



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (HONG KONG OFFICE)

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Decision Submission

English Print

Decision ID	DE-0400017
Case ID	HK-0300033
Disputed Domain Name	www.lebanonembassy.org
Case Administrator	Iris Wong
Submitted By	Vinod Kumar Agarwal
Participated Panelist	Vinod Kumar Agarwal
Date of Decision	05-01-2004

The Parties Information

Claimant	Embassy of Lebanon
Respondent	Alex Fang

Procedural History

The disputed domain name is <www.lebanonembassy.org>.

The Registrar with which the disputed domain name is registered is NameScout Corp., White park House, White Park Road, Bridgetown, Barbados.

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre, Hong Kong Office (the “Center”) on 27 October, 2003 and 29 October 2003 (hard copy and electronic copy respectively). On 15 December 2003, the Center transmitted by email to NameScout Corp. a request for registrar verification in connection with the domain name at issue. The Registrar confirmed that the Respondent is listed as the registrant and providing the contact details for the administrative, billing, and technical contact. The Center verified that the Complaint, satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

The Center formally notified the Respondent of the Complaint on 4 November 2003. In accordance with the Rules, the Response was required to be submitted to the Centre within 20 calendar days from 4 November 2003. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on 26 November 2003.

The Center appointed Dr. Vinod K. Agarwal as the sole panelist in this matter. The Panelist finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7. The Panelist is required to give its decision within 14 days from the date of receiving the documents. The Panelist received the documents on 1st January 2004.

Factual Background

For Claimant

The Complainant is the Embassy of Lebanon in the United States of America. It is providing the same services as are provided by a mission of a country in another country.

For Respondent

The Respondent did not submit any reply. Hence, the Respondent's activities are not known.

Parties' Contentions

Claimant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Uniform Policy are applicable to this dispute.

In relation to element (i), the Complainant Embassy of Lebanon contends that there is no specific trademark violation involved in this case. The web site www.lwbanonembassy.org belonged to the Complainant. It accidentally allowed the domain to expire. The following day it was registered by Mr. Lee. He was requested to transfer the domain name back to the Embassy. Mr. Lee asked for \$ 5,000 to return it. The Complainant refused to pay and attempted to negotiate with him over the next six months without success. As a precaution, the Complainant also "back-ordered" the name as the expiration date was approaching. During the proceedings, the domain name registration expired. As per the "back-ordering" policy of the Registrar, a "30 day registry redemption period" is allowed during which the owner could renew it. However, the Respondent somehow registered the domain name during this 30 day period.

In relation to element (ii), the Complainant contends that the Respondent (as an individual) has not been commonly known by the domain name www.lebanonembassy.org as the Respondent is known as "Mr. Alex Fang". Further that the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of misleading and misdirecting the public to unintended sites.

Regarding the element at (iii), the Complainant contends that the main object of registering the domain name www.lebanonembassy.org by the Respondent is to mislead the general public and the customers of the Complainant.

Respondent

The Respondent did not submit any reply.

Findings

Identical / Confusingly Similar

According to paragraph 4(a) of the Policy, the Complainant must prove that:

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

A. Identical or Confusingly Similar

The present dispute pertains to the domain name www.lebanonembassy.org. The Complainant is the Embassy of a sovereign nation, namely, Lebanon in the United States of America. The Complainant owned and possessed the site www.lebanonembassy.org. Before the Complainant could renew its registration of the web site in question, the Respondent registered it. The web site www.lebanonembassy.org is similar or identical to the name of the Complainant. There is a relationship between the web site and the Complainant. Thus, the Panelist finds that the domain name is confusingly similar to the name of the Complainant.

Rights and Legitimate Interests

B. Rights or Legitimate Interests

According to Paragraph 4(c) of the Policy, the Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;

or

- (ii) the Respondent (as an individual) has been commonly known by the domain name, or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the name of an Embassy.

The Respondent has not filed any response in this case. Based on the default and the evidence in the Complaint, it is presumed that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name. Further, in view of the fact that the Complainant has not licensed or otherwise permitted the Respondent to use its name or to apply for or use the domain name incorporating said name and that nobody would use the expression “Embassy of Lebanon” unless seeking to create an impression of an association with the Complainant, the Panelist finds that the Respondent has no rights or legitimate interests in the domain name.

Bad Faith

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) the Respondent has registered the domain name in order to prevent the Complainant from renewing the domain name already registered and owned by it.
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of the Complainant; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant’s site.

The contention of the Complainant is that there is a clear evidence of the fact that the earlier registrant Mr. Lee and the present registrant Mr. Alex Fang are in collusion as Mr. Lee’s reference appears at the site. Mr. Lee had offered the said site for sale to the Complainants. Thus, the registration of its web site immediately after its registration expired constitutes a bad faith registration and use.

This and other information submitted by the Complainant leads to the presumption that the said domain name was registered and used by the Respondent in bad faith. The Panelist agrees with the said contention of the Complainant and concludes that the registration of the domain name amounts to the registration and use of the domain name in bad faith.

Status

www.lebanonembassy.org

Domain Name Transfer

Decision

In light of the forgoing findings, namely, that the domain name is confusingly similar to the name of the Complainant, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith, the Panelist directs that the domain name <www.lebanonembassy.org> be transferred to the Complainant.

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