



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

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### Decision Submission

English Print

Decision ID	DE-0900252
Case ID	CN-0900272
Disputed Domain Name	www.riotintosteel.com
Case Administrator	lvyang
Submitted By	Shoukang Guo
Participated Panelist	

Date of Decision	10-09-2009
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### The Parties Information

<b>Claimant</b>	RIO TINTO LONDON LIMITED
<b>Respondent</b>	li cheng

### Procedural History

On June 9, 2009, the Complainant submitted a Complaint in English version to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the "Center"), in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") approved by ICANN, and Asian Domain Name Dispute Resolution Center Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "ADNDRC Supplemental Rules").

Then, the Center transmitted by email to SPORT DOMAIN LLC (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue. On June 17, 2009, SPORT DOMAIN LLC transmitted by email to the Center its verification response confirming that, the domain name at issue was registered under its domain registrar, and the Respondent is listed as the registrar.

The Center verified that the Complaint satisfied the formal requirements of the Policy, the Rules, and the Supplemental Rules. In accordance with the Rules, paragraphs 2(a) and 4(a), the Center transmitted the complaint to the Respondent on July 7, 2009.

On July 21, 2009, the Notifications of Commencement of proceedings were notified to the Parties, ICANN and the Registrar. Till August 10, 2009, the last day of the fixed period of Response, no submission came from the Respondent. The Center noticed the Parties that, as there's no response from the respondent, the case administrator would appoint the Panelist shortly, and the case would be decided by default.

Upon receiving the declaration of impartiality and independency and the statement of acceptance from the candidate Panelist, the Center appointed Guo Shoukang as the sole panelist in this matter on August 25, 2009. Then the Center transferred all the case materials to the panel on the day, and asked the panel to submit a decision before September 8, 2009.

### Factual Background

#### For Claimant

The Complainant, RIO TINTO LONDON LIMITED, is a well-known multi-national company established in the United Kingdom. The main part of the disputed domain name, riotinto, is the trade name and trademark of the Complainant.

## For Respondent

The Respondent is li cheng, who registered the disputed domain name on January 8, 2009 through the Registrar. The Respondent made no response in the fixed period of time, and no agent or representative empowered there of in this case.

## Parties' Contentions

### Claimant

1) The main part of the disputed domain name, riotinto, is identical to the trademark and the trade name in which the Complainant has right;

The Complainant is one of world leading mining and exploration companies. It has scale and global presence, operating on nearly every continent. As said above, the Complainant is the owner of the Chinese trademark Registration No. 1219575, RIOTINTO, which was applied for registration in 1997. The international registration No. 909086, RIO TINTO MINETALS, which was extended to China, was applied for in 2006. Moreover, the Complainant has filed 64 applications for registration of "RIO TIONTO" in many classes of goods/services in China. The Complainant and its affiliated enterprises have registered more than 400 "RIO TINTO" trademarks in the world. The main portion of the disputed domain name can be divided into two parts: "steel" generic word concerning the type of the industry, which is also the Complainant's main business; and "riotinto" is just identical with the trade name and trademark of the Complainant. Confusion is easily caused.

2) The registrant has no right or legitimate interest in respect of the domain name;

"RIO TINTO" is the trade name and trademark originally created by the Complainant. The Complainant has registered the trademark RIO TINTO in a lot of countries. And its registered corporation name includes "RIO TINTO". The Complainant has prior right on "RIO TINTO".

The Respondent has nothing to do with the Complainant. The Complainant has never authorized the Respondent to use RIO TINTO by any means. Besides, the Respondent registered the disputed domain name in 2009, much latter than the date when the Complainant used it as its trade name and registered it as trademark. Moreover, the Complainant registered its domain name "riotinto.com" in 1997 and other domain names, much earlier than the disputed domain name.

So the Respondent has no rights and legitimate interests in respect of the domain name.

3) The disputed domain name has been registered and is being used in bad faith;

With founding companies established in 1873 and 1905, Rio Tinto stands today as one of the world's leading mining and exploration companies. It locates mines and processes the earth's mineral resources - metals and minerals essential for making thousands of everyday products that meet society's needs and contribute to improved living standards. The products include aluminum, copper, diamonds, energy products, gold, industrial minerals and iron ore.

Rio Tinto Group is dual-list company trades on both the London Stock Exchange (where it is a component of the FTSE 100 Index) and the Australian Securities Exchange (where it is a component of the S&P/ASX 200 index). As of March 4, 2009, Rio Tinto was the fourth-largest publicly listed mining company in the world, with a market capitalization of approximately \$34 billions, and was listed in Fortune magazine's 2008 Global 500 ranking of largest worldwide companies by revenue at number 263.

Rio Tinto is also long term supplier in China and has benefited from China's rapid growth. In 2007, the sales in China was \$6.0 billion, contribute 18% of the company's 2007 sales.

