen dongjie no.360 weifang shandong. The Respondent is the current registrant of the disputed domain names "tottenhamfc.info" according to the Whois information. The registrar of the disputed domain name is WildWest Domains, LLC.

3. Parties' Contentions

The Complainant

The Complainant Tottenham Hotspur plc, is the only lawful holder of a series registered trademarks and figure marks, which are registered in the People's Republic of China, including "Tottenham Hotspur Logo" and "Tottenham Hotspur". And the detail information of trademark are as follows:

Mark	Registration No.	Classification	Trademark	List of Goods/Services
1	G890622	25	TOTTENHAM HOTSPUR	Clothing; Esparto shoes or sandals; Caps(headwear); Aprons(clothing); Hats; Scarves; Cuffs; Belts; Bibs (end)
2	G911953	9		Sound recording carriers; Data media (Magnetic —); Discs (Compact —) [audio-video]; Computer operating programs, recorded; Computer peripheral devices; Computer software, recorded; Computers; Electronic publications, downloadable; Modems; Computer programs [downloadable software]; Programs (Computer game —); Videotapes; Cassettes; Sound recording strips; Compact discs [audio-video]; Discs (Optical —); Matrix Screensaver; Compact disc players; Computer game programs; Video game cartridges; Television apparatus; Coin-operated mechanisms for television sets; Video game cartridges; Phonograph records; Disks, magnetic; Magnetic tapes; Videotapes; Video cassettes; Compact discs [audio-video]; Video cassettes, Magnetic tapes, Discs (Compact —) [read-only memory]; Ticket dispensers; Coin-operated apparatus (Mechanisms for —); Cash registers; Calculating machines; Data processing apparatus; Sunglasses; Anti-glare visors; Cameras [photography]; Extinguishers; Magnets; Mouse [data processing equipment]; Mouse pads; Cinematographic cameras, Film, Optics, Weighing machines, Measures, Signals, Life buoys, Life saving apparatus and equipment; Portable telephones; Cell phone straps; Helmets (Protective —) for sports (End)
3	G911953	25		Clothing; Singlets; Training clothing; Sports wears; Pajamas; Soccer jerseys; Gloves; Mittens; Pelisses; Jacket; Parkas; Anorak; Coats; T-shirt; Sports jerseys; Racing clothes; Training pants; Pile fabric; Shirts; Neckties; Girdles; Vests; Polo shirt; Long sleeve; Sleeveless Top; plain stitch; Trousers; Trunks; Drawers [clothing]; Belts; Pajamas (Am.); Beach clothes; Knitwear [clothing]; Dressing gowns; Swimsuits; Bathing trunks; Skirts; Trousers; Shorts; Football shorts; Hosiery; Tights; Romper; Pajamas (Am.); Cuffs; Caps [headwear]; Aprons [clothing]; Bath robes; Singlets; Linen (Body —) [garments]; Footwear; Caps(headwear); Top hats; Berets; Caps; Hats; Scarfs; Cuffs; Belts; Bibs (end)

4	G911953	38		Broadcasting(Radio);Electronic bulletin board services [telecommunications services]; Transmission (Facsimile —); Electronic mail ; Message sending; Electronic bulletin board services [telecommunications services; Cellular telephone communication; Paging services [radio, telephone or other means of electronic communication]; Satellite transmission; Transmission of digital files; Telephone services; Wired, (end)
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JOSEPHLEE & ASSOCIATES LTD. is to be the true and lawful attorney of Tottenham Hotspur Plc and in its name to take necessary steps to discourage and eliminate imitation, counterfeits and any act that may constitute infringement, or damage its legitimate rights.

