

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

(Beijing Office)

ADMINISTRATIVE PANEL DECISION

Case No. CN-200900324

Complainant: E.I. Du Pont de Nemours and Company

Respondent: TFLhao@zohao.com+86.057762802555

Domain Name: tefloncn.com

Registrar: ONLINENIC, INC.

1. Procedural History

On December 15, 2009, the Complainant submitted a Complaint in Chinese and English versions to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the "Beijing Office"), 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 Disputes (the "Rules") approved by ICANN, and Asian Domain Name Dispute Resolution Center Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "ADNDRC Supplemental Rules").

The Beijing Office transmitted by email to ICANN and the Registrar of the domain name--ONLINENIC, INC. on December 16, 2009, requesting for registrar verification in connection with the domain name at issue.

Till July 27, 2010, the Registrar transmitted by email to the Beijing Office, asking if there was any update about the case. Then the Beijing Office had to sent another email on July 28, 2010, to request for the same information as those listed in the above mentioned email. On the same day, the Registrar transmitted its verification response confirming that, the domain name at issue was registered under its domain registry, and the Respondent is listed as the registrant. The domain name is LOCKED during the pending proceeding.

The Beijing Office 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 Beijing Office transmitted the Complaint to the Respondent on August 23, 2010.

On August 27, 2010, the Beijing Office notified the Complainant by email that the Complaint was reviewed and forwarded to the Respondent and confirmed with the parties, ICANN and Registrar by email that administrative proceeding of the captioned case was formally commenced. The Beijing Office also requested the Respondent to submit a Response within the 20 days of the date of commencement of the proceeding.

On September 14, 2010, the Respondent submitted the Response to the Beijing Office in time. As it was verified to be satisfied the requirements of the Policy, the Rules and the Supplemental Rules, the Beijing Office transmitted the Response to the Complainant on September 27, 2010.

As there was no response from the Respondent about the ranking list of candidates of the Panel, the case should be heard and decided by a Sole Panel. After submitting a confirming email and declaration of impartiality and independency, the candidate Panelist, Mr. Tang Guangliang was appointed as the Sole Panelist.

Then the Beijing Office transferred all the case materials to the Panel on November 3, 2010, and asked the panel to submit a decision on or before November 17, 2010.

2. Factual Background

For the Complainant

The Complainant is E.I. Du Pont de Nemours and Company, who's address is 1007 Market Street, Wilmington, DE U. S. A. The Complainant applied to the Beijing Office, asking the Panel to decide that the domain name at issue transferred to it. In this case, the Complainant empowered Hu Hongliang, Shen Chunxiang as its agent.

For the Respondent

The Respondent is TFLhao@zohao.com+86.057762802555, an abnormal name in the whole world. As there's no other information to prove the true identity thereof, the Panel cannot verify whom he or she is at the time. Fortunately, there was a response came from the email address sale@tefloncn.com, claimed to be the domain name holder and the Respondent of the case. The response prevailed that the true identity of the Respondent is as follow: Zhejiang Teflon Wire & Cable Co., LTD,

Dituan Industry, Wengyang, Yueqing City, Zhejiang Province. In this case, the Respondent had not empowered any person to be agent.

3. Parties' Contentions

The Complainant

According to the Complaint, the assertion of the Complainant includes—

(I) The Complainant owns trademark registration of <TEFLON> or its corresponding Chinese characters such as <特富龍> and <铁氟龙> in countries including China, thus enjoys the exclusive rights over <TEFLON>.

Evidence proved that the Complainant has registered hundreds of trademark in connection with the sign of <TEFLON> or its corresponding characters in different languages, including <特富龍> and <铁氟龙> in Chinese. Except that, the Complainant registered the domain name <teflon.com> on June 13, 1997 and has been promoting its TEFLON® products on website WWW.TEFLON.COM throughout the world since then.

Based on those registration, the Complainant claims to have the right to prohibit others from registering or using a confusingly similar domain name or website.

