



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-1300537
<b>Complainant:</b>	Guinness World Records Limited
<b>Respondent:</b>	Zhang Wen Li
<b>Disputed Domain Names:</b>	吉尼斯世界纪录.COM and 吉尼斯世界纪录.NET

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**1. The Parties and Contested Domain Name**

The Complainant is Guinness World Records Limited, of 184-192 Drummond Street, London NW1 3HP.

The Respondent is Zhang Wen Li, of Yangtze River road science and technology city the 1 floor 03 A changchun.

The domain names at issue are 吉尼斯世界纪录.COM and 吉尼斯世界纪录.NET, registered by Respondent with Web Commerce Communications Limited (WEBCC), of Lot 2-2, Incubator 1, Technology Park Malaysia, 57000 Kuala Lumpur, Malaysia Email: support@webnic.cc.

**2. Procedural History**

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (“the Center”) on 19 August 2013. On 20 August 2013, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On 20 August 2013, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the ADNDRC Domain Name Dispute Supplemental Rules (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on 27 August 2013. In accordance with the Rules, paragraph 5(a), the due date for Response was 16 September 2013. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on 17 September, 2013.

The Center appointed Kun FAN as the sole panelist in this matter on 19 September 2013. The Panel finds that it was properly constituted. The Panel has informed the Centre of his impartiality and independence, to ensure compliance with the Rules, paragraph 7.

The language of the proceeding is English, being the language of the Registration Agreement.

### **3. Factual background**

The Complainant Guinness World Records Limited (吉尼斯世界纪录有限公司) was founded in England in 1954 to publish the world-famous publication “Guinness World Records” (吉尼斯世界纪录) and provide the world record recognizing services.

The Complainant states that Complainant’s book is well-known. “Guinness World Records” was formerly named as the “Guinness Book of World Records” and first published on August 27, 1955. “Guinness World Records” collect, adjudicate and provide rich and authoritative world records resource. The book itself has created a world record being published in more than 100 countries and 35 languages. The accumulative sales reach 100 million and become the best seller around the world.

The Complainant adds that it registered the domain names <guinnessworldrecords.com> and <guinnessworldrecords.net> in 1999, and advertised its business via the directed websites. According to the Complainant, the websites are very popular in many countries including China. The Complainant also provides a history of its success in China from 1987 to nowadays.

The Respondent is an individual established in China. The Respondent registered the disputed domains<吉尼斯世界纪录.COM> and<吉尼斯世界纪录.NET> on May 25, 2006.

### **4. Parties’ Contentions**

#### **A. Complainant**

i) According to the Complainant, the disputed domain names are identical or confusingly similar to its well-known trade name “吉尼斯世界纪录” and trademarks.

To support this assertion, the Complainant provides a list of trademarks registered in China:

No.	Trademark	Reg. No.	App. Date	Reg. Date
1	吉尼斯(JINISI)	2024454	2000.9.29	2003.3.14
2	吉尼斯世界纪录 (Guinness World Records in Chinese)	2024455	2000.9.29	2003.3.14
3	吉尼斯(JINISI)	1732920	2000.9.29	2003.3.21
4	吉尼斯世界纪录 (Guinness World Records in Chinese)	2023488	2000.9.29	2004.10.14
5	吉尼斯(JINISI)	2023544	2000.10.12	2004.10.28
6	吉尼斯世界纪录 (Guinness World Records in Chinese)	2023542	2000.10.12	2004.10.28

The Complainant also provides copies of search engines results (Baidu.cn and Google.com.hk) for the wording “吉尼斯世界纪录”, showing that most of the resulting information is related to the Complainant (Exhibit 7). The Complainants asserts that the general public who are familiar with the Complainant would misconceive that the Complainant has newly registered the disputed domain names, thus increases the possibility of confusion between the disputed domain names and domains of the Complainant. Furthermore, the Complainant insists on the high reputation of its trade name and trademarks “吉尼斯世界纪录” in China.

ii) According to the Complainant, the Respondent has no legitimate right or interest to the disputes domain names

The Complainant explains that the Respondent has never registered, used a trademark or trade name containing “吉尼斯世界纪录” or “吉尼斯” marks, nor did the Respondent claim any civil rights to them. Furthermore, the Complainant never authorized/licensed the Respondent to use its marks or pictures etc., nor to register the disputed names, and the Respondent is not affiliated in any way with the Complainant.

iii) According to the Complainant, the Respondent registered and uses the disputed domain names in bad faith.

