



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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Decision Submission

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Decision ID	DE-0800143
Case ID	CN-0700174
Disputed Domain Name	www.欧莱雅.net
Case Administrator	xiechangqing
Submitted By	Guangliang Tang
Participated Panelist	

Date of Decision	04-01-2008
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The Parties Information

Claimant	L' OREAL
Respondent	Zhongshan Xiaolan Town Jinxing Hardware Products Factory

Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on September 29, 2007. Then, the Center transmitted by email to MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE (the Registrar of the domain name) a request for registrar’ s verification in connection with the domain name at issue. On October 25, 2007, MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE transmitted by email to the Center its verification response confirming that the domain name at issue was registered by him and the Respondent is listed as the registrant. The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) and the Centre’ s Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).In accordance with the Rules, paragraphs 2(a) and 4(a), the Center transmitted the complaint to the Respondent on November 19, 2007. On November 27, 2007, the Center sent the Notifications of Commencement of Proceedings to the Parties and the Registrar. Till December 18, 2007, the last day of the fixed period of Response, no submission came from the Respondent. On the same date, the Center noticed the Parties that, as there’ s no response from the Respondent, the case administrator would appoint the Panel shortly, and the case would be decided by default.The Center appointed Tang Guangliang as the sole panelist in this matter on December 20, 2007 after receiving a Statement of Acceptance and Declaration of Impartiality and Independence as required by the Center to ensure compliance with the Rules, paragraph 7. Then the Center transferred all the case materials to the panel and asked the panel to submit a decision before January 3, 2008.

Factual Background

For Claimant

According to the statements in the Complaint, the Complainant L’ OREAL was founded in 1907 with its headquarters in Paris by a French chemist named Eugene Schueller who invented the first synthetic hair dye of the world. At present, L’ OREAL has become the largest cosmetic group in the world which is listed in FORTUNE 500, with its products covering body lotion, sun block, hair care and hair dyes, makeup, perfume, sanitary utensils, cosmetics sold only in pharmacy and skin care products with adjuvant treatment for skin disease.In this case, the Complainant empowered Qin Huimin as an agent.

For Respondent

The Respondent is Zhongshan Xiaolan Town Jinxing Hardware Products Factory, the address of whom is Wenfeng Industrial Estate, 14 Village, East District, Xiaolan Town, Zhongshan, Guangdong, China 528400. As there has no response received, no further information about the Respondent known to the Panel.

Parties' Contentions

Claimant

The assertions of the Claimant includes—(1) The Complainant has legitimate rights over “欧莱雅” for the following reasons:(I) The Complainant enjoys the exclusive right to use the trademark “欧莱雅” “欧莱雅” is the Chinese translation of “L’ OREAL” as well as the main part of the Complainant’s trade name in Chinese. Since 1998, the Complainant has registered lots of trademarks for “欧莱雅” and “莱雅” in respect of designated goods or service in Classes 3, 25, 35 and 42 in China. Thus, The Complainant enjoys exclusive right to use the registered trademark “欧莱雅” . The form below shows the situation of the registration of the trademark “欧莱雅/L’ OREAL” .Trademark

Registration Date	Registration Number	Class	Designated Goods or Service	Expiration Date
L’ OREAL欧莱雅	2/21/1998	1152301	3 perfume, toilet water etc.	2/20/2008
L’ ORÉAL欧莱雅	3/7/1999	1252128	3 perfume, toilet water etc.	3/6/2009
L’ OREAL莱雅	5/20/1990	519527	3 perfumes, makeup preparation etc.	5/19/2010
欧莱雅	7/14/2001	1600291	3 Cosmetics, makeup preparation etc.	7/13/2011
欧莱雅	4/14/2001	1553400	25 babies’ pants, bathing suits etc.	4/13/2011
欧莱雅	9/7/2001	1631783	35 advertising, accounting etc.	9/6/2011
欧莱雅	12/21/2000	1495720	42 beauty salons, hair dressing salons etc.	12/20/2010

At present, the above-mentioned trademarks are all valid. Furthermore, the Complainant has also registered the trademark “欧莱雅” in relevant classes in Hong Kong, Taiwan and Singapore. (II) The Complainant owns right to the use of the trade name for “欧莱雅” “欧莱雅” is the Chinese translation of “L’ OREAL” as well as the main part of the Complainant’s trade name in Chinese. Especially, the subsidiary company of the Complainant in China was called as L’ OREAL (China) Co., Ltd. So, the Complainant owns right to the use of the trade name for “欧莱雅” .

(III) The Complainant owns various domain names with “欧莱雅”, “莱雅” or “巴黎欧莱雅” The Complainant and its Chinese subsidiary company, “L’ OREAL (China) Co., Ltd.” and “Maybelline (Suzhou) Cosmetics Co., Ltd. Shanghai Branch”, have registered a series of domain names relating to “欧莱雅”, “莱雅” and “巴黎欧莱雅”, such as “欧莱雅.中国”, “欧莱雅.公司”, “莱雅.中国”, “巴黎欧莱雅专业美发.中国”, “巴黎欧莱雅.net”, “巴黎欧莱雅.net”, as well as CNNIC keywords “欧莱雅”, “巴黎欧莱雅” and “巴黎欧莱雅专业美发” .