Tottenham Hotspur Football Club were founded in 1882, as Hotspur FC and played in the Southern League until 1908, when they were elected into the Football League Second Division. Before this promotion, Spurs had won the FA Cup in 1901, making them the only non-league club to do so since the formation of the Football League. Since then they have won the FA Cup a further seven times, the League Cup four times, the UEFA Cup twice and also the UEFA Cup Winners Cup. The UEFA Cup Winners Cup victory made them the first English team to win a UEFA competition. They have also won the Football League First Division twice. Tottenham play their home games at White Hart Lane and were the first team in the 20th century to achieve the League and FA Cup double, winning both in 1960-61. Now, Tottenham Hotspur has lots of fans all over the world, especially in China, and about the Tottenham Hotspur's products, the quantity of sale is higher and higher.

At the same time, Tottenham Hotspur Plc always attaches much importance to protecting its intellectual property rights. Tottenham Hotspur plc applied for the registration of the trademark, including “ Tottenham Hotspurs Logo ” and “ Tottenham Hotspur ”, and in succession acquired the registration for the “Tottenham Hotspur Logo ” and “ Tottenham Hotspur ” formative marks in many Classes, such as Classes 9, 25, 38, covering the services of retail and business promotion etc. Pursuant to Article 3 and Article 52 of Trademark Law of the People's Republic of China, Tottenham Hotspur Plc, as the trademarks registrant, shall be entitled to the right to exclusive use of these trademarks and shall be protected by law. Without authorization and permission from Tottenham Hotspur Plc, using, imitating, or reproducing the registered trademarks of Tottenham Hotspur Plc shall cause damage to the right to the exclusive use of the registered trademark of Tottenham Hotspur Plc and will be liable for the liability caused by the infringement.

Tottenham Hotspur Plc is the registrant of domain names

“tottenhamhotspur.com”, “tottenham.net”, “tottenham.com.cn”, etc. And “tottenham” is as the core of the domain name. Also, the registration date of them is more earlier than the website: <http://www.tottenhamfc.info/> (Dec 27, 2012). Moreover, the disputed domain name is in effectiveness currently, and makes enough confusion: it contains “tottenhamfc”, and has two parts: one part is “tottenham”, which is the same as Tottenham Hotspur Plc’s trademark “tottenham”, both letters and spelling in order. Then another part is “fc”, as we know, it can stands for “Football Club”, so this will make the public wrongly suggest that there is some relationship between Tottenham Hotspur Plc and the website: if the website is open or supported by Tottenham Hotspur Plc. More seriously, Tottenham Hotspur Plc find that the website <http://www.tottenhamfc.info/> is posted lots of offensive contents which seriously damage to Tottenham Hotspur Plc’s image and reputation.

We have do some research from WHOIS, and found that the controversial domain names: [tottenhamfc.info/](http://www.tottenhamfc.info/) was owned by an individual named wang wongxu of China and the website was registered on 27 December 2012. We tried to contact the registrar before, but failed. So we want to get help from ICANN/Asian Domain Name Dispute Resolution Centre. We request that the website <http://www.tottenhamfc.info/> could be closed down. Furthermore, the website can be judged to be transferred to Tottenham Hotspur Plc.

In view of the reasons above, the Complainant requests that the website <http://www.tottenhamfc.info/> could be closed. Furthermore, the website can be judged to be transferred to Tottenham Hotspur Plc.

The Respondent

The Respondent was duly notified by the ADNDRC Beijing Office of the claim lodged by the Complainant and asked to submit the Response in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplementary Rules, but failed to give any sort of defense in any form against the Claim by the Complainant.

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.”

The Policy, at paragraph 4(a), that the Complainant must prove that each of the following three elements are present in order for the Complainant to prevail:

- i. Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

Based on the above stipulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements are present. If all the three elements are present, the Panel will make a decision in favor of the Complainant in accordance with the fact-finding and the relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If the three elements are not present, the Complaint by the Complainant shall be rejected.

The Respondent failed to submit the Response of any argument against what the Complainant claimed and to show his intention to retain the disputed domain names as required by the Policy, the Rules and the ADNDRC Supplementary Rules. As stipulated in Paragraph 5(e) in the Rules, "If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint". In view of the situation, the Panel cannot but make the decision based primarily upon the contentions and the accompanying exhibits by the Complainant, except otherwise there is an exhibit proving to the contrary.