Since the trademark RIO TINTO is so well-known in the world (including China), it is impossible the Respondent has no idea about the Complainant's existence when registering the domain name. That is to say, the Respondent intentionally used other's trademark in the domain name without permission.

The Complainant found that all the information in the website www.riotintosteel.com is about the company "Shanghai Rio Tinto Steel Co., Ltd (上海励拓钢铁有限公司)". Both the English trade name "rio tinto" and the Chinese name "励拓" are identical with or similar to the counterparts of the Complainant. The Respondent is selling steel products as the Complainant does. The Complainant has received complaints from some customers concerning the confusing information, as the operator of the www.rintintosteel.com did not make delivery after they paid deposit for orders. The Complainant had to make a statement in its website www.riotinto.com to clarify the situation and warn the public.

Pursuant to Paragraph 4 (b) of the Policy, the following circumstances, in particular but without limitation, should be

evidence of the registration and use of a domain name in bad faith: ... (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet user to the web site 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 web site or location or of a product or service on the website or location.

Accordingly, the disputed domain name "rintintosteel.com" should be considered as having been registered and used in bad faith.

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

### Respondent

There's no Response came from the Respondent.

### Findings

#### Identical / Confusingly Similar

According to Article 4 of the ICANN's "Policy", the complainant must approve that three elements have to be presented for support of his complaint.

The first element is that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

Based on the existing documents, the complainant has registered a series of trademark RIO TINTO at the Trademark Office of the People's Republic of China. Such as, No. 1249575 registered the trademark RIO TINTO for Class 6 and the designated goods are "Ordinary metals, ordinary metal alloy, refined and unrefined copper, aluminum, lead, zinc, nickel, tin, iron, non-ferrous metal ores". In addition, an international registration No. 909086, RIO TINTO MINERALS, was extended to China and the designated goods in Class 1 include "Mineral acids for use in industry, borax, boric acid and borates; fertilizers; bauxite; molybdenum compounds; talc(magnesium silicate); phosphates (fertilizers); potash; raw salt; nitrates; magnesium silicate used in the manufacture of fertilizers; sodium chlorite". Moreover, The complainant has filed 64 applications for registration of "RIO TINTO" in many classes of goods/services in China. The complainant and its affiliated enterprises have also registered more than 400 "RIO TINTO" trademarks in the World.

The disputed domain name riotintosteel.com can be divided into two parts. The main part "rio tinto" is identical to the trademark of the complainant "RIO TINTO". Steel is a generic word concerning the type of the industry, which is also the complainant's main business. Therefore, the Panel holds that the disputed domain name riotintosteel.com is confusingly similar to the trademark "RIOTINTO", in which the complainant has rights. The first element, mentioned in Article 4 a of the "Policy", is presented in the complainant.

#### Rights and Legitimate Interests

Article 4 a of the "Policy" provides that the second element has to be presented by the complainant is that the respondent has no rights or legitimate interests in respect of the domain name.

According to the existing information, the complainant has never authorized or licensed the respondent to use RIO TINTO by any means. Besides, the respondent did not respond the complaint up to now. Therefore, the Panel holds that the respondent has no rights or legitimate interests in respect of the domain name. The second element, mentioned in Article 4 of the "Policy", was presented by the complainant.

#### Bad Faith

According to Article 4a of the "Policy", the complainant must prove that the disputed domain name has been registered and is being used in bad faith.

The RioTinto Group, founded in 1873 is a diversified, multinational mining and resources group. Although primarily focused on extraction of minerals, Rio Tinto also has significant operations in refining, particularly for refining bauxite and iron ore. The company has operations on all six inhabited continents and owns gross assets valued at \$81 billion. As of March, 2009 Rio Tinto is the fourth-largest public listed mining company in the world with a market capitalization of approximately \$34 billion, and was listed in Fortune magazine's 2008 Global 500 ranking of largest worldwide companies by revenue at number 263. Rio Tinto is also a long term supplier in China. In 2007 the sales in China was

\$6.0 billion, contribute 18% of the company' s 2007 sales. Especially since 2008, there are a lot of information about Rio Tinto were reported on Chinese newspapers and other media. Many Chinese people know the name of Rio Tinto.

From the situation mentioned above, it is impossible that the respondent has no idea or know nothing about the complainant' s name and existence when registering the disputed domain name. Obviously, the respondent intentionally used the complainant' s trademark in the domain name without permission. Therefore, the Panel holds that the disputed domain name has been registered and is being used in bad faith, and satisfied the last requirement mentioned in Article 4a of the "Policy" .

To sum up, the Panel holds that the complainant has proved that each of the above-mentioned three elements were presented.

#### Status

www.riotintosteel.com                      Domain Name Transfer

#### Decision

Based on the above analyses, the Panel holds that the three elements(requirements) provided in Article 4a of the "Policy" have been presented(satisfied) and decides: the disputed domain name riotintosteel.com be transferred to the complainant.

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