The Complainant asserts that when entering the disputed domains in the IE address field, the revealing result is “Internet Explorer cannot reveal the web page” (Exhibit 9). The Complainant concludes that the Respondent registered the disputed domains for more than 7 years but no actual business is done via the website, which definitely prevents the Complainant from reflecting its business via the corresponding domain names in China. The Complainant asserts that the Respondent’s activity directly prevents the public to obtain the information related to the Complainant via the domain names, and seriously disturbed the Complainant’s normal business. Furthermore, the Respondent’s activity dilutes and destroys the good fame and image of the Complainant’s famous marks and business.

The Complainant also asserts that the Respondent is listed as the registrant for more than 20 domains, and considers that the Respondent is a frequent and professional cyber squatter (Exhibit 10), and as such, the Respondent must know about the value of the disputed domain. The Complainant concludes that its purpose to register the domains is for sale.

Finally, the Complainant emphasizes the Respondent knew or must have known Complainant’s famous trade name, trademarks and publication.

iv) In light of the above, the Complainant requests the disputed domain names to be transferred to the Complainant.

## B. Respondent

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

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a 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.

### A) Identical / Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “吉尼斯世界纪录”.

The disputed domain names are identical to the registered trademarks “吉尼斯世界纪录”.

The Panel therefore considers the disputed domain names to be confusingly similar to the trademarks “吉尼斯世界纪录” in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

## **B) Rights and Legitimate Interests**

The Respondent has no rights in the disputed domain names, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent did not show that he has any legitimate interest in the disputed domain names.

Under these circumstances, the Panel takes the view that the Respondents have no rights or legitimate interests in the disputed domain names and that the requirement of paragraph 4(a)(ii) of the Policy is also satisfied.

## **C) Bad Faith**

Since the disputed domain names are registered but not active, the panel has to address the issue of passive holding. UDRP panelists have reached a consensus on this issue, as following:

“With comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, panels have found that the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include the complainant having a well-known trademark, no response to the complaint having been filed, and the registrant's concealment of its identity. Panels may draw inferences about whether the domain name was used in bad faith given the circumstances surrounding registration, and vice versa. Some panels have also found that the concept of passive holding may apply even in the event of sporadic use, or of the mere "parking" by a third party of a domain name (irrespective of whether the latter should also result in the generation of incidental revenue from advertising referrals)” ([Paragraph 3.2. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition \("WIPO Overview 2.0"\)](#)).

The Panel agrees with this solution and thus has to examine all the other circumstances.

First, given the notoriety of the Complainant’s trademark worldwide and in China, the Panel considers that the Respondent knew Complainant’s famous trade name, trademarks and publication. In [Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co., WIPO Case No. D2000-0163 \(May 1, 2000\)](#), the panel noted that:

“<veuvecliquot.org> is so obviously connected with such a well-known product [Veuve Clicquot champagne] that its very use by someone with no connection with the product suggests opportunistic bad faith”.

Here, the Complainant has proven that its trademarks “吉尼斯世界纪录” are extensively famous worldwide, and in China, where the Respondent is established. The Panel has no doubt on the fact that the Respondent knew Complainants’ trademarks, and registered the disputed domain names in bad faith.

Second, the Panel considers that the Respondent intentionally prevents the Complainant from reflecting the trademark in corresponding domain names. Furthermore, Respondent’s activity directly prevents the public to obtain the information related to the Complainant via the domain names, seriously disturbed the Complainant’s normal business, dilutes and destroys the good fame and image of the Complainant’s famous marks and business. To the Panel view, in circumstances where the trademark is well-known, such activity should be taken into consideration in the bad faith test.

Third, as to the list of domain names registered by the Respondent, the Panel considers that such a list cannot be taken into consideration. Indeed, the Complainant did not provide any decisions likely to prove that the Respondent in a pattern of conduct of preventing a trademark holder from reflecting the mark in a corresponding domain name (see [\(Paragraph 3.3. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition \("WIPO Overview 2.0"\)\)](#)).

As a conclusion, the Panel considers that the Complainant has filed cogent evidence to suggest the Complainant has registered and used the disputed domain name.

## **6. Decision**

Pursuant to paragraph 4(i) of the Policy and paragraph 15 of the Rules, this Panel orders that the domain name <吉尼斯世界纪录.COM> and <吉尼斯世界纪录.NET> be transferred to Complainant.

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Professor Kun FAN  
Sole Panelist

Dated: 9 October 2013