



# ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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<b>Case No.</b>	HK-0800003
<b>Complainant:</b>	Cheung Kong (Holdings) Limited
<b>Respondent :</b>	Wang Qiang

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### 1. The Parties and Contested Domain Name

The 1<sup>st</sup> Complainant is Cheung Kong (Holdings) Limited and the 2<sup>nd</sup> Complainant is Cheung Kong Center Properties Management Limited (collectively, “Complainants”), both constituent companies of the Cheung Kong Group of companies, located at 7th Floor, Cheung Kong Centre, 2 Queen’s Road Central, Hong Kong.

The Respondent is Wang Qiang, Guang Zhou City, Guang Dong, China 510000.

The domain name at issue is <香港长江集团.cc>, which is registered with Web Commerce Communications Limited d/b/a Webnic.cc.

### 2. Procedural History

On 30 July 2008, the Complainant submitted a Complaint in the English language to the Hong Kong Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules). Based on a Whois Record search conducted on 25 July 2008, the Complaint had identified the Registrant as Wang Qiang, whose address is Guang Zhou City, Guang Dong, China 510000; whose fax and phone number is +86 13826168918; and email address is yiming@corp.8hy.cn. On 15 August 2008, the ADNDRC 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 ADNDRC Supplemental Rules. Except as otherwise specified, all correspondence to and from the HKIAC described herein was in the English language.

On 15 August 2008, the ADNDRC transmitted by email to the Registrar, Web Commerce Communications Limited d/b/a Webnic.cc, a request for registrar verification in connection with the Disputed Domain Name. On 15 August 2008, the Registrar transmitted by email to the ADNDRC its verification response, identifying Wang Qiang, whose address is

Guang Zhou City, Guang Dong, China 510000, as the registered holder of the subject domain.

On 25 September 2008, the ADNDRC transmitted the Complaint to the Respondent and notified the Respondent of the commencement of the action, by email directed to yiming@corp.8hy.cn. The Respondent failed to submit a Response within the specified period of time. Accordingly, on 31 October 2008, the ADNDRC notified the Respondent's default.

Since the Respondent defaulted and did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC informed the Complainant and Respondent that the ADNDRC would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the ADNDRC notified the parties that the Panel in this case had been selected, with Mr. David KREIDER 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 5 December 2008, the Panel received the file from the ADNDRC and should render the Decision within 14 days, i.e., on or before 22 December 2008.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current Disputed Domain Name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

### **3. Factual background**

The 1<sup>st</sup> Complainant is Cheung Kong (Holdings) Limited and the 2<sup>nd</sup> Complainant is Cheung Kong Center Properties Management Limited (collectively, "Complainants"), both constituent companies of the Cheung Kong Group of companies. The Complainants are the owners of several trademarks including "长江集团中心物业管理有限公司", "长江集团" and "Cheung Kong Group".

The Respondent, Wang Qiang, is the current registrant of the Disputed Domain Name <香港长江集团.cc> according to the Whois information. The registered address of the Respondent is Guang Zhou City, Guang Dong, China 510000; the telephone number is +86 13826168918; and email address is yiming@corp.8hy.cn.

### **4. Parties' Contentions**

#### **A. Complainants**

The Complainants' contentions may be summarized as follows:

#### **I. The Disputed Domain Name is identical or confusingly similar to a trade mark or service mark to which the Complainant has rights**

