



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1200456
Complainant:	The Institute of Electrical and Electronics Engineers, Incorporated
Respondent:	Jill luba / intach

1. The Parties and the Contested Domain Name

The Complainant is The Institute of Electrical and Electronics Engineers, Incorporated of 445 Hoes Lane, Piscataway, NJ 08855, USA.

The Respondent is Jill luba / intach, of Box 37 Waterfront Dr Romasco Plz, Road Town, Tortola 999187, VG.

The contested domain name is <ieeexplore-ieee.org>, registered by the Respondent with Web Commerce Communications Limited d/b/a WebNic, of Lot 2-2, Incubator 1, Technology Park Malaysia, 57000 Kuala Lumpur, Malaysia (the “Registrar”).

2. Procedural History

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Center (the “Center”) on August 23, 2012. On August 24, 2012 the Center transmitted by email to the Registrar a request for registrar verification in connection with the contested domain name. On August 27, 2012 the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant of the contested domain name and providing the Respondent’s contact details. The Center has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Center’s Supplemental Rules.

In accordance with the Rules, the Center formally notified the Respondent of the Complaint and the proceeding commenced on September 5, 2012. In accordance with the Rules, the due date for the Response was September 25, 2012.

No Response was received by the Center.

The Center appointed Sebastian Hughes as the Panelist in this matter on October 15, 2012. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

A. Complainant

The Complainant is a not-for-profit association incorporated in the United States of America and the owner of numerous trade mark registrations worldwide for the trade marks IEEE and IEEE XPLORE (the "Trade Marks"), the earliest dating from 1993.

B. Respondent

The Respondent is an individual apparently with an address in the British Virgin Islands.

C. The Contested Domain Name

The Respondent registered the contested domain name on October 24, 2011.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarised as follows.

The Complainant is the world's largest professional association for the advancement of technology, with more than 400,000 members in 160 countries. It has been using IEEE as a trade mark since 1963 and has been widely recognized as the leading authority in technical areas ranging from electrical engineering, computer engineering, biomedical technology and telecommunications to aerospace and consumer electronics, among others.

The Complainant provides a wide range of quality publications and standards that make the exchange of technical knowledge and information possible among technology professionals. It publishes around 30% of the world's literature in the electrical and electronics engineering and computer science fields in well over 100 technical journals. In addition, the Complainant maintains over 1,300 standards in the field of engineering. The content of these journals and standards, as well as the content from several hundred conference proceedings and other publishers, is available in the Complainant's online digital library.

The Complainant has been using IEEE XPLORE as a trade mark in respect of its online digital library since 2000. Hosted at <<http://ieeexplore.ieee.org>>, the IEEE XPLORE Digital Library is one of the Complainant's main products and services, which offers an online electronic database providing web access to almost 3 million full-text documents from some of the world's most highly cited publications in the field of engineering and other technical areas. The library comprises of over 150 journals, 900 conference proceedings, 3,400 technical standards, 400 books and 200 education courses. Approximately 25,000 new documents are added to the library each month.

The contested domain name is confusingly similar to the Trade Marks. It comprises both of the Trade Marks in their entirety. It is also identical with the URL of the website which hosts the Complainant's digital library.

The Respondent has no rights or legitimate interests in respect of the contested domain name. The Respondent is not affiliated with or authorised by the Complainant in any way and is not commonly known by the contested domain name. The Respondent is not making a legitimate non-commercial or fair use of the contested domain name

The contested domain name is being used in respect of an unauthorised website which passes itself off as a website of the Complainant and contains unauthorised copies of journals and articles taken from the Complainant's websites (the "Website"). The Respondent has registered and is using the contested domain name in bad faith in order to gain revenue by defrauding Internet users into purchasing from the Website articles the Respondent has copied from the Complainant's websites.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

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

A) Identical / Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Marks acquired through use and registration which predate the date of registration of the contested domain name by almost 40 years.

UDRP panels have consistently held that domain names are identical or confusingly similar to a trade mark for purposes of the Policy "when the domain name includes the trade mark, or a confusingly similar approximation, regardless of the other terms in the domain name" (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. D2000-0662).

In the present case, the contested domain name contains both of the Trade Marks in their entirety. Furthermore, the contested domain name is identical with the URL used by the Complainant to host its digital library.

The Panel finds that the contested domain name is confusingly similar to the Trade Mark.

The Panel therefore holds that the Complaint fulfills the first condition of paragraph 4(a) of the Policy.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the contested domain name:

- (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, business, or other organisation) has been commonly known by the domain name even if the Respondent has acquired no trade mark or service mark rights; 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 trade mark or service mark at issue.

There is no evidence that the Complainant has authorised, licensed, or permitted the Respondent to register or use the contested domain name or to use the Trade Marks. The Complainant has prior rights in the Trade Marks which precede the Respondent's registration of the contested domain name by almost 40 years. There is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the contested domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption (*Do The Hustle, LLC v. Tropic Web*, WIPO Case No. D2000-0624; *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455).

The Respondent has failed to show that it has acquired any trade mark rights in respect of the contested domain name or that the contested domain name is used in connection with a *bona fide* offering of goods or services. To the contrary, the contested domain name is being used in respect of the Website, which contains copies of articles taken from the Complainant's websites.

There has been no evidence adduced to show that the Respondent has been commonly known by the contested domain name.

There has been no evidence adduced to show that the Respondent is making any legitimate non-commercial or fair use of the contested domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish rights or legitimate interests in the contested domain name. The Panel therefore finds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C) Bad Faith

Pursuant to paragraph 4(b)(iv) of the Policy, the following conduct amounts to registration and use in bad faith on the part of the Respondent:

By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source,

sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The evidence shows the Respondent has registered the contested domain name and set up the Website in order to pass the website off as a website of the Complainant and in order to gain revenue by offering to sell journals and articles copied from the Complainant's websites.

The Panel therefore finds the requisite element of bad faith has been satisfied, under paragraph 4(b)(iv) of the Policy.

For the foregoing reasons, the Panel concludes that the contested domain name has been registered and is being used in bad faith. Accordingly the third condition of paragraph 4(a) of the Policy has been fulfilled.

6. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the contested domain name <ieeexplore-ieee.org> be transferred to the Complainant.



Sebastian Hughes

Sole Panelist

Dated: October 26, 2012