

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

(Beijing Office)

ADMINISTRATIVE PANEL DECISION

Case No. CN-1000395

Complainant: 深圳市富安娜家居用品股份有限公司 (Shenzhen Fuanna
Bedding and Furnishing Co., Ltd.)

Respondent: CDN Properties Incorporated

Domain Name: fuanna.com

Registrar: FABULOUS.COM PTY LTD.

1. Procedural History

On 12 May 2010, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the "ADNDRC 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") on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules"), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "ADNDRC Supplemental Rules"). The Complainant also asked the case to be heard by a one-member panel.

On 14 May 2010, the ADNDRC Beijing Office confirmed the receipt of the Complaint and transmitted by email to ICANN and the Registrar of the domain name in dispute, FABULOUS.COM PTY LTD., a request for registration verification of the disputed domain name.

On 23 November 2010, the ADNDRC Beijing Office received the Registrar's confirmation of registration information of the domain name in dispute.

On 1 December 2010, the ADNDRC Beijing Office sent the Transmittal of Complaint to the Respondent.

On 6 December 2010, the ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded, and

the ADNDRC Beijing Office notified the Respondent, the Registrar and the ICANN of the commencement of the case proceeding.

On 28 December 2010, the ADNDRC Beijing Office sent the Notification of No Response Received and Hearing by Default to the parties.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Xue Hong, on 31 December 2010, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist on 4 January 2011 and asked the panel to forward its decision to the ADNDRC Beijing Office on or before January 18, 2011.

2. Factual Background

For the Complainant

The Complainant Shenzhen Fuanna Bedding and Furnishing Co.,Ltd (深圳市富安娜家居用品股份有限公司) was established in 1994 and has registered the trademark "FUANNA" in China as well as a couple of other countries since 1996.

For the Respondent

The Respondent of this case is CDN Properties Incorporated with address at Calle 50, Torre Global Bank, Piso 18 Panama City, Panama City Panama PA. According to the record in the Whois database, the Respondent's domain name "fuanna.com" was registered on 17 July 2003.

3. Parties' Contentions

The Complainant

(A) The disputed domain name is identical to the Complainant's registered trademarks.

(a) Shenzhen Fuanna Bedding and Furnishing Co.,Ltd (深圳市富安娜家居用品股份有限公司), incorporated under the laws of the People's

Republic of China, was founded in 1994. In China, Fuanna (富安娜) has always dedicated to providing consumers with art of textile art and home lifestyle products. Fuanna has so far had 23 subsidiary companies in Beijing, Shanghai, Guangzhou, Shenzhen, Wuhan, Changsha and other major cities and had more than 1,200 direct stores and joined cabinets in 31 provinces, municipalities and autonomous regions. Fuanna is a leading manufacturer specializing in medium and high class bedding products in China.

(b) “FUANNA” is the English transliteration of the trade name of the Complainant. The Complainant has been using the name in its business activities, trademark applications and patent applications outside China including in English-speaking regions.

“FUANNA” trademark has been registered with the Chinese Trademark Office under Class 24,35,20,28,22,18,12,5,27, in connection with bed clothes, bed covers, quilts, pillowcases, quilt covers, eiderdowns, curtains, bed sheets(No.855400) since 1996. the Complainant also holds trademark registrations for the same mark with other countries and regions’ Patent and Trademark Offices including Britain, Japan, Singapore, Malaysia, Turkey, the US, Russia, Korea, Canada, Australia etc.. In 2009, “富安娜&Fuanna” trademark was identified as the China well-known trademark by State Administration for Industry and Commerce of China. This is the first China well-known trademark in Home Articles field in Shenzhen.

(c) Besides above trade name and trademark rights owned by the Complainant, the Complainant has also registered a number of domain name concerning “fuanna”, including “fuanna.com.cn”, “fuanna.cn”.

In view of the above, we can conclude that the disputed domain name is completely the same as the trade name and trademark of the Complainant.

(B) The Respondent has no rights or legitimate interests in respect of the domain name.

According to our search, the Respondent has not registered any trademark related to “FUANNA”. The Respondent is not running any business that has any connection with “FUANNA” either. And the trade name and address of the Respondent does not have any relationship with “FUANNA”. Therefore, the Respondent does not have any legitimate rights or interests on the domain name.

(C) The disputed domain name was registered and is being used in bad faith.

