



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-1600147

**Complainant:** THE FACESHOP CO., LTD.

**Respondent:** li guodong

**Disputed Domain Name(s):** <thefaceshop.org>

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### 1. The Parties and Contested Domain Name

The Complainant is THEFACESHOP CO., LTD. of (Sinmunno 2-ga) 58, Saemunan-ro, Jongno-gu, Seoul, Korea. The Complainant's authorized representative is BARUN IP & LAW of 9th Fl, Saman Bldg., 520 Teheran-ro Gangnam-gu, Seoul 135-846, Korea.

The Respondent is li guodong of tty, Beijing, China 102218.

The domain name at issue is <thefaceshop.org>, registered by the Respondent with DOMAINSITE.COM (Name.com Inc.) of 414 14th Street, #200, Denver, Colorado 80202, United States of America.

### 2. Procedural History

On August 1, 2016, the Complainant filed a complaint with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC) ["Center"], seeking a transfer of the domain name in dispute.

On August 4 2016, the ADNDRC transmitted by email to Name.com Inc. a request for a registrar verification in connection with the registrant of the disputed domain name. On August 10, 2016, Name.com Inc. transmitted by email to the Centre its verification response that the registrant of the disputed domain name is li guodong and provided the details of the registrant.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the Centre's Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on August 26, 2016. In accordance with the Rules, the due date by which the Respondent was required to file its response was 15 September 2016. No Response was filed by the due date.

On September 28 2016, the Center appointed Mr. Doug-Jay Lee as the Sole Panelist in the administrative proceeding and with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

### **3. Factual background**

The Complainant started using the mark "THEFACESHOP" on cosmetics in Korea in December 2003 and has used its mark since then. They firstly filed a trademark application for "THEFACESHOP" on cosmetics in class 3 on June 10, 2003. Further, the Complainant has registered its mark for "THEFACESHOP" ("the Subject Mark" hereinafter) as well as its variation in class 3 globally in 29 countries (including Korea, China, Hong Kong, Japan, Taiwan, Australia, Brunei, and the Dominican

Republic) since 2004. The priority registration date for the mark “THEFACESHOP” is November 23, 2004.

The Respondent registered the disputed domain name on December 28, 2008, and as of current, the website under the domain name merely contains links to various other websites, which include 1) a site where the Complainant’s cosmetic products can be purchased; 2) a site where competing cosmetics can be purchased; 3) an adult chat site; and 4) a game site.

#### **4. Parties’ Contentions**

##### **A. Complainant**

The Complainant’s contentions may be summarized as follows:

- i. The Complainant has used the Subject Mark since 2003 and has registered the same in 29 countries. The Subject Mark is well-known in China as well as in Korea.
- ii. The Complainant registered the domain name <thefaceshop.com> on June 30, 2003 also has owned a variety of domain names including their mark “THEFACESHOP”, such as <thefaceshop.co.kr>, <thefaceshop.net>, <ethefaceshop.com>, etc. since 2003.
- iii. The disputed domain name is confusingly similar to the Subject Mark.
- iv. The Respondent has no rights or legitimate interests in respect to the disputed domain name.
- v. The disputed domain name has been registered and is being used in bad faith.

##### **B. Respondent**

The Respondent, li guodong, failed to file a response in this proceeding.

#### **5. Findings**

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

The Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

The Respondent has no rights or legitimate interests in respect of the domain name; and The Respondent's domain name has been registered and is being used in bad faith.

#### **A) Identical / Confusingly Similar**

The Subject Mark and the disputed domain name are identical in their main parts, THEFACESHOP. Therefore, Panel finds the disputed domain name to be confusingly similar to the Subject Mark, and so finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

As mentioned above, the Respondent registered the disputed domain name on December 28, 2008, and currently, the website under the domain name merely displays links to various other websites, which include 1) a site where the Complainant's cosmetic products can be purchased; 2) a site where competing cosmetics can be purchased; 3) an adult chat site; and 4) a game site. Also, there is no evidence that the Respondent owns any trademark or service mark rights or registrations that are identical or similar to the disputed domain name.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and there is no evidence proving it to be otherwise. So, the Panel finds that paragraph 4(a)(ii) of the Policy has been satisfied.

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

As mentioned above, the Complainant's trademark "THEFACESHOP" has been registered and globally protected since 2003. Further, the registered mark "THEFACESHOP" had already been well known in both Korea and China by the time the Complainant had registered the disputed domain name on December 28,

2008. Thus, the Respondent was clearly aware of the Complainant and its mark “THEFACESHOP,” making it extremely unlikely that the Respondent created the disputed domain name independently.

Further, the Respondent is utilizing the disputed domain name <thefaceshop.org> to sell the Complainant’s cosmetics in China. The Complainant’s shopping mall, as directed by one of the links displayed in the website under the disputed domain name, misrepresents itself as a strategic business partner of the Complainant that has been authorized to sell genuine “THEFACESHOP” cosmetics at discounted prices. The same website also displays the Complainant’s copyrighted advertisements without the Complainant’s consent. Further, the Respondent is selling “THEFACESHOP” products that have not yet been permitted for sale in China on the website, an act which is not only illegal but interferes with the Complainant’s business.

Based on the above facts, the Respondent is apparently using the disputed domain name so as to unfairly attract customers to its website by misleading consumers into believing that the disputed domain name <thefaceshop.org> is owned by or somehow related to the Complainant.

The Panel therefore finds that the disputed domain name has been registered and used in bad faith. So, the Panel finds that paragraph 4(a)(iii) of the Policy has been satisfied.

## **6. Decision**

Pursuant to paragraph 4(a) of the Policy and Article 15 of the Rules, the Panelist orders that the disputed domain name <thefaceshop.org> be transferred to the Complainant.

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Doug-Jay Lee

Sole Panelist

Dated: October 12, 2016