Therefore, the Complainant enjoys the right for “欧莱雅” in Internet.(IV) The trademark “欧莱雅” owned by the Complainant has high reputation in China, which has been recognized as well-known trademark In 2006, the well-known status of the trademarks “L’ OREAL” and “欧莱雅” owned by the Complainant was recognized by SAIC (State Administrative of Industry &Commerce) .(2)The main part of the disputed domain name “欧莱雅.net” registered by the Respondent is identical with the Complainant’s trademark “欧莱雅” in pronunciation and appearance, thus they are likely to cause confusion among consumers.(3)The Respondent does not enjoy any legitimate rights or interests for the registered domain name “欧莱雅.net” . The Respondent does not enjoy the exclusive right to use the trademark “欧莱雅” or “L’ OREAL” ;The Complainant has never authorized or licensed the Respondent to use the trademark “欧莱雅” , and never transferred the trademark “欧莱雅” to the Respondent. As far as the Complainant knows, the Respondent has never obtained authorization or license of the trademark “欧莱雅” from any channel;Upon

investigation, the registrant of the disputed domain name is neither employee of the Complainant, nor person whom the Complainant authorized to register the disputed domain name. And, there is not any entrustment or cooperation relationship between the Complainant and the Respondent;Upon investigation, the Respondent has never used the disputed domain name actually.To sum up, the Respondent does not enjoy any legitimate rights or interests for the registered domain name “欧莱雅.net” .(4)The Respondent has registered the disputed domain name in bad faith.As a well-known trademark owned by the Complainant, “欧莱雅” has become familiar to the customers, and been loved by them through long-term use, numerous advertisements and wide registration. You could see products bearing the trademark “欧莱雅” in any countries of the world. Meanwhile, “欧莱雅” is also the trade name of the Complainant’s Chinese subsidiary company, which has strong distinctiveness. Thus, the Respondent should know the Complainant’s famous brand “欧莱雅” . However, under the situation of knowing high reputation of the Complainant’s brand “欧莱雅” , the Respondent still registered the disputed domain name, the registration of which is very vicious.As it is known to all, the registered domain name could achieve its function and value only after having connected to specific website. But upon investigation, it is found that the Respondent has not actually used or prepared to use the disputed domain name after registering. While visiting the website bearing the disputed domain name, it shows that this website is inactive. It can prove that the disputed domain name has not been used up to now. In addition, the Respondent is

a natural person and has no relationship with “欧莱雅” . The Respondent is neither employee of the Complainant, nor person whom the Complainant authorized to register the disputed domain name. And, there is not any entrustment or cooperation relationship between the Complainant and the Respondent. Thus, the Complainant has sufficient reason to

believe that the purpose of the Respondent in registering the disputed domain name is for preventing the owner of the trademark “欧莱雅” from reflecting its trademark in a corresponding domain name. The above facts prove that the act of the Respondent in registering the disputed domain name is not accidental, but vicious. Thus, the act of the Respondent has fallen into the circumstances of bad faith provided in Section (ii) of Item b of Article 4 of “Uniform Policy for Domain Name Dispute Resolution”, namely, “you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct”. According to the provisions of the Rules for Uniform Domain Name Dispute Resolution Policy and in view of the above reasons, the Complainant requests the Panel to rule that the disputed domain name be transferred to the Complainant.

Respondent

The Respondent has not asserted any claims, defenses or contentions.

Findings

Under paragraph 4 (a) of the Policy, the Panel should be satisfied that:

- (i) The domain name is 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) The domain name has been registered in bad faith;
- (iv) The domain name is being used in bad faith.

Identical / Confusingly Similar

The Panel finds that the Complainant has established ownership of the trademark “欧莱雅”, as well as trade name and domain name incorporating the same word. The validity and fame of this trademark are beyond dispute.

While the identification part of the disputed domain name is also “欧莱雅”, which has no difference with the Complainant’s trademark and trade name, the Panel agrees with the Complainant that the main part of the disputed domain name “欧莱雅.net” registered by the Respondent is identical with the Complainant’s trademark “欧莱雅” in pronunciation and appearance, thus they are likely to cause confusion among consumers.

Rights and Legitimate Interests

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the trademark “欧莱雅”, or there was any association between the trademark “欧莱雅” and his activities before registering the domain name. Given that the Respondent has not provided any evidence to support a right or legitimate interest in the domain name, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Bad Faith

The trademark “欧莱雅” is generally known to the world, and well-known in China. As the trademark had been promoted widely through kinds of activities and media, it is presumable that the Respondent knew about its existence when registering the disputed domain name. As no argument has been submitted by the Respondent in order to counter those findings, the Panel concludes that the domain name has been registered in bad faith.

Status

www.欧莱雅.net

Domain Name Transfer

Decision

Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, this Panel orders that the domain name “欧莱雅.net” be transferred to the Complainant.

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