According to the Complaint, founded in 1802, the Complainant DuPont puts science to work by creating sustainable solutions essential to a better, safer, healthier life for people everywhere. Operating in more than 70 countries, DuPont has more than 79,000 employees throughout the world. Since the 1980s, the Complainant has been active in participating and promoting the economic development of China. At present, the Complainant has 39 wholly owned / joint venture in China and its total investment is more than 800 million U.S. dollars, with about 6,000 employees. Through business activities, the Complainant has become a respected household name in China.

<TEFLON ®> is a trademark which the Complainant has exclusive rights in more than 100 countries and regions and the birth of this mark name is dramatic. In 1938, working at DU PONT laboratory, Dr. Roy Joseph Plunkett inadvertently obtained a white substance whose chemical name was named polytetrafluoroethylene. Such material has excellent chemical stability and a very small friction coefficient, so it has the prospect of a

wide range of applications. Then it was widely used in electronics, radio communications, chemical industry, textile and garment industries.

The Complainant applied for patent right with this new material immediately and got its patent right in 1941. In addition, the Complainant applied for and received a registered trademark <TEFLON ®> in the United States in 1945 covering all fluoropolymer products. After that, the Complainant registered <TEFLON ®> in more than 100 countries and regions including China which cover many fields such as textile products, synthetic resin and rubber materials. The Complainant's registration and use of <TEFLON ®> is much earlier than the registration of disputed domain name. The above facts fully establish that the Complainant has legitimate rights and interests to <TEFLON> mark.

(II) The disputed domain name is confusingly similar to the trademarks to which the Complainant owns prior rights.

The Complainant claims that, the disputed domain name <tefloncn.com> is composed of top-level domain <.com> and a second-level domain <tefloncn>, which is the distinguishing part. Of the second-level domain, <cn> is the abbreviation of China and is not distinctive, while the distinguishing part is <tefloncn>, which is identical with the Complainant's famous <TEFLON ®> trademark in which the Complainant owns prior right and will inevitably mislead the public into believing that the disputed domain name was registered by the Complainant or registered with the Complainant's authorization and that some business association exists between the Complainant and the Respondent. In fact, the Respondent is misleading the public in such a way: The Respondent uses the Complainant's famous mark <TEFLON ®> distinctively as the logo and English name of its affiliated company Zhejiang Teflon Wire & Cable Co., Ltd and <铁氟龙>, Chinese transliteration of the Complainant's famous mark <TEFLON ®> and the Complainant's registered trademark as well to promote its wires and cables, which are similar or even identical with the Complainant's <TEFLON ®> and <铁氟龙®> synthetic resin, natural resin and plastic insulated materials and pipes, etc., on the website the disputed domain name is directed to and its catalogue (Its contact information on the website is the same as that of the registrant on the registration record of the disputed domain name: Wengyang, Yueqing Zhejiang; Tel: 86-577-62802555). In conclusion, the disputed domain name is confusingly similar with the Complainant's registered trademarks.

(III) The Respondent does not have any legitimate right or interest to the disputed domain name.

The Complainant asserts that, <TEFLON®> is a trademark which the Complainant has exclusive rights in more than 100 countries and regions, while the Respondent or its affiliated company “Zhejiang Teflon Wire & Cable Co., Ltd” does not own any trademark registration of <TEFLON>, and its trade name has no relationship with <TEFLON> either. The Complainant never authorized the Respondent to use <TEFLON> trademark or register any domain name or other business mark which contains <TEFLON>. The Respondent has no reasonable grounds for registering <TEFLON> as the disputed domain name, nor has the Complainant discovered any evidence on the Respondent’s using the disputed domain in good faith. Though the Respondent’s affiliated company registered “特富隆” as its trade name, yet it does not mean that it owns any trade name rights to <TEFLON> as, according to Chinese law, trade names of Chinese entities to be approved for registration and to be protected in China should be in Chinese. Further, <特富隆> is not the Chinese transliteration of <TEFLON>. <TEFLON> is a coined word, and <特富隆>, <铁氟龙> and <特富龙> are coined words too. It is after the Complainant created said words, first registered them as trademarks and first used them together on their products that the public began to match TEFLON with <特富隆>, <铁氟龙> and <特富龙>. Therefore, the Respondent does not enjoy any rights to <TEFLON>. That it registered <特富隆> as its trade name and uses <tefloncn> in its English name and the disputed domain just proves that the Respondent knows the Complainant’s famous <TEFLON®> with <铁氟龙®> and <特富龙®> marks and intends to obtain illegitimate benefits by taking the advantage of their good reputation. Therefore, the Respondent enjoys no rights or interests in respect of the disputed domain name.