- (a) The 1<sup>st</sup> Complainant, Cheung Kong (Holdings) Limited (“长江实业(集团)有限公司”), formerly known as Cheung Kong Real Estate Company Limited / Cheung Kong Real Estate & Investment Company Limited (長江地產有限公司), is the flagship of the Cheung Kong Group (“长江集团”), the leading Hong Kong based multinational conglomerate.
- (b) The 1<sup>st</sup> Complainant, was established on 8 June 1971 by Mr. Li Ka Shing, the tycoon who ranks 11th on Forbes Billionaires List 2008. The 1<sup>st</sup> Complainant is listed on the Hong Kong Stock Exchange and in Hong Kong alone, members of the Cheung Kong Group (“长江集团”) include the 1<sup>st</sup> Complainant (stock code: 0001), Hutchison Whampoa Limited (stock code: 0013), Cheung Kong Infrastructure Holdings Limited (stock code: 1038) and Hongkong Electric Holdings Limited (stock code: 0006), which are all constituent stocks of the Hang Seng Index; Hutchison Telecommunications International Limited (stock code: 2332), Hutchison Harbour Ring Limited (stock code: 0715) and TOM Group Limited (stock code: 2383), which are companies listed on the Main Board of the Hong Kong Stock Exchange; and CK Life Sciences Int'l., (Holdings) Inc. (stock code: 8222), a company listed on the Growth Enterprise Market. Based in Hong Kong, businesses of the Cheung Kong Group (“长江集团”) encompass such diverse areas as property development and investment, real estate agency; estate management; ports and related services; telecommunications; hotels; retail; energy; infrastructure; finance; e-commerce; building materials; multimedia and life science. The combined market capitalization of the Cheung Kong Group’s Hong Kong listed companies amounted to HK\$817 billion as at 30 June, 2008. The Cheung Kong Group operates in 57 countries and employs about 260,000 staff worldwide. Mr. Li Ka Shing is a strong believer in synergy-the power of combined efforts. This is reflected in his naming the 1<sup>st</sup> Complainant after the Yangtze River (扬子江 or 长江) that flows through China, a great river that aggregates countless streams and tributaries.
- (c) The 1<sup>st</sup> Complainant is mainly a property development and strategic investment company and it is one of the largest developers in Hong Kong of residential, commercial and industrial properties. About one in seven private residences in Hong Kong were developed by the 1<sup>st</sup> Complainant.
- (d) In China, the 1<sup>st</sup> Complainant has also invested in a lot of important real estate development projects including being the largest shareholder of the project “Oriental Plaza”, the most prestigious project in the middle of downtown Beijing with project value of HKD7,000 million and covering a total gross floor area of 920,000 meter square. In addition, the 1<sup>st</sup> Complainant has in 1994 purchased “Lido Place” in Beijing, a commercial/residential complex that accommodates a large number of Beijing's expatriate community and multinational companies.
- (e) Pursuant to the enormous effort put by the 1<sup>st</sup> Complainant in its businesses and excellent quality of the 1<sup>st</sup> Complainant’s real estate development and services in Hong Kong and China, the 1<sup>st</sup> Complainant has won the following awards: -

### **Hong Kong**

<u>Awards</u>	<u>Organizer</u>	<u>Nature</u>
1998-99 REVIEW 200: Asia's Leading Companies Award – ranked No.3 of “Top 10 Hong Kong Companies doing Business in Asia”	Far Eastern Economic Review	Organizer invited subscribers to choose the leading companies from 525 Asia and International companies.
1999 World Most Recommended Real Estate Development Company	PricewaterhouseCoopers	Organizer conducted survey on 754 CEO from state-owned enterprise, large-scale incorporations, self-owned companies and listed companies of 715 countries to elect the world most recommended enterprises in different sectors.

## China

<u>Awards</u>	<u>Organizer</u>	<u>Nature</u>
1998 Asia's Best Managed Companies Award (Mainland & Hong Kong)	Asiamoney	Organizer invited 250 fund managers from 150 institutional investors worldwide to nominate the best managed companies.
2001 China Best Quality Services and Brands: the Best Real Estate Developer	Capital	Organizer aimed to praise companies which were rapidly expanding the China market and which have contributed a lot to mainland economy.

