



# ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

---

Case No.	HK-1000321
Complainant:	New China Life Insurance Co., Ltd.
Respondent :	Zhang Jianli

---

### 1. The Parties and Contested Domain Name

The Complainant is **New China Life Insurance Co., Ltd.**, of  
NCI Tower, No. 12A  
Jianguomenwai Avenue  
Choayang District  
Beijing 100022  
PRC

The Respondent is **Zhang Jianli**, of  
Haidan  
Goaliangqiao  
Beijing 10081  
PRC  
e-mail: root@newchinalife.net

The domain name at issue is **newchinalife.net**, registered by Respondent with **Network Solutions, LLC.**, of  
13861 Sunrise Valley Drive, Suite 300  
Herndon, Virginia 20171  
USA

### 2. Procedural History

1. Complainant brought a domain name dispute complaint to the Hong Kong office of the Asian Domain Name Dispute Resolution Center [ADNDRC] on November 5, 2010.
2. Complainant filed its English version of the “Complaint in Accordance with the Uniform Domain Name Dispute Resolution Policy” [Complaint] with the Hong Kong office of the ADNDRC. The Complainant elected to have the Complaint decided by one Panelist.
3. The Complaint is dated December 5, 2010 and signed by the Complainant’s authorized legal representative, Sun Huijuan, lawyer with Haiwen & Partners, Beijing, PRC.
4. On January 6, 2011, the Hong Kong office of the ADNDRC contacted the undersigned for possible appointment as sole Panelist in this matter and provided to the prospective

sole Panelist the parties' names, disputed domain name, case number, and, the notation that the Respondent has NOT filed any Response within the required time period.

5. On January 14, 2011, the Hong Kong office of the ADNDRC notified the parties to this domain name dispute of the appointment of the undersigned as the sole Panelist pursuant to the relevant policies and rules.
6. On January 14, 2011, the Hong Kong office of the ADNDRC forwarded by e-mail the applicable documents, including Complainant's evidence, to the undersigned Panelist.
7. Having received no further submissions, the date for rendering a decision by the undersigned Panelist is January 28, 2011.

### **3. Factual background**

1. Complainant states that it is a joint stock limited liability company incorporated in accordance with the laws of the People's Republic of China.
2. Complainant states that it has offices in the major cities throughout the PRC.
3. Complainant states that it is in the business of offering insurance and insurance-related products and services to the general public, including life insurance, health insurance, accident insurance, insurance brokerage, marine insurance, capital investment, and, fund investment.
4. Complainant states that it is a national insurance company established in 1996 with current assets exceeding RMB 200 billion; 310,000 staff; and approximately 21 million customers.
5. As part of its business, Complainant has registered certain trademarks, including:
  - i. The Chinese characters represented by the Romanized words *Xin Hua Ren Shou Bao Xian* [Trademark Registration No. 1409763]
  - ii. The abbreviation or acronym of one of its trade names, New China Life: "NCL" [Trademark Registration No. 1400949]
  - iii. The abbreviation or acronym of one of its trade names, New China Life, accompanied by its logo: "NCL with logo" [Trademark Registration No. 3133082]
6. Complainant has provided hard-copy printouts of the trademark registrations cited in Paragraph 5 above from the web site of the Trademark Office of State Administration for Industry and Commerce.
7. Complainant states that the domain name registered for its official web site is: [www.newchinalife.com](http://www.newchinalife.com)
8. According the Hong Kong office of the ADNDRC, Respondent has not filed any response within the allowed time limit. Therefore, there is no background information coming from the Respondent.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. That the disputed domain name "newchinalife.net" is identical or confusingly similar to the Complainant's registered trademarks [see paragraph 3.5 above], in particular the use of the domain name "newchinalife"
- ii. That the disputed domain name "newchinalife.net" directs viewers to the home page of New China Life Limited Company, a name similar to Claimant's New China Life [Insurance] Company, Limited.