(IV) The Respondent is in bad faith in registering and using the disputed domain name.

a) The Complainant’s <TEFLON®> is very famous throughout the world including China, and the Respondent’s purpose to register and use the dispute domain name is to obtain illegal commercial gains by taking the advantage of the great popularity and good reputation of the Complainant and its <TEFLON®> mark.

Through advertising, promoting and using worldwide more than 50 years, the Complainant’s <TEFLON®> trademark establishes a very high reputation in many fields including plastic products and is well known by relevant publics. Early in 1999, the Complainant incorporated <TEFLON

®> trademark non-sticking coating factory and corresponding quality administration laboratory and research laboratory of new products in Shenzhen. The factory and laboratories provided services in good quality for the broad manufacturers. On Chinese market, when using the <TEFLON®> trademark, the Complainant also used its transliterated Chinese trademarks <铁氟龙®> and <特富龙®> which were also recognized by Chinese consumers. The Complainant's <TEFLON®> trademark was put into use in many industries and products including cookers, cables, textile products and air industrial equipment. The market investigation report indicated that 45% of Chinese common consumers knew the Complainant's <TEFLON®> trademark. The proportion of audience in Beijing, Shanghai and Guangzhou who were impressed by the Complainant's <TEFLON®> trademark TV ads reached 71%, 54% and 70% .

For years, media in China have been reporting and commenting on the Complainant's <TEFLON®> trademark and products, and the Scientific Research Institutes in China also pays much attention to the technological development of the Complainant's <TEFLON®> products. A lot of reports and articles about the Complainant's <TEFLON®> products could be found on www.cnki.net, an authoritative documentary search website in China. The Chinese public also paid much attention to the Complainant's <TEFLON®> trademark and products. Undoubtedly, the Complainant's <TEFLON®> trademark is very famous throughout the world including China, which is recognized by the Panel of Asian Domain Name Dispute Resolution Center and Domain Name Dispute Resolution Center of CIETAC in their awards on disputes over domain names <teflon-ptfe.com> and <teflon.com.cn>.

As aforementioned, the Complainant has been promoting its <TEFLON®> products since 1997 on its website www.teflon.com, and the public would be readily misled into believing that the website the dispute domain name is directed to is established by the Complainant for Chinese public or associated with the Complainant and, therefore, was confused about the relationship between the Respondent and the Complainant.

In conclusion, the Complainant's <TEFLON®> trademark and products are very famous in related industry and consumers throughout the world including in China, but the Respondent registered it as the disputed domain name knowingly without getting the Complainant's authorization Respondent, and its purpose is obviously to attract Internet users to visit its website by taking the advantage of the great reputation and popularity of the Complainant's <TEFLON®> mark so as to obtain illegal commercial

gains. It registered and uses the domain name in bad faith.

In the case of Imperial Chemical Industries Plc v. Ye Weiping (ADNRC Case No.HK-0700117), the panel believed that the Respondent is in bad faith in registering and using the disputed domain name as it chose the “DULUX” mark which already had a high reputation and good popularity as the main part of the disputed domain name. The same is true with this case.

b) The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website or of a product or service on its website.

