



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

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### Decision Submission

English Print

Version  
Decision ID DE-0900221  
Case ID HK-0900243  
Disputed Domain Name www.likashing.asia  
Case Administrator Dennis CAI  
Submitted By M Scott Donahey  
Participated Panelist

Date of Decision 08-05-2009

Language Version : English

### The Parties Information

**Claimant** Li Ka Shing and Li Ka Shing Foundation Limited  
**Respondent** Ali Ilhan Hacifazlıoğlu

### Procedural History

The complainants in this case are Li Ka Shing, an individual resident in Hong Kong and the Li Ka Shing Foundation limited, a private charitable foundation established by Li Ka Shing and incorporated under the law of Hong Kong (Complaint, Annex 5) ("Complainants").

The respondent is Ali Ilhan Hacifazlıoğlu, 5M Tübitak Tek. Gel. Böl. No:1 Gebze, 41700 Turkey ( "Respondent" ).

The domain name in dispute is <likashing.asia>. The Registrar of the domain name is Dotster, Inc. Complaint, Annex 2

On 16 February 2009, 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 Complainants submitted a complaint in the English language 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. On 23 February 2009, Hong Kong International Arbitration Centre sent to the complainants 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 3 March 2009 the HKIAC notified the Respondent of the commencement of the action.

On 8 April 2009, the HKIAC notified the Complainants 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 16 April 2009 the complainants filed a Supplemental Complaint for the consideration of the panelist once appointed.

On 18 April 2009 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 20 April 2009, the Panel received the file from HKIAC.

The Panel has determined that it will not consider the Supplemental Complaint.

## **Factual Background**

### **For Claimant**

Complainant Li Ka Shing is well known throughout the world as a self-made businessman, entrepreneur, and philanthropist. Complaint, Annexes 4 and 10. Complainant Li Ka Shing Foundation Limited is a limited Hong Kong corporation founded and funded by Complainant Li Ka Shing. It is known for its gifts to entities and individuals in the fields of medicine and education. Complaint Annex 4.

Complainant Li Ka Shing has a trademark for the mark LI KA-SHING issued by the trademark authorities of France on 8 March 2005. Complainant Li Ka Shing Foundation has ten trade marks for the mark LI KA SHING FOUNDATION issued by the trademark authorities of Hong Kong, China, the United Kingdom, and Singapore, the earliest of which issued 14 January 2001, and all but one of which issued prior to Respondent's registration of the domain name at issue. Complaint, Annex 9.

On 24 March 2008, Respondent registered the domain name at issue. Complaint, Annex 2. The domain name at issue resolves at times to a SEDO web site at which the domain name at issue is offered for sale and links to unrelated commercial entities are shown and at times where the domain name is merely offered for sale to the highest bidder.

Complainant has not authorized Respondent to use its mark.

### **For Respondent**

Respondent has failed to file a response in this matter.

## **Parties' Contentions**

### **Claimant**

Complainant asserts that the domain name at issue is identical or confusingly similar to Complainant Li Ka Shing's mark LI KA-SHING and that the domain name is confusingly similar to Complainant Li Ka Shing Foundation Limited's LI KA SHING FOUNDATION mark.

Complainant further alleges that Respondent has no rights or legitimate interests in respect of the domain names, and that Respondent's domain name has been registered in bad faith and is being used in bad faith since it resolves to a web site that contains links to commercial entities not related to Complainants and/or at which the domain name is being offered for sale to the general public which includes competitors of Complainant Li Ka Shing and Complainants Li Ka Shing and Li Ka Shing Foundation Limited.

### **Respondent**

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

## **Findings**

Paragraph 15(a) of the Uniform 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 directs that the Complainant must prove each of the following:

- 1) that 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) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) that the domain name has been registered and is being used in bad faith.

### Identical / Confusingly Similar

The Panel finds that the domain name <likashing.asia> is identical to Complainant Li Ka Shing' s registered mark LI KA-SHING, since the presence or absence of a hyphen in the name is not a distinguishing factor. InfoSpace.com, Inc. v. Tenenbaum Ofer, WIPO Case No. D2000-0075. Moreover, the Panel finds that the domain name <likashing.asia> is confusingly similar to Complainant Li Ka Shing Foundation Limited' s registered marks LI KA SHING FOUNDATION, since the omitted part, the word "foundation" is in the public domain and thus possessed no distinctiveness. EFG Bank European Financial Group SA v. Jacob Foundation, WIPO Case No. D2000-0036.

### 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

The evidence shows that Complainant Li Ka Shing' s personal name and registered trademark LI KA-SHING is world famous, and is particularly famous in Asia. The evidence further shows that Complainant' s name is the essential and distinctive part of Complainant Li Ka Shing Foundation Limited' s LI KA SHING FOUNDATION marks and that the LI KA SHING FOUNDATION marks are famous in their own right. The use of the domain name to resolve to a web site at which the domain name is offered for sale to the general public is the equivalent of offering it for sale to Complainants. See, e.g., Harrod' s Limited v. Robert Boyd, WIPO Case No. D2000-0060. Accordingly, the Panel finds that the domain name at issue has been registered and is being used in bad faith.

### Status

www.likashing.asia                      Domain Name Transfer

### Decision

For all of the foregoing reasons, the Panel decides that the domain name at issue, <likashing.asia>, should be transferred to Complainant Li Ka Shing Foundation Limited, as requested by Complainants in their Complaint.

M. Scott Donahey  
Sole Panelist

DATED: April 28, 2009