- iii. That the aforesaid home page of the web site of “newchina.net” contains misleading information in the form of a photograph of Complainant’s building, NCL Tower.
- iv. That the aforesaid home of the web site of “newchina.net” further contains, in part, information relating to the Complainant and its business.
- v. That the Respondent has no rights or legitimate interests in respect to the disputed domain name.
- vi. That Respondent’s domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent’s contentions may be summarized as follows:

- i. None have been received from the Respondent by the undersigned Panelist.

**5. Findings**

In essence, the Complainant claims that the Respondent is using a domain name which is confusingly similar to Complainant’s in order to direct prospective consumers to the Respondent’s domain name’s web site which, too, is confusingly similar to Complainant’s web site. Complainant further asserts that the Respondent’s intention is to divert Complainant’s prospective and actual costumers to Respondent’s own insurance offerings. Complainant additionally alleges that Respondent has registered the disputed domain name and is using the same in bad faith.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent’s domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent’s domain name has been registered and is being used in bad faith.

**A) Identical / Confusingly Similar**

1. The Complainant has been in the insurance business for more than a decade and is now represented nationally within the PRC. The Complainant has registered as its trademarks the items listed in Section 3, paragraph 5 above.
2. Complainant has provided evidence that its registered trademarks, which include the name “New China Life”, have been duly registered pursuant to the applicable law of the PRC. Upon inspection and review of this evidence, I accept this evidence as true.
3. These trademarks include the Chinese characters for the Romanized transliteration of *Xin Hua Ren Shou Bao Xian* which is translated into English as “New China Life”. The Complainant has also trademarked the abbreviation of “New China Life”, *i.e.*, NCL, and NCL with the company logo, as part of its business branding. The phrase names “New China Life” and “newchinalife” is pending trademark approval.
4. Based upon the foregoing, it is fair to assume that Complainant uses these trademarks and phrase names in conducting its business and that Complainant is commonly known and/or referred to by these trademarks and phrase names by the general public.

5. I accept the evidence that the Complainant's web site is [www.newchinalife.com](http://www.newchinalife.com) which was created on or about September 26, 1997 and registered with Web Commerce Communications Ltd, d/b/a Webnic, CC.
6. Complainant alleges that Respondent registered the disputed domain name [newchinalife.net](http://newchinalife.net) on or about July 2, 2003, a date later than Complainant's registration of its domain name. Based upon an examination of the evidence provided, I accept this allegation as true and I accept this evidence. This registration will be addressed in further detail below in relation to the issue that the Respondent's domain name has been registered and is being used in bad faith.
7. Complainant has supplied evidence in the form of notarized certified copies of pages of the web site to which the disputed domain name directs viewers. This evidence is not disputed by the Respondent. Further, upon examination of this evidence, I find no reason to reject this proof. Therefore, I accept this evidence and find that the Respondent's web site's home page is identical or confusingly similar to Complainant's web site's home page. Again, this will be addressed in further detail below in relation to the issue that the Respondent's domain name has been registered and is being used in bad faith.
8. Premised upon the foregoing, I accept that Complainant has rights in the name "New China Life" and that the disputed domain name [newchinalife.net](http://newchinalife.net) being used by the Respondent is confusingly identical to that of the Complainant's. The disputed domain name is confusingly identical in spelling, in words, in word order and in meaning to that of the Complainant's domain name.