As mentioned above, the Complainant uses its <TEFLON®>, <铁氟龙®> and <特富龙®> marks on coatings, paint, and PEP resins, etc., and the Complainant's <TEFLON®>, <铁氟龙®> PEP resins are widely used in cables for its excellent quality and safe performance. Cables insulated with <TEFLON®>, <铁氟龙®> PEP are environmentally friendly and offer rapid and steady data transmission and safety benefits that other cables do not have, and are used in numbers of first-class buildings throughout the world, such as Shanghai Jinmao Center, Beijing International Trade Center, Guangzhou Baiyuan Airport, Dupont China R&D Center and numbers of commercial building in the US, etc., and are well-known to relative public (Exhibit 8: Evidence on the promotion and use of the Complainant's TEFLON® mark). The Respondent established website WWW.TEFLONCN.COM by using the disputed domain name and uses <TEFLON>, <铁氟龙> and <特富隆> on it to promote its cables. As the Complainant provides a wide range of products and services to Chinese consumers through its 39 wholly owned / joint ventures in China including <TEFLON®>, <铁氟龙®> plastic insulated materials, wires and cables and <TEFLON®>, <铁氟龙®> PEP resins used in cables, the Respondent's registration and use of the disputed domain name is likely to mislead consumers into believing that there exists some association between the Respondent and the Complainant. It is obvious that the Respondent has the unfair competition intention of taking the advantage of the disputed domain name to make its products quickly known to consumers.

In conclusion, the Respondent is in bad faith in registering and using the disputed domain name.

Then, the Complainant requests the Panel to decide that the disputed

domain name be transferred to the Complainant.

The Respondent

Instead of providing a formal Response according to the Rules and the ADNDRC Supplemental Rules, the Respondent presented a letter to the Beijing Office as follows:

“First, we can not agree with the content of the statement by the complaints that its content does not respect the fact. Our company did not implement any inappropriate action, please respect the objective reality and legal fact when the complaints state the fact. There is no infringement for our company, the domain name of our company has no dispute with yours.

Second, Zhejiang Teflon Wire & Cable Co., Ltd. is a domestic private enterprise, specializing in the field of technology of high temperature resistance, low temperature resistance, fire resistance, high frequency media, new energy, environmental protection special wire & cable and the research & design development of the application of composite materials for wire & cable. Member of Yueqing Wire & Cable Industry Association, Wenzhou Young Entrepreneurs Association, Consists of fluorocarbon resin wire & cable workshop, rubber wire & cable workshop, radiation crosslinking electronic wire & cable workshop, special wire & cable workshop, wire processing workshop. Now it has become a large-scale production base of special wire in China.

The company has been assessed as "Advanced Enterprise", "Growth Technology Enterprise," "Brand nurturing Enterprise ". Military aviation high-performance radio frequency cable is named as new products by Zhejiang Science and Technology department.

Our company mainly produces XLPE insulated high temperature wire, nylon jacket wire, EPDM rubber insulated wires, fluorine rubber (FPM) cable, teflon control cables, teflon RF cables, teflon computer cables, solar energy machine wire and outdoor wires, wind energy wires, automotive wires, silicone rubber insulated cables, low smoke zero halogen cables, etc., covering military aerospace, automobile, solar energy, wind energy, electronics, weapons, medical, communications, the civil and other fields.

Our company has got the certificated by GB/T19001-2000idtISO9001:2000 quality management system and actively implement ISO/TS16949,

the quality management system of QC080000 and environment management system of ISO14001 and we are planning to get the certificates. The products have get American UL, CUL, German VDE certificates.

Company Philosophy

Company Mission: Committed to scientific and technological progress of cable, to create cable Silicon Valley in China.

Business philosophy: Industry to serve the country, benefit mankind, turn iron to gold (nod Tie Chengjin), Prosperity.