(a) The Complainant is a famous corporation and enjoys great reputation in Home Articles field in China. Its trademark “FUANNA” and “富安娜 +Fuanna” has become a well-known symbol through extensive use, advertisements, media reports, etc. When searching “FUANNA” by “google” or “baidu”, it will be shown that almost all pages are related with the Complainant. So, it is unreasonable for the Respondent to register this domain name without bad faith in taking extra-advantage from the Complainant.

(b) The disputed domain name was registered on July 17, 2003, and the content of the website linked to the domain name does not have any connection with “FUANNA”. In this website, there is a home page with a link labeled “inquire about this domain” which leads to a page stating the domain name may be for sale, soliciting an offer of purchase. An employee of the Complainant has communicated with the Respondent for purchasing the disputed domain but they failed to make the deal owing to expensive price. It is obvious that the Respondent are willing to sell this domain name for valuable consideration in excess of their documented out-of-pocket costs directly related to the domain name. On the other hand, we found other cases from WIPO and NAF in which the Respondent do exactly the same thing, such as “WIPO Case No. D2009-0457”, the “WIPO Case No. D2008-1688”, “NAF Claim Number: FA0704000964416”.

(c) The disputed domain name has been registered by the Respondent to prevent the Complainant from using the disputed domain name for business purpose and confuse the potential customers. The Complainant

considers that relevant public has full knowledge about the reputation of mark “FUANNA” by the Complainant’s using and advertising in many years. Due to identical with the Complainant’s registered domain name, the disputed domain name is sufficient to associate with the Complainant’s trademark “FUANNA”. If any computer users search “FUANNA” on internet, he or she will be misled and confused by the content of the website provided by the Respondent. This has seriously damaged the interest and image of Fuanna.

Hence, the Respondent has absolutely registered and used the disputed domain name in bad faith.

The Complainant requests the disputed domain name “fuanna.com” be transferred from the Respondent to the Complainant.

The Respondent

The Respondent did not submit a Response.

4. Findings

Identical or Confusing Similarity

Pursuant to the Policy, paragraph 4(a)(i), 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. In line with such requirement, a Complainant must prove its trademark rights and the identical or similarity between the disputed domain name and its trademark.

The Panel finds that before the registration of the disputed domain name the Complainant’s trademark “FUANNA” had been registered and used on bed clothes, quilts and many other products in a number of countries. The Complainant therefore has the exclusive right over the mark “FUANNA”.

The disputed domain name is “fuanna.com”. Apart from the generic top-level domain suffix “.com”, the disputed domain name consists of

“fuanna”, which is identical with the Complainant’s registered trademark.

The Panel therefore finds that the disputed domain name “fuanna.com” is confusingly similar to the Complainant’s registered trademark “FUANNA”. Accordingly, the Complainant has proven the first element required by paragraph 4(a) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has 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 may have 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. Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a Respondent’s rights or legitimate interests in a domain name. However, there is no evidence before the Panel that any of the situations described in paragraph 4(c) of the Policy apply here. To the contrary, the lack of a Response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name “fuanna.com”. Accordingly, the Complainant has proven the second element required by paragraph 4(a) of the Policy.

Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Respondent did not respond.

Through examining the evidence submitted, the Panel notes that the website at the dispute domain name “fuanna.com” contains inappropriate information, such as “成人电影”、“性爱”. Given that the website’s contents are in large part in Chinese, the Panel holds that the Respondent is aware of the Complainant’s mark “FUANNA” that has been used on bedding products for more than 15 years and has been officially

recognized as well known in China.

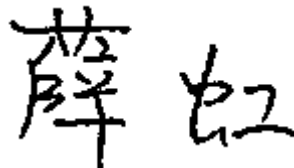
The Panel finds that the Respondent's intentional use of the disputed domain name that is identical to the Complainant's reputable mark to attract consumers to a website that is offering inappropriate information is likely not only to cause initial confusion with the Complainant's mark but to disrupt the Complainant's normal business by tarnishing the mark.

The Panel rules that this is adequate to conclude that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(b). Therefore, the Complainant has successfully proven the third element required by paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name "fuanna.com" be transferred to the Complainant 深圳市富安娜家居用品股份有限公司 (Shenzhen Fuanna Bedding and Furnishing Co., Ltd.).

Solo Panelist:

Handwritten signature in Chinese characters, appearing to be '薛虹' (Xue Hong).

Dated: 13 January 2011