- (f) The 2<sup>nd</sup> Complainant, a member of the Cheung Kong Group “长江集团”, was incorporated on 3 May 1998 in Hong Kong. After the building was completed in 1999, part of the building was used as the headquarters of the Cheung Kong Group “长江集团”. The 2<sup>nd</sup> Complainant was incorporated by the Cheung Kong Group to manage and administer all affairs relating to Cheung Kong Center. The 1<sup>st</sup> and 2<sup>nd</sup> Complainants are hereinafter collectively referred to as “The Complainants”.
- (g) “长江集团” is not only the service mark/trade name adopted by the Cheung Kong Group of which the Complainants form part, they are also the most distinctive part of the trade names/service marks of the 2<sup>nd</sup> Complainant. The Complainants claim rights in the service mark “长江集团”/“Cheung Kong Group”. Since 1980, the Complainant and the Cheung Kong Group began to use “长江集团”/“Cheung Kong Group” as their service marks/trade names.

- (h) Based on the above, the service mark/trade name “长江集团” has been well recognized by the public and trade to be distinctive of and identified with the Complainants and their group of companies but none other. Substantial goodwill and reputation has subsisted in the service marks/trade names “长江集团”/“Cheung Kong Group”. One can also find countless publications and reports on the Internet about the Complainant and its group of companies by reference to the service marks/trade names “长江集团” and “Cheung Kong Group”. As such, the Complainants undoubtedly have rights in the service marks “长江集团” and “Cheung Kong Group”. With the addition of the two Chinese characters “香港” in front of the service mark “长江集团”, this undoubtedly refers to the Cheung Kong Group of which the Complainants form part.
- (i) Further, on 20 September 2006, the 1<sup>st</sup> Complainant registered the domain name “长江集团.公司”.
- (j) The major part of the Disputed Domain Name “香港长江集团” is identical to the service marks/trade names of the Complainants and their group of companies.

## **II. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name**

- (a) The Respondent is not in any way related to the Complainants, nor was the Respondent authorised by the Complainants to use the mark “长江集团” or “香港长江集团”.
- (b) On or before the registration date of the Disputed Domain Name i.e. 28 September 2006: -
- a. The Complainants and their group of companies have widely used “长江集团” as the service mark/trade name;
  - b. Substantial goodwill and reputation subsisted in the service mark/trade name “长江集团”;
  - c. The service mark/trade name “长江集团” has been identified by the public as the service mark/trade name of the Complainants and their group of companies and none other;
  - d. The 2nd Complainant was incorporated with a business name incorporating the Chinese characters “长江集团”;
  - e. The 1st Complainant has registered the domain name “长江集团.公司”; and
  - f. The Complainants are using the services mark/trade name “Cheung Kong Group” and the Disputed Domain Name is a translation of “Cheung Kong Group”.

- (c) As such, the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

### **III. The Disputed Domain Name has been registered and is being used in bad faith**

- (a) The Complainants' service mark/trade name “长江集团” has been used in Hong Kong and China respectively for more than 30 and 10 years before the registration date of the Disputed Domain Name and has a very strong reputation in Hong Kong and China. Undoubtedly, the Complainants have prior rights in service mark/trade name “长江集团”. As such, it could not be a coincidence for the Respondent to register a domain name which is identical to the Complainants' mark and name “长江集团” taking into account that the Respondent has never had any rights or legitimate interests in the said mark/name. It is believed that the Respondent registered the Disputed Domain Name in order to confuse the public that the Respondent's act is authorized by the Complainants. It is clear that the Respondent had acted in bad faith when it made the application for the registration of the Disputed Domain Name in 2006.
- (b) The Complainants are also aware that apart from the Disputed Domain Name, the Respondent has also registered the domain names “香港长江集团.中国”、“香港长江集团.公司”、“香港长江集团.网络”、“香港长江集团.com”、“香港长江集团.net” and Internet Keyword “香港长江集团”. The bad faith of the Respondent is obvious in obtaining registrations of a batch of domain names and Internet Keywords to which he has no rights whatsoever.
- (c) The Complainants noted that the Disputed Domain Name was connected to a page showing the contact particulars of the Respondent. This indicates that the registration of the Disputed Domain Name has no purpose other than to create confusion that such registration is endorsed by the Complainants or the re-directed site is in any way related to the Complainants.