Management philosophy: To be a person with a grateful heart! To do Products with love! To give gratitude With high quality! To make progress 1% every day!

Implementation philosophy of Teflon: If gives promise, must do as the promise, if can not, must report it promptly.

Customer service philosophy: listen to the demands of customers', find the "match" point between supply and demand sides! Act Immediately, no delay!

Therefore our company already has a reputation and product reputation in the industry through our own efforts and scientific management.

Third, in regard to confusing similar between our company domain name and complaints' registered trademark which complaints appeals.

1. the appealing party cites a large number of "teflon" so-called trademark registered information in China in the complaint, but none of the cases is classified in Category 09. Therefore the complaints has not been entitled to so-called trademark "teflon" of Category 09, and they do not have the ownership of trademark "teflon" of Category 09. While the products of our company is included in Category 09.

2. Our company's name Zhejiang Teflon Wire&Cable Co., Ltd. is been through statutory procedures approved and registered by the administrative department for industry and commerce. The company name is protected by law and is TEFLON. Moreover, so-called "teflon" trademark is different categories with the field of our company.

3. About the "TEFLON" trademark situation, for our company is approved by the department of industry and commerce as "铁富隆(TEFLON)" and registered trademark, while " TEFLON " is the combination of TIEFULONG in PINYIN. The trademark we used is purely a coincidence with the "trademark" complained by the appeal, moreover our English name is recorded in Customs. Our company does not take any subjective mistake, while it also reflects that the complaints do not understand the Chinese words with Chinese Pinyin law properly, so where do the dispute about the domain name come from?

4. The items above and the attachments can be the evidences that our company's domain name does not have confusion with the complainant's trademark.

Fourth, about the rights of the domain name and legitimate interests

1. "TEFLONCN" is got through by process of law and registration, our company has ownership of the domain name completely.

2. The complaining party and our company belong to totally different two sectors, there is no competition; our company has nothing to do with the complaining party's reputation. And the complaining company's bad effect and negative report will not cause any adverse effects for us. Therefore where does seeking illegitimate interests maliciously come from brought by the complaining party?

3. the so-called affiliates enterprises the complaining party says is foreign enterprises or joint ventures, while our company is Chinese domestic private enterprises. Domestic and foreign business licenses in China are is significantly different. It is very easy to distinguish for consumers; whether consumers decide to buy our company's products or not, it has nothing to do with the so-called affiliate enterprises brought by the complaining party.

4. Therefore the domain name ownership and legitimate interests brought by the complaining party are not only purely fictitious, but also distortion of law fact

FIFTH, About Malignance

1. "Malignance", "Illegitimate", which are used by foreign companies to go against Chinese enterprises subject to a variety of intellectual property and technical barriers. Now these things are not patent of foreign

companies. It can be fully proved that Chinese enterprises win in many international trade cases. A matter of fact, the complaining party should not think of other enterprises has successfully obtained the company domain names before in China, while unscrupulously taking our legitimate domain to his own. Moreover, should not make the use of adjudication of the previous domain name disputes to demonstrate and launch their own reputation and ownership of the domain name.

2. The complaining party uses the non-existent data to prove his trademark impression and image among consumers. There is suspected of fabricating evidence

3. Our company has enjoyed certain well-knownness and reputation. The registration of domain name comes out of the Chinese phonetic alphabet of company name and registered trademark, therefore, how does "Malignance " come from which the complaining party are talking about.

4. Our company invests a lot of manpower and financial resources to promote and publicize the company's image and products at the main platform at home and abroad. Due to these inputs and excellent products' quality and outstanding after-sales service, our company gain good reputation among customers.

Sixth, In summary, our company doesn't admit that the complaints alleged facts legally. Please do the fair arbitration.

Seventh, Items requested:

During the period of arbitration of the dispute , the disputed domain name can't be held out, but it should continue to be used; but now the company's web site has been locked leading to the normal sending and receiving email can't be done so that it seriously affected the normal operations of our company. We request Dispute Center to facilitate and unlock the company's web site.”

