



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Complainant:	Nanjing Wuzhidao Co., Ltd.
Respondent:	DUOGANG SUN
Case No.	HK-1600925
Disputed Domain Name(S):	WUDAO.COM
Panel Member:	Eugene Low

1. The Parties and Contested Domain Name

The Complainant is Nanjing Wuzhidao Co., Ltd., whose address is Floor 3, Building 1, Shiliucaizhi Center, 6 Shitoucheng Road, Nanjing, China.

The Respondent is DUOGANG SUN, whose address is NO5. FANNAN CHUN, JINERZIRAN ZHUANG, JIANGKOU ZHENG Street, YINGSHANG XIAN City, ANHUI Province.

The Disputed Domain Name is <WUDAO.COM>.

2. Procedural History

On 14 November 2016, the Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) pursuant to the Uniform Domain Name Dispute Resolution Policy (the Policy). On 21 November 2016, ADNDRC confirmed the commencement of administrative proceedings.

The Respondent has not submitted any Response.

On 16 December 2016, ADNDRC appointed Mr. Eugene Low as the Sole Panelist.

3. Factual Background

For the Complainant

The main submissions of the Complaint are extracted as follows:-

"Before August 2014, Nanjing Wuzhidao Co., Ltd, 南京舞之道企業管理有限公司, the Complainant, had kept the management right of wudao.com until the domain name was stolen.

- The Complainant has registered multiple trademarks related to wudao.com and all of them are valid.
- In 2011, the Complainant purchased the domain name, at that time, the name of its legal person "Fan Hongbin" was written on column of registrant. Since 2011, the Complainant has begun to use wudao.com for carrying out business operation.
- In 2014, in order to carry out the business and protect his own brand, the Complainant registered 6 related trademarks including "wudao" according to the domain name wudao.com.
- The Complainant's website and trademark has been well known. Chinadance .com has been the largest dance portal recognized domestically. The daily users' access of Chinadance.com is up to 300,000 times. Moreover, wudao.com has become the public access channel for the Complainant's website to carry out the business. Wudao is not only the trademark of the Complainant, but also the image of the Complainant and the website of the.
- The register trademarks of the Complainant include:
PRC Trademark No. 11745671 for "WUDAO" in Class 38, with registration date of 21 Apr. 2014.
PRC Trademark No. 11745698 for "WUDAO" in Class 41, with registration date of 21 Apr. 2014.
- The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant began to use wudao.com to make website and carry our business as early as 2011, and the Complainant registered the trademark "wudao" according to the domain name wudao.com of the Complainant. Regarding the domain name "wudao.com", except for ".com", its main identification part "wudao" is totally same with the registered trademark "wudao" of the Complainant.

- The Respondent has no rights or legitimate interests in respect of the domain name(s):

The Complainant has never authorized Respondent to carry out business related to "wudao". Under the condition that the Complainant normally uses the domain name "wudao.com" and the trademark "wudao" to carry out business, Respondent illegally invaded the domain name management account of the Complainant, and he transferred the domain name away. Therefore, Respondent does not have the rights or legitimate interests of this domain name.
- The disputed domain name(s) has/have been registered and is/are being used in bad faith:

The Complainant uses the domain name wudao.com and the registered trademarks to carry out business, and the Complainant has extremely big influence and reputation. Respondent has illegally stolen the domain name of the Complainant, one of its objectives is to sell, lease or transfer this domain name to our company, the Complainant once received the email from Respondent which consulted us whether we need to buy wudao.com. Transferring the domain name to an account of another

registered business without the Complainant's authorization is to prevent the Complainant from obtaining the corresponding domain name corresponding to the trademark. After Respondent stole its domain name, the Complainant cannot carry out business normally, which has led to a heavy economic toll to the Complainant. Therefore, the behavior that Respondent obtains the controversy domain name has composed the malicious condition described in clauses (b), (i), (ii) and (iv) of item 4 in the "Policy".

For the Respondent

The Respondent has not submitted any Response.

5. Findings

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 Complaint to prevail:

- i) Respondent's domain name identical or confusingly similar to a trademark or service mark in which Complaint 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.

Element (1) Identical/confusingly similar

From the Complainant's exhibited trade mark certificates for the mark "WUDAO", the Panelist is satisfied that the Complainant has rights to the mark "WUDAO" for the purpose of Paragraph 4(a)(i) of the Policy.

The Disputed Domain Name consists of "wudao" and ".com". "WUDAO" is identical to the Complainant's mark.

The Panelist considers that Element (1) is satisfied.

Element (2) Respondent has no rights or legitimate interest

It is well established that under this Element, the burden of proof shall be effectively shifted to the Respondent once the Complainant has made out a prima facie case.

The Panelist is satisfied that the Complainant has made out a prima facie case that it purchased the Disputed Domain Name for its business use in 2011. The Complainant confirmed that it had not authorized the Respondent to register the Disputed Domain Name.

In the absence of any Response from the Respondent, there is no evidence before the Panelist to conclude that the Respondent has any rights on legitimate interest in the Disputed Domain Name.

The Panelist considers that Element (2) is satisfied.

Element (3) Registration and use in bad faith

The Complainant has adduced evidence that the Disputed Domain Name was acquired by the Complainant in 2011 (registered under the name of its legal representative). However, the Disputed Domain Name was subsequently transferred to the Respondent without authorisation. Among supporting evidence, there is a letter from the previous registrar that the Disputed Domain Name was registered under the name of the Complainant's legal representative but was subsequently "illegally" transferred out.

The website associated with the Disputed Domain Name still displays a copyright notice designating the Complainant as the copyright owner.

Looking at the evidence as a whole, the Respondent seems to have come to control the registration through unlawful means and without the permission of the rightful registrant. Therefore, the Panel finds that Respondent has registered and is using the domain name at issue in bad faith.

5. Decision

The Complainant has proved all three elements. In accordance with the Complainant's request, the Panelist orders the Disputed Domain Name to be transferred to the Complainant.



Eugene Low
Panelist

Dated: 28 December 2016