



## ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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### Decision Submission

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Decision ID	DE-0900226
Case ID	CN-0900248
Disputed Domain Name	www.buyepsonink.com
Case Administrator	Xinmin Cui
Submitted By	Hong Xue
Participated Panelist	
Date of Decision	30-03-2009

### The Parties Information

<b>Claimant</b>	SEIKO EPSON CORPORATION
<b>Respondent</b>	Dong DaoZhou

### Procedural History

On January 21, 2009, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”), in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “ADNDRC Supplemental Rules”).

On January 21, 2009, the Centre confirmed receipt of the Complaint. On January 22, 2009, the Centre forwarded a copy of the Complaint to the Registrar of the domain name in dispute, GoDaddy.com, Inc.

On February 11, 2009, the Centre received the Registrar’s confirmation of registration information of the domain name in dispute.

On February 12, 2009, the Centre sent the Transmittal of Complaint to the Respondent.

On February 17, 2009, the Centre notified the Complainant that the Complaint had been confirmed and forwarded, and the Centre notified the Respondent, the Registrar and ICANN of the commencement of the case proceeding.

On March 11, 2009, the Centre notified the parties that the Respondent had not submitted the Response within the required period and that the case would be decided by default.

On March 12, 2009, the Centre gave notice to the potential candidate of the Panelist Ms. Xue Hong, requesting her to confirm whether she would accept the appointment as a Panelist for this case, and if so, whether she could maintain impartiality and independence between the parties in this case. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Xue Hong on March 13, 2009, the Centre informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panel on the same day.

The Panel finds that it was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

The Panel does not receive any further requests from the Complainant or the Respondent regarding other submissions, waivers or extensions of deadlines.

The language of the proceeding is English, as being the language of the Domain Name Registration and Service

Agreement, pursuant to Paragraph 11(a) of the Rules, and also in consideration of the fact that there is no express agreement to the contrary by the Parties.

## Factual Background

### For Claimant

The Complainant is Seiko Epson Corporation, located at 3-5 Owa 3-chome, Suwa-shi, Nagano-ken, 392-8502 Japan. Since established in 1942, the Complainant has been producing printers and other products. The Complainant's trademark EPSON was first registered in 1975 in Japan. In China, the Complainant's EPSON mark was first registered in 1989. All these registrations are legitimate and valid.

### For Respondent

The Respondent is Dong Dao Zhou, residing at Wuxi, Jiangsu 214000, China. The Respondent registered the disputed domain name "buyepsonink.com" on November 29, 2008.

## Parties' Contentions

### Claimant

The Complainant, SEIKO EPSON CORPORATION, is a well-known global company established in 1942 in Japan. Its main products include information products such as printers, projectors, consuming materials and so on; electronic equipment products such as semi-conduct, LCD, Quartz Crystal Oscillator and so on; high precision products such as watches and so on. In 2003, the Complainant had 84,889 employees and sales reached JP ¥1.4132 billion.

The Complainant began to invest in China in 1984 and has established several sole or joint subsidiary companies. It has 18 enterprises and research institutions with 32,897 employees in China. Its investment in China amount to RMB 5.76 billion. The Complainant owns the world's biggest factory producing printer and Quartz Crystal Oscillators in China. In 2003, its total output value was RMB27.4 billion, and its sales in China were RMB 7.67 billion. In addition, the Complainant is the main supplier of printer products in the Chinese market, and Epson Printer enjoys a high reputation among consumers and gains numerous awards and honors by authorized professional media.

(1) The disputed domain name is confusingly similar to the trademark "EPSON" of the Complainant.

"EPSON" is the trademark created by the Complainant. In Japan, the trademark "EPSON" was registered in 1975 and has been registered in all classes 1~45. It has been recognized as a well-known trademark in Japan for many years. In China, the trademark "EPSON" was first registered in 1989 and has been registered in class 7, class 9, class 10, class 11, class 14, class 16, class 17, class 21, class 26, class 38, class 40 and class 42. These trademarks are still valid. Furthermore, the Complainant also has registered the trademark "EPSON" in different classes in different countries, such as America, Germany, etc. In all, the Complainant has registered "EPSON" trademark for 1,157 times (in various classes) in 273 countries in the world. In all 273 countries, the "EPSON" trademark is registered in Class 9. This class of commodity is: LINE PRINTERS, PRINTERS, MAGNETIC DRUMS, MARKED CARD READERS, PAPER TAPE PUNCHERS, PAPER TAPE READERS, CASH REGISTERS AND PARTS THEREOF.

The complainant is the register and owner of the trademark "EPSON" and has used "EPSON" as a trademark for 33 years. Owing to excellent management and extensive promotion, products and services, the "EPSON" brand is a leading brand around the world. Moreover, in 2007, the trademark "爱普生EPSON" owned by the Complainant was granted "well-known trademark" status in China.

The Complainant has registered plenty of domain names including "EPSON" in China and through the world. Using the "EPSON" name, the Complainant has established plenty of websites in different countries and regions, such as: www.epson.co.jp (Japan); www.epson.com (America); www.epson.com.hk (Hong Kong); www.epson.com.tw (Taiwan); www.epson.fr (France); www.epson.de (Germany), etc. The Complainant has registered over 70 domain names containing "EPSON", the list of these domain names is attached to this complaint. In sum, "EPSON" is the registered trademark of the Complainant. The Complainant thus has undisputed prior right to "EPSON".