4. Findings

As stipulated in the Paragraph 4(a) of the Policy, when claiming dispute to a domain name registered by another, the Complainant must prove each of the following:

(i) That the domain name of the Respondent's is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) That the Respondent has no rights or legitimate interests in respect of the domain name; and

(iii) That the domain name has been registered and used in bad faith.

Based on the relevant stipulations under the Policy, the Rules and ADNDRC Supplemental Rules, to make the Claim to be supported by the Panel, the Complainant needs to satisfy each of the afore-said prerequisites.

Identity or Confusing Similarity

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

According to the Complainant's assertion and evidences presented therewith, the Complainant had registered a hundreds of trademarks with the sign of <TEFLON> or its corresponding characters in different languages. Accordingly, the Panel agreed with the Complainant that before the registration of the disputed domain name, the Complainant had already got the legitimate right.

In its informal response, the Respondent did not deny the similarities between the domain name and the trademark of the Complainant, but hold that the Respondent has legitimate right and interest over the same sign, and the Complainant has no right over the sign in Category 09 of the trademark classifications.

The Panel agrees with the Complainant in this case, that the distinguishing part of the disputed domain name is <tefloncn>, which is composed of two parts, <Teflon> and <cn>. Of the two parts, <cn> is the abbreviation of China which is not distinctive, while <teflon> is identical with the registered trademark <TEFLON>.

Therefore, the Panel holds that, the Complainant satisfies the first prerequisite as set forth in the Policy. That is, the domain name in dispute is confusingly similar to the trademark in which the Complainant has right.

Rights or Legitimate Interests of the Respondent

Paragraph 4(c) of the Policy stipulates how a Respondent can effectively

demonstrate its rights or legitimate interests with regard to the disputed domain name, as an argument against the Complainant's claim.

The Complainant claims that <TEFLON®> is a trademark which the Complainant has exclusive rights in more than 100 countries and regions, while the Respondent or its affiliated company "Zhejiang Teflon Wire & Cable Co., Ltd" does not own any trademark registration of <TEFLON>, and its trade name has no relationship with <TEFLON> either. The Complainant never authorized the Respondent to use <TEFLON> trademark or register any domain name or other business mark which contains <TEFLON>. The Respondent has no reasonable grounds for registering <TEFLON> as the disputed domain name, nor has the Complainant discovered any evidence on the Respondent's using the disputed domain in good faith. Though the Respondent's affiliated company registered <特富隆> as its trade name, yet it does not mean that it owns any trade name rights to <TEFLON> as, according to Chinese law, trade names of Chinese entities to be approved for registration and to be protected in China should be in Chinese. Further, <特富隆> is not the Chinese transliteration of <TEFLON>. <TEFLON> is a coined word, and <特富隆>, <铁氟龙> and <特富龙> are coined words too. It is after the Complainant created the said words, first registered them as trademarks and first used them together on their products that the public began to match <TEFLON> with <特富隆>, <铁氟龙> and <特富龙>. Therefore, the Respondent does not enjoy any rights to <TEFLON>. That it registered <特富隆> as its trade name and uses <TEFLON> in its English name and the disputed domain just proves that the Respondent knows the Complainant's famous <TEFLON®> with <铁氟龙®> and <特富龙®> marks and intends to obtain illegitimate benefits by taking the advantage of their good reputation. Therefore, the Respondent enjoys no rights or interests in respect of the disputed domain name.

As the opposing assertion, the Respondent holds that, its company is approved by the department of industry and commerce as "铁富隆 (TEFLON)" and the same Chinese characters had been registered as trademark. The Respondent asserts that "TEFLON" is the combination of <TIEFULONG> in PINYIN, the trademark they used is purely a coincidence with the Complainant's "trademark". Moreover, its English name <TEFLON> is recorded in Customs. The Respondent concludes that <TEFLONCN> is got through by process of law and registration, the respondent's company has ownership of the domain name completely.

