

**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTER
(Beijing Office)**

Administrative Panel Decision

Case No. CN-1100435

Complainant: 中电电气集团有限公司 (China Electric Equipment Group Corporation)

Respondent: David Wang

Domain Name: ceeg.com & ceeg.net

Registrar: REGISTER.COM, INC.

1. Procedural History

On March 24, 2011, the Complainant submitted a Complaint in English version to the Beijing Office of the Asian Domain Name Dispute Resolution Center (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"), 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").

On March 25, 2011, the ADNDRC Beijing Office confirmed the receipt of the Complaint. On March 28, 2011, the ADNDRC Beijing Office transmitted by email to ICANN and REGISTER.COM, INC. (the Registrar of the domain name) a request for registrar verification in connection with the domain name in dispute. On March 30, 2011, REGISTER.COM, INC. transmitted by email to the ADNDRC Beijing Office its verification response confirming that, the domain name in dispute was registered under its domain registrar and the Respondent is listed as the registrant.

The ADNDRC Beijing Office sent by email the Transmittal of Claims attached by the Complaint to the Respondent on March 30, 2011.

On April 7, 2011, the ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded and the proceedings commenced on April 7, 2011. On the same day, the Notifications of Commencement of Proceedings were notified to the Respondent, ICANN and the Registrar.

On April 27, 2011, the ADNDRC Beijing Office received the Response from the Respondent. The Response was transmitted to the Complainant on the same date. As the Respondent chose to have a three-member panel, this case shall thus be dealt with by a three-member panel. The ADNDRC Beijing Office notified both parties on May 11, 2011, for selection of panelists.

On May 13, 2011, the ADNDRC Beijing Office notified the Proposed Panelist Mr. Zhao Yun, Ms. XUE Hong, and Ms. Gabriela KENNEDY, to see whether he or she is available to act as the Panelist in this case and if so, whether he or she is in a position to act independently and impartially between the parties. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance respectively from Mr. ZHAO Yun, Ms. XUE Hong and Ms. Gabriela KENNEDY, on May 19, 2011, the ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist and the constitution of the Panel, transferred the case file to the Panel, and asked the Panel to submit a decision on or before, June 2, 2011.

The language of the proceedings is English, as being the language of the Domain Name Registration and Service Agreement, pursuant to Paragraph 11(a) of the Rules and there being no agreement by the disputing parties to the contrary.

2. Factual Background

For the Complainant

The Complainant in this case is 中电电气集团有限公司 (China Electric Equipment Group Corporation) . The registered address is 南京市江宁

经济技术开发区水阁路6号(6 Shuige Road, Jiangning, Nanjing, China). The authorized representative in this case is 北京市集佳律师事务所 (UNITALEN ATTORNEYS AT LAW) .

For the Respondent

The Respondent in this case is David Wang. The registered address is 4122 Homestead Blvd Westborough, MA 01581 US. The Respondent is the current registrant of the disputed domain names “ceeg.com” & “ceeg.net” according to the Whois information. The authorized representative is Ari Goldberger, Esquire.

3. Parties’ Contentions

The Complainant

(1) The main part of the disputed domain names is identical with the Complainant’s registered trademarks.

The Complainant, headquartered in Nanjing, China, has its origin in a State Energy Ministry supported enterprise. Jiangsu Zhongdian Equipment Manufacturing Co., Ltd was founded in 1990 and then was re-organized in 2003 to become the Complainant. It now conducts business in four areas of business, including power transformer, PV technology, insulation materials and complete substation. In addition the Complainant has 15 share-holding or wholly-invested subsidiary companies in Jiangsu, Shanghai, Jiangxi and Hong Kong etc. On May 18, 2007, China Sunergy was listed on the American NASDAQ Stock Market (Stock code: CSUN), thus becoming the first enterprise to be listed on NASDAQ from Nanjing area.

The Complainant has “foresight, innovation and responsibility” as its core values. The Complainant has been awarded the following honors in succession—China Top Brand, National Inspection-free Product and China Well-known Trademark etc. It was also elected as a National 4A

Grade Well-standardized Enterprise, National Environment-friendly Enterprise and National AAA Grade Credit Enterprise etc. The Complainant, having as its the strategy “going with the giants and keeping pace with the world”, has successively established long-term strategic cooperation with many excellent enterprises both in China and abroad, including Dupont USA, Schneider France, DSI USA, MKM Germany, and Wuhan Iron and Steel (Group) Corp. China etc.

“CEEG” is the acronym for the Complainant’s English name. The Complainant has been using the acronym in its business activities, but also as a trademark in and outside China including in English-speaking regions.