Identity or Confusing Similarity

Pursuant to Paragraph 4(a) (i) of the Policy, 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.

According to the evidence provided by the Complainant and the information revealed in the database of China Trademark Office, the Panel notes that the Complainant is the owner of the International Trademark Registrations No. G890622 for "Tottenham Hotspur" in class 25 and No. G911953 for "Tottenham Hotspur & device" in classes 9, 25 & 38. All these marks were registered in China in 2007, prior to the registration date of the disputed domain name, i.e. December 27, 2012. The Complainant therefore enjoys exclusive right to "Tottenham Hotspur".

The disputed domain name is “tottenhamfc.info”. Apart from the generic top-level domain suffix “.info”, the major part of the disputed domain name is “tottenhamfc”, which could be regarded as “tottenham” plus “fc”.

Tottenham is the name of a place in north London of the United Kingdom and in that sense, it is less distinctive. However, Tottenham, as the name of a place, was not widely known till the famous football club “Tottenham Hotspur” made it be. The searches with some major internet search engines show that “Tottenham” is closely associated with football and the football club “Tottenham Hotspur”. To a certain extent, it could be said that the place “Tottenham” became known because of the football club “Hotspur”.

The letter combination “fc” is in general considered randomly composed without substantial meaning. But when it is added to “Tottenham”, which is closely associated with football, it could be easily inferred that the letter combination “fc” stands for football club.

Given the high reputation of the Complainant and its trademark “Tottenham Hotspur”, it is most unlikely that the Respondent registered “Tottenhamfc” as its domain name by pure coincidence.

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark “Tottenham Hotspur”. Accordingly, the Complainant has proven that the first element is present under paragraph 4(a) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant asserts and the evidence it provided shows that it is the lawful holder of “Tottenham Hotspur” trademarks. The Respondent did not provide any information to the Panel asserting any right or legitimate interest it may have in the disputed domain name.

Referring to the database of China Trademark Office, the Panel finds no trademarks filed or registered in the name of the Respondent. 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, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has proven the second element required by paragraph 4(a) of the Policy.

Bad Faith

The Complainant was established in 1882 and its performance as a football club has earned reputation for its trademark “Tottenham Hotspur” and made its home field “Tottenham” known to the world. The Respondent registered the disputed domain name by using the name of the Complainant’s home field, “Tottenham”, and the acronym of the business that the Complainant is engaged in, “fc”. The Panel has the reason to believe that the Respondent registered the disputed domain name in bad faith.

The Panel noticed that both the Complainant and the Respondent did not submit any evidence to prove that the domain name is active. On November 1 and November 5, 2013 the Panel visited the website: www.tottenhamfc.info, but the website could not be opened. Since the disputed domain name is registered but not active, the Panel has to address the issue of passive holding which can in certain circumstances be evidence of use in bad faith.

Considering that the Respondent, when registering the disputed domain name, should have been aware of the existence of the Complainant or the Complainant’s trademarks, and that there is no information as to the business activities of the Respondent and the Complainant has made out a prima facie case that the Respondent does not have any rights or legitimate interest in said domain names, and that the Respondent filed no response to the Complainant’s assertion, and also that the contact details supplied by the Respondent to the Registrar were incorrect at the time of registration or have not been kept up to date and this would appear to be directly in conflict with the obligations to provide accurate information required under the Service Agreement between the Respondent and the Registrar, the Panel therefore is satisfied that the passive holding of the disputed domain name amounts to a use of the domain name in bad faith.

In view of the above, the Panel holds that the disputed domain name should be considered as having been registered and used in bad faith under the Policy, paragraph 4(b). Therefore, the Complainant has proven the third element required by paragraph 4(a) of the Policy.

5. Decision

For all foregoing reasons, in accordance with Paragraph 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name “tottenhamfc.info” be transferred to the Complainant, Tottenham Hotspur plc.

The Sole Panelist:



Dated: November 8, 2013