#### **B. Respondent**

The Respondent failed to submit a Response to the Complaint within the specified time period.

### **5. Findings**

Paragraph 15(a) of the 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 requires that the Complainant should prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- i. the domain name registered by the Respondent 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 domain name has been registered and is being used in bad faith.

#### **A) Identical / Confusingly Similar**

The evidence submitted by the Complainants shows that the Complainants own the trademark “长江集团”. The initial two Chinese characters of the Disputed Domain Name, “香港” (Hong Kong) is a geographical term or identifier. The addition of the two Chinese characters “香港” in front of the service mark “长江集团” unambiguously refers to the Cheung Kong Group (“长江集团”), which is the leading Hong Kong based multinational conglomerate, of which the Complainants form part. By contrast, this Panel is unable to discern that the Respondent, who has defaulted in these proceedings, has any connection whatsoever to the city of Hong Kong. Further, the suffix “.cc” indicates that the domain name is registered under the country code top-level domain (ccTLD) for the Cocos (Keeling) Islands, and is not distinctive. Accordingly, this Panel finds that the major part of the Disputed Domain Name, “长江集团”, is identical to the Complainants’ service marks/trade names.

The Panel therefore holds that the Complaint fulfills the condition provided in Paragraph 4 (a)(i) of the Policy.

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

The Complainants contend that the Respondent does not have rights to or legitimate interests in the Disputed Domain Name. The Complainants’ assertion is sufficient to establish a prima facie case under Policy 4 (a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests. The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the Disputed Domain Name.

The Panel therefore finds that the Complaint fulfills the conditions provided in Paragraph 4(a)(ii) of the Policy.

#### **C) Bad Faith**

The Complainants’ service marks/trade names “长江集团中心物业管理有限公司”, “长江集团” and Cheung Kong Group have been used in Hong Kong and China, respectively, for more than 30 and 10 years before the registration date of the Disputed Domain Name and have a very strong reputation in Hong Kong and China. Undoubtedly, the Complainants have prior rights in the service marks/trade names “长江集团” and “长江”. As such, it could not have been a coincidence, and this Panel finds that it was not mere coincidence, that the Respondent registered a domain name that is identical to the Complainants’ mark/name “长江集团”, taking into account that the Respondent has never had any rights or legitimate interests in the said mark/name. The Panel finds that the Respondent registered the Disputed Domain Name in order to confuse the public that the Respondent’s website is related to or authorized by the Complainants and that the Respondent acted in bad faith

when it made the application for the registration of the Disputed Domain Name in September 2006.

The Disputed Domain Name was not put into active use by the Respondent and was merely linked to a webpage providing the Respondent's contact particulars. This indicates that registration of the Disputed Domain Name has no purpose other than to create confusion that such registration is endorsed by the Complainants.

Information proffered by Complainants that the Respondent has also registered the domain names “香港长江集团.中国” (Hong Kong Cheung Kong Group.cn), “香港长江集团.公司” (Hong Kong Cheung Kong Group.co), “香港长江集团.网络” (Hong Kong Cheung Kong Group.net), and “香港长江集团.com” (Hong Kong Cheung Kong Group.com), and “香港长江集团.net” (Hong Kong Cheung Kong Group.net), and Internet Keyword “香港长江集团” (Hong Kong Cheung Kong Group), domain names and Internet Keywords to which Respondent has no rights whatsoever, provides additional and persuasive, albeit cumulative, evidence of the Respondent's bad faith.

In conclusion, the Panel finds that the Respondent has registered and used the domain name in bad faith. Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4 (a) (iii) of the Policy.

## **6. Decision**

Having established all three elements required under the ICANN Policy, the Panel

concludes that relief should be granted. Accordingly, it is ordered that the <香港长江集团.cc> domain name should be TRANSFERRED from the Respondent to the Complainants.

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David Kreider  
Sole Panelist

Dated: 11 December 2008