The disputed domain name consists of "BUY", "EPSON" and "INK". "EPSON" is the well-known trademark and trade name of the Complainant. "BUY" is a simple English word meaning "purchase", and its Chinese translation is "购买". "INK" is also a simple English word with the Chinese translation of "油墨、墨水". And as used for printing, ink is related to printers, which are the most famous products of the Complainant. The combination of these three words will cause confusion among the internet users who may easily misunderstand that this domain name has some relation with the EPSON Corporation or its products. Accordingly, the domain name is confusingly similar to the trademark "EPSON" owned by the Complainant. This use of the "EPSON" trademark affects the prominence of the trademark infringing on the rights of the Complainant.

(2) The registrant has no rights or legitimate interests with respect to the domain name.

“EPSON” is a trademark and trade name originally created by the Complainant. The Complainant has registered the trademark EPSON in a lot of countries. And its corporation name includes “EPSON”, it is beyond question that the complainant has prior right to “EPSON”.

The registrant has nothing to do with the Complainant, and there is no association between the trademark and his activities before registering the domain name. The complainant has never authorized the registrant to use “EPSON” by any means. Besides these, the registrant registered the disputed domain name on Nov. 29, 2008, much later than the date when the Complainant registered the trademark or its style.

So the registrant should be considered as having no rights or legitimate interests with respect to the domain name.

(3) The domain name has been registered in bad faith.

The trademark “EPSON” is famous throughout the world, and was granted “well-known trademark” status in September 2007 in China, and the disputed domain name was registered on Nov. 29, 2008, much later than the date when the Complainant registered the trademark “爱普生EPSON”, and the time when “爱普生EPSON” is well-known.

As the trademark “EPSON” owned by the Complainant has a high reputation in China, the registrant should have clearly known the existence of this famous trademark. But the registrant still intended to confuse the consumers so as to gain improper interests. The registrant set up the website of “www.buyepsonink.com” by the use of this disputed domain name. And there is a title on the upper side of this website which is “Before buying ink, we recommend that you select your printer to get ink types suitable for your printer model”. In item 1, “Choose Your Printer Brand”, there is the “EPSON” brand on the option list. However, the Complainant has never authorized the registrant to conduct any business related to the “EPSON” brand. In addition, there is information related to other brands, such as HP, etc. In view of Epson’s popularity in China, we hold that the registrant intentionally confused the difference between the registrant and the Complainant so as to mislead the public and gain improper interests.

Accordingly, the disputed domain name “EPSON” should be seen as having been registered in bad faith.

The Complainant requests that the domain name be transferred from Respondent to the Complainant.

### Respondent

The Respondent did not submit a response.

### Findings

#### Identical / Confusingly Similar

Pursuant to Paragraph 4(a)(i) of the Policy, a Complainant must prove that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The domain name in dispute is <buyepsonink.com>. Apart from the gTLD suffix “.com” that has no differentiating function, the domain name registered by the Respondent is “buyesponink”, which consists of the words “buy”, “espon” and “ink”. “Epson” is the Complainant’s registered trademark in China and other countries. When the generic terms “buy” and “ink” are combined with the Complainant’s trademark “EPSON”, they imply connection to the Complainant’s products of printers marked by “EPSON”. It’s been established by the prior decisions made in accordance with the Policy that the addition of a generic word to the complainant’s mark in a disputed domain name does not preclude the findings of confusing similarity. Where the word added relates to the complainant’s business, it is even more likely to find confusing similarity to the complainant’s mark (See L.F.P., Inc v. Hotpics International, NAF Case No. FA0204000109576; Marriott International, Inc. v. CafÉ au lait, NAF Case No. FA0002000093670).

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark “EPSON”, and the Complainant has proven paragraph 4(a)(i) of the Policy.

#### Rights and Legitimate Interests

The Complainant asserted that the Respondent had no rights or legitimate interests in the disputed domain name and, as stated above, the Respondent did not provide any information to the Panel asserting any right or legitimate interest it had in the disputed domain name.

It is apparent from the Complaint that there is no connection between the Respondent and the Complainant or its business. There is no evidence whatsoever before the Panel that any of the situations described in paragraph 4(c) of the Policy applies in the case of the Respondent. The lack of a Response constrains the Panel to draw the inference otherwise.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has proven paragraph 4(a)(ii) of the Policy.

## Bad Faith

It is proven by the Complainant that the website established at the disputed domain name “buyesponsink.com” by the Respondent is used to sell the products of ink or other consumptive materials for printers produced by the Complainant and other competitors. The Complainant’s trademark “EPSON” is showed, along with the other competitive brands, on that website.

The Respondent’s act of using a domain name that is confusingly similar to the Complainant’s trademark to attract Internet users to a website that merchandizes the products closely related to the Complainant’s products on which the trademark is used is very likely to mislead Internet users that the Complainant provides, sponsors, affiliates or endorses the products sold on the Respondent’s website at the disputed domain name. The Respondent’s aggregation of the Complainant’s trademark “EPSON” with the other competitive brands, such as “HP” or “Canon” on the merchandizing website at the disputed domain name, not only confuses the sources of goods but dilutes the distinctiveness of the Complainant’s trademark.

The Panel finds that the Respondent has the bad faith of registering and using the disputed domain name prescribed in paragraph 4(b)(iv) of the Policy, i.e. by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product on the website. The Complaint has thus proven paragraph 4(a)(iii) of the Policy.

## Status

www.buyepsonink.com                      Domain Name Transfer

## Decision

The Complainant has established each of the three requirements set forth in the Policy paragraph 4(a). In accordance with paragraphs 4(i) of the Policy and paragraph 15 of the Rules, the Panel therefore decides that the registration of the disputed domain name “buyepsonink.com” be transferred from the Respondent to the Complainant.

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