The trademark “CEEG” has been registered with the Chinese Patent and Trademark Office in Class 1-24, 26-27 and 29-45. The Complainant also holds registered trademarks for the same mark in other countries and regions including Hong Kong, the United States of America, Great Britain, Germany, India, Vietnam, Sudan, Nigeria, Pakistan, etc. In 2005, the trademark “CEEG” was granted the status of China Top Brand. In 2008, the trademark “CEEG” was awarded the China well-known trademark by State Administration for Industry and Commerce of China. Besides the above trademark rights owned by the Complainant, the Complainant has also registered domain name “ceeg.cn”, “ceeg.com.hk”.

In view of the above, we can conclude that the Complainant has legitimate rights and interests to the trademark “CEEG” and that the disputed domain names “ceeg.com” and “ceeg.net” are completely identical with the trademark “CEEG”.

(2) The Respondent has no rights or legitimate interests in respect of the disputed domain names.

The Respondent has not registered any trademark related to “CEEG”. And the Respondent is not running any business that has any connection

with “CEEG” either.

(3) The disputed domain names were registered and are being used in bad faith.

The Complainant is a famous corporation and enjoys a great reputation in China. Its trademark “CEEG” has been a well-known symbol through extensive use, advertisements and media reports for many years. The relevant public has full knowledge of the reputation and influence of the trademark “CEEG”. When searching “CEEG” by “google” or “baidu”, it will be shown that almost all pages are related to the Complainant. So it is unreasonable for the Respondent to register this domain name without bad faith in taking extra-advantage from the Complainant.

The disputed domain names were registered on July 3, 2002 and will expire on July 3, 2011. The disputed domain names do not resolve to a website. It is obvious that the disputed domain names are just being held by the Respondent and there is no indication that the Respondent will make any bona fide use of the disputed domain names in the future. The Complainant concludes that the disputed domain names have been registered by the Respondent to prevent the Complainant from using them for a legitimate business purpose and in order for the Respondent to obtain an undue interest and advantage.

When checking “whois.domaintools.com”, it can be seen that the Respondent owns about 553 other domains including the disputed domain names. As the disputed domain names are identical to the Complainant’s registered trademark and domain names, the public will be misled and confused if they search “CEEG” on the Internet. This seriously damages the interest and reputation of Complainant.

In accordance with Paragraph 4(b)(i) of the Policy, the Complainant requests the Panel to issue a decision to transfer the Disputed Domain Names to the Complainant.

Respondent

A review of the record will reveal that the Complainant has no right to the disputed domain names. The Respondent did not register the disputed domains with the Complainant's mark in mind. The Respondent had no knowledge of the Complainant's alleged trademark when it registered the disputed domains. By the Complainant's own admission, it filed no trademark for CEEG until 2006—four years after the Respondent registered “ceeg.com” and two years after he registered “ceeg.net” .

Notably the Complainant did not even exist under the name China Electric Equipment Group Corporation until 2003—nearly a year after the Respondent registered the disputed domain name “ceeg.com” . It is, therefore, impossible to prove bad faith registration with respect to “ceeg.com” because the Respondent cannot be found to have a registered domain name to target a trademark not in existence at the time. Nor is there any evidence of bad faith registration of “ceeg.net” which, while registered after the Complainant commenced use of its CEEG company name was, nonetheless registered two years before the Complainant filed for a registered trademark for the term.

There is no evidence the Respondent has used the disputed domains in bad faith at any time. The Respondent has not used the domain names in connection with services related to the Complainant nor has it used them, otherwise, to confuse consumers seeking the Complainant's goods and services. The Respondent has never offered the domain names for sale. The Respondent did not register the domain names to disrupt the Complainant's business, nor is there any evidence the domain names were registered to prevent the Complainant from reflecting its mark in a domain name. Rather than a pattern of targeting trademarks, the Respondent has registered dozens of other domains incorporating arbitrary 4-letter combinations. The use and registration of multi-character domain names is an extremely common business practice among domain name owners and its legitimacy is supported by ample

UDRP precedent. Like the 70 other 4-character domain name the Respondent has registered, “ceeg.com ”and “ceeg.net ”were registered simply because they have four letters.

Finally, it is important to consider that the dispute domains were registered in 2002 and 2004—many years before the filing of this Complaint. This significant delay raises the inference that the Complainant did not genuinely believe that the Respondent had engaged in abusive domain name registration. Moreover, such length of time warrants denial of the Complaint based on the doctrine of laches.

The Respondent requests the Panel to issue a decision to deny the Complaint and find reverse domain hijacking.

4. Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Paragraph 4 (a) of the Policy requires that the Complainant should prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical or Confusing Similarity

The evidence shows that the Complainant registered the trademark “CEEG” in mainland China in April 2006. The same trademark has also been registered in several other countries/regions. The Panel has no problem in finding that the Complainant enjoys the trademark rights in “CEEG”.

The two disputed domain names are “ceeg.com” and “ceeg.net”. As the suffixes “.com” and “.net” only indicate that the domain names are registered under these two gTLDs and are not distinctive, the main parts of two disputed domain name are “ceeg”. Obviously, the main parts of the disputed domain names are identical to the Complainant’s trademark “CEEG”.

The Panel therefore holds that the Complaint fulfills the condition provided in Paragraph 4 (a)(i) of the Policy.

Rights and Legitimate Interests

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain names. The Complainant’s assertion is sufficient to establish a prima facie case under Policy 4 (a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests.

Under Paragraph 4 (c) of the Policy, the following are relevant examples a Panel may take as evidence of the Respondent’s rights or legitimate interests to the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) You are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

According to the Response, none of the above circumstances exist in the current case. The Respondent has also failed to show that he has any other rights or legitimate interests in respect of the disputed domain names. The act of registering the disputed domain names and the Respondent's choice of "4-letter combinations" do not automatically bestow any legal rights or interests upon the Respondent.

The Panel therefore finds that the Complaint has satisfied the condition provided in Paragraph 4(a)(ii) of the Policy.

Bad Faith

Under Paragraph 4 (b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use 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 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 website 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 website or location or of a product or service on your website or location.

The Respondent registered the disputed domain names in 2002 and 2004 respectively. The evidence shows that the Complainant registered its first "CEEG" trademark in April 2006. Thus, it is evident that the Respondent registered the disputed domain names before any trademark rights which the Complainant might establish. As stated in the Complaint, the Complainant was reorganized from several enterprises and adopted the current merchant name in 2003. The disputed domain name "ceeg.com" was registered before this merchant name was used. The other disputed domain name "ceeg.net" was registered one year after the use of the merchant name. However, no evidence exists whatsoever to show that the Respondent knew or should have known that the Complainant was intending to use or register any potential mark.

As such, the Panel finds that the Complainant has not established that the disputed domain names were registered in bad faith. Accordingly, the Panel finds that the Complaint fails to satisfy the condition provided in Paragraph 4 (a) (iii) of the Policy. Since the Complainant needs to establish all three elements required under the ICANN Policy, it follows that the Complainant's request cannot be supported in this case.

Reverse Domain Name Hijacking

The Respondent requests a finding of reverse domain name hijacking against the Complainant. "Reverse Domain Name Hijacking" is defined Paragraph 1 of the Rules as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name."

Under Paragraph 15(e) of the Rules, if after considering the submissions the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitute an

abuse of the administrative proceeding.

The onus of proving the Complainant's bad faith is generally on the Respondent; the mere lack of success of the Complaint is not itself sufficient for a finding of Reverse Domain Name Hijacking. The Respondent would need to show knowledge on the part of the Complainant of the Complainant's lack of relevant trademark rights, or of the Respondent's rights or legitimate interests in, or lack of bad faith concerning, the disputed domain name.

In spite of the fact that the disputed domain names were registered before the registration of the trademark "CEEG", the Panel in this case is not persuaded that the circumstances of this case justify a finding of reverse domain name hijacking.

The Complainant's predecessor, Jiangsu Zhongdian Equipment Manufacturing Co., was founded in 1990. The English translation of this merchant name has already included the term "China Electronic Equipment". Since its reorganization in 2003, the Complainant has obtained many awards and honors. The Complainant registered the trademark "CEEG" in several countries/regions, which has achieved a strong reputation through use and the worldwide significance of the brand name.

The Respondent holds more than 500 domain names. The mere act of registration does not automatically bestow any legal rights or interests upon the Respondent. The Respondent failed to submit any evidence to show active use of the disputed domain names after their registration in 2002 and 2004. Such a passive holding of domain names does not prevent a finding of use in bad faith.

The Panel cannot find that the Complainant knew or should have known it would not succeed and thus declines to find that the Complainant has acted in bad faith, and so the Respondent's application for a declaration to

this effect is dismissed.

5. Decision

For the foregoing reasons, the Complaint is denied. The Respondent's request for a finding of reverse domain name hijacking is also denied.

Presiding panelist: 

Co-panelist: 薛虹

Co-panelist: 

DATED: June 2, 2011