



## ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (HONG KONG OFFICE)

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### Decision Submission

English Print

Decision ID	DE-0400021
Case ID	HK-0400035
Disputed Domain Name	www.astonchase.com
Case Administrator	Iris Wong
Submitted By	M Scott Donahey
Participated Panelist	M Scott Donahey
Date of Decision	17-06-2004

### The Parties Information

<b>Claimant</b>	DL LEGAL
<b>Respondent</b>	Lawrence Snare

### Procedural History

The complainant in this case is Aston Chase Limited, a company registered in the United Kingdom. Its address is 69/71 Park road, London, England, United Kingdom. Its authorized representative in these proceedings is DL Legal LLP, Solicitors.

The respondent is Lawrence Snare. Mr. Snare of Box 120, 3440 Lehigh Street, Allentown, Pennsylvania, United States of America. Respondent has not appointed any representative in these proceedings.

The domain name in dispute is <astonchase.com>. The Registrar of the domain name is eNom, Inc., the address of which is 2002 156th Ave. NE, Suite #300, Unigard Park, McKinley Building, Bellevue, Washington, United States of America ( "eNom" ).

On 19 January 2004, pursuant to the Uniform Domain Name Dispute Resolution Policy ( "the Policy" ), the Rules for the Uniform Domain Name Dispute Resolution Policy ( "the Rules" ) and Hong Kong International Arbitration Centre Supplemental Rules ( "the HKIAC Supplemental Rules" ), the Complainant submitted a complaint in the English language in electronic format to the Hong Kong International Arbitration Centre (the "HKIAC" ), an office of the Asian Domain Name Dispute Resolution Centre and elected this case to be dealt with by a one-person panel. The Complaint was submitted in hardcopy on 28 February 2004. On 1 March 2004, Hong Kong International Arbitration Centre 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 HKIAC Supplemental Rules. All correspondence to and from the HKIAC described herein was in the English language.

On 17 March 2004 Complainant submitted to the HKIAC an amended Complaint.

On 14 April 2004 the HKIAC notified the Respondent of the commencement of the action.

On 13 May 2004, the HKIAC notified the Complaint that the Respondent had failed to submit a Response.

Since the Respondent did not file a response in accordance with the time specified in the Rules the HKIAC Supplemental Rules, and the Notification, the HKIAC informed Complainant and Respondent by email about the default, stating that, as Respondent did not file a response within the required time, the HKIAC would appoint the panelist to proceed to render the decision, in the absence of a response by Respondent.

On 20 May 2004, the HKIAC notified the parties that the Panel in this case had been selected, with M. Scott Donahey 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 28 May 2004, the Panel received the file from HKIAC.

## **Factual Background**

### **For Claimant**

The Complainant is a corporation and is in the business of acting as a specialist agency dealing with exclusive real properties in Central and North West London, England. Complainant is one of the market leaders in selling prestige property in London. Complainant has common law trademark and service mark rights in the mark ASTON CHASE. Complaint, Annex 9.

### **For Respondent**

The domain name at issue was transferred to the Respondent after the initiation of the present action on 5 February 2004. The domain name at issue originally was used to resolve to a web site at which pornography was featured. The domain name presently resolves to a web site listing real property for sale and the web site is designed to "mousetrap" an Internet user.

## **Parties' Contentions**

### **Claimant**

Complainant asserts that the domain name at issue is identical or confusingly similar to Complainant's trademark and service mark, in that the domain name at issue is comprised of Complainant's mark absent the space. Complainant further alleges that Respondent has no rights or legitimate interests in respect of the domain name.

### **Respondent**

The respondent did not file a response within the stipulated time.

## **Findings**

### **Identical / Confusingly Similar**

The Panel finds that the domain name <astonchase.com> is identical to the mark ASTON CHASE in which Complainant has rights, since from the very outset of the UDRP, Panels have disregarded the TLD in comparing domain names to marks. Digitronics Inventioning Corporation v. @Six.Net Registered, WIPO Case No. D2000-0008; Credit Management Solutions, Inc. v. Collex Resource Management, WIPO Case No. D2000-0029. The lack of a space has no legal significance in determining identity. Busy Body, Inc. v. Fitness Outlet Inc., WIPO Case No. D2000-0127. Where the domain names are identical, the issue of likelihood of confusion is not germane. Shirmax Retail Ltd./Detaillants/Shirmax LTEE v. CES Marketing Group, Inc., eResolution Case No. AF0104.

### **Rights and Legitimate Interests**

Complainant has in a credible way alleged that Respondent has no rights or legitimate interests in respect of the domain name at issue. Respondent has failed to show that Respondent has any rights or legitimate interests in respect of the domain name at issue. This entitles the Panel to infer that Respondent has no rights or legitimate interests in respect of the domain name at issue. Alcoholics Anonymous World Services, Inc. v. Lauren Raymond, WIPO Case No. D2000 0007; Ronson Plc v. Unimetal Sanayi ve Tic. A.S., WIPO Case No. D2000 0011. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the domain name.

### **Bad Faith**

At the time that the Complaint was filed, the domain name at issue was being used to resolve to a web site on which pornography was posted. The domain name was transferred following the filing of the Complaint in this matter. The

domain name is being used by the current registrant (the transferee) to resolve to a web site at which listings for real property are located. As Complainant is an agent for the sale of real properties, an Internet user is likely to be confused as to the source, sponsorship, affiliation or endorsement of the web site. Moreover, the site features pop-up advertising and "mousetrapping," so that it is obvious that the domain name holder is deriving revenue from this use. This is evidence of bad faith registration and use under paragraph 4(b)(iv) of the Policy. The Panel finds that Respondent has registered and is using the domain name in bad faith.

### Status

www.astonchase.com

Domain Name Transfer

### Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is identical to the trademark and service mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name at issue, and that the Respondent's domain name has been registered and is being used in bad faith. Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel requires that the registration of the domain name <astonchase.com> be transferred to the Complainant.

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