The Panel noticed that, the Respondent had registered and used its

company name and trademark with the sign <铁富隆> in Chinese characters, and deposited a corresponding English name <TEFLON> in the Customs. The evidence provided by the Respondent reveals that the Respondent ever made commercial contracts in the name of “Teflon Wire & Cable Co. LTD. ”.

Considering the origin and history of the sign <TEFLON>, and the public awareness, the reputation of the trademark, taking into account of the evidences and assertion of the Parties, the Panel holds that, only company name registration cannot be regarded as “right” in intellectual property and civil sense, while the Customs deposition and commercial use are conducted solely by the Respondent itself, which has not effect of right claims. The assertion that <TEFLON> is the composition of <TIEFULONG> in PINYIN is not acceptable in both Chinese and English language.

As there's no other reasonable, convincing and acceptable basis provided by the Respondent, the Panel concludes that, the Complainant has satisfied the second prerequisite of the Policy, that is the Respondent has no rights or legitimate interests in respect of the domain name.

Bad Faith

The Complainant also needs to establish the Respondent's bad faith as set forth in the Paragraph 4(a)(iii) of the Policy. Under Paragraph 4(b) of the Policy, the following circumstances in particular shall be considered as evidence of the registration and use of a domain name in bad faith:

"(i) Circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) 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; or

(iii) You have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your 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 your web site or location or of a product or service on your web site or location."

The Complainant claims that the Disputed Domain Name was registered and is being used by the Respondent in bad faith, the grounds of which include:

a) The Complainant's <TEFLON®> is very famous throughout the world including China, and the Respondent's purpose to register and use the dispute domain name is to obtain illegal commercial gains by taking the advantage of the great popularity and good reputation of the Complainant and its <TEFLON®> mark.

b) The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website or of a product or service on its website.

The Respondent does not agree. According to the informal response, the Respondent asserts that it got the domain name through legitimate registration, and also got reputation by using the company name and trademark. The Respondent claims that their company has enjoyed certain well-knownness and reputation. The registration of domain name comes out of the Chinese phonetic alphabet of company name and registered trademark, therefore, how does <Malignance> come from which the complaining party are talking about. Their company invests a lot of manpower and financial resources to promote and publicize the company's image and products at the main platform at home and abroad. Due to these inputs and excellent products' quality and outstanding after-sales service, their company gain good reputation among customers.

The Panel found that, the Complainant had registered and used the trademark <TEFLON> widely in the world for a long history, which makes the sign and its corresponding characters in different languages, especially <特富隆>, <特弗龙>, <铁富龙> etc. in Chinese also widely known in different market. While the Respondent, as a producer and provider of similar products in the field, has reasonable grounds to know the existence and influence of the trademark, and no reason to register and use similar identifiers in business.

Based on the analysis above, the Panel agrees with the Complainant that the acts of the Respondent fall under the circumstances in Paragraph 4(b)(iv), and shall be considered as evidence of the registration and use of the disputed domain name in bad faith, and thus the Complainant satisfies the third prerequisite under the relevant articles of the Policy.

Taking all the findings and comments in account, the Panel rules that the Complainant fulfills all the conditions provided in Paragraph 4(a)(i)(ii) (iii) of the Policy, thus its claim should be supported.

5. Decision

In light of all the foregoing findings and in accordance with Paragraphs 4(a), 8(a) of the Policy and 5(e) of the Rules, the Panel holds:

- a) That the identifying part of the disputed domain name “tefloncn.com” is confusingly similar to the Complainant's registered trademark “TEFLON”; and
- b) That the Respondent has no right or legitimate interest with regard to the identifying part of the disputed domain name; and
- c) That the domain name was registered and subsequently used in bad faith.

As the final decision, the Panel requires the domain name “tefloncn.com” be transferred to the Complainant.

Sole Panelist:



November 17, 2010