#### **B) Rights and Legitimate Interests**

1. Both the English and Chinese versions of the term or name "New China Life" have been registered by Complainant which has used these marks as part of its business that has been ongoing for more than a decade.
2. Over this time and in view of Complainant's nation-wide business, this term has become an identifier in the public's mind and is thus commonly associated with Complainant.
3. Respondent has advanced no assertions in this regard.
4. Paragraph 4(c) of the ICANN Uniform Domain Name Dispute Resolution Policy allows a respondent to demonstrate its rights or legitimate interests in the disputed domain name, for the purposes of Paragraph 4a(ii), by proving one of three grounds. Respondent in this dispute has offered no submission or evidence to challenge or to rebut Complainant's claims. Consequently, I find no evidence to support a decision in favor of Respondent on any of the grounds set out in Paragraph 4(c) of the ICANN Uniform Domain Name Dispute Resolution Policy. *Document Technologies, Inc. v International Electronic Communications Inc.*, WIPO Case No. D2000-0270.
5. Therefore, I find that Complainant has satisfied the second part of the test required under paragraph 4(a)(ii) of the ICANN Uniform Domain Name Dispute Resolution Policy.

#### **C) Bad Faith**

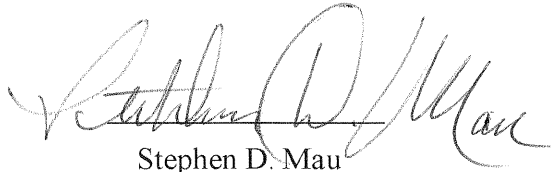
1. Paragraph 4(b) of the ICANN Uniform Domain Name Dispute Resolution Policy provides that any of the following circumstances shall be considered evidence of registration and use of a domain name in bad faith, including but not limited to:
  - a. Circumstances indicating that a respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the

- domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name;
- b. Circumstances indicating that a respondent 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 the respondent has engaged in a pattern of such conduct/
  - c. Circumstances indicating that a respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or,
  - d. Circumstances indicating that a respondent intentionally is using the domain name in an attempt to attract, for commercial gain, Internet users to its 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 said respondent's website or location or of a product or service on its website or location.
2. I accept the evidence that the Complainant's web site is [www.newchinalife.com](http://www.newchinalife.com) which was created on or about September 26, 1997 and registered with Web Commerce Communications Ltd, d/b/a Webnic, CC.
  3. I find that the Respondent has registered the disputed domain name [newchinalife.net](http://newchinalife.net) with Network Solutions, LLC on or about July 2, 2003.
  4. I note from the evidence provided that Respondent utilized a domain name identical to that used by the Complainant in the words used; the word order; and, the layout/formatting [both web sites do not use any spacing or hyphens or underscores between the individual words comprising the company name].
  5. I further note as mentioned in Section 5A, paragraph 5 above, that the disputed domain name's home page is confusingly similar to that of Complainant's home page in terms of graphics, certain photographs, certain portions of text and the geographical application. These similarities cannot be reasonably accidental. I find that Respondent registered the disputed domain name in bad faith because the words used in the domain name distinctively identify the Claimant and Respondent could not have failed to know of this fact. *Inter Ikea System BV v Issac Goldstein*, HK ADNDRC Case No. HK-1000320.
  6. I accept Complainant's evidence that these similarities are an intentional attempt to lure or divert customers or potential customers away from Complainant's insurance business to that of the Respondent's competing insurance business. I find this to be evidence of bad faith. *Rhino Entertainment Company v DomainSource.com Inc.*, WIPO Case No. D2006-0968; *Imperial Chemical Industries PLC v RareNames*, WIPO Case No. D2006-0124.
  7. I also accept Complainant's evidence that Respondent has been attempting to sell the disputed domain name for profit, i.e., in excess of Respondent's out-of-pocket expenses. Based upon this evidence, I find Respondent's registration of the disputed domain name to also constitute bad faith.
  8. I accordingly find that Complainant has made out its claim of bad faith.

## 6. Decision

Consequently, based upon the foregoing, I, the undersigned Panelist, find that Complainant has proven each and every element required by paragraph 4a(ii) of the ICANN Uniform

Domain Name Dispute Resolution Policy. The registration of the disputed domain name newchinalife.net is to be transferred to Complainant.

A handwritten signature in black ink, appearing to read "Stephen D. Mau", written over a horizontal line.

Stephen D. Mau  
Panelist

Dated: January 27, 2011