



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

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|---------------------------------|-------------------------------------|
| Case No. | HK-1600880 |
| Complainant: | Chief Securities Limited (致富證券有限公司) |
| Respondent: | Centurytouch |
| Disputed Domain Name(s): | <chiefgroup.com> |

1. The Parties and Contested Domain Name

The Complainant is Chief Securities Limited (致富證券有限公司) of 14th Floor, Man Yee Building, 68 Des Voeux Road Central, Hong Kong.

The Authorized Representative of the Complainant is Kelvin Cheung & Co., Solicitors of Unit 101, 1st Floor, Hong Kong Trade Centre, 161-167 Des Voeux Road Central, Hong Kong.

The Respondent is Centurytouch, of 1 Jalan SS 22/10, Kuala Lumpur, State/ Province: KL, Postal Code: KL, Malaysia. The email address of the registrant is eric@centurytouch.com

The domain name at issue is <chiefgroup.com>, now registered in the name of the Respondent with Network Solutions, LLC, whose email address is abuse@web.com and the URL:http://networksolutions.com

2. Procedural History

On 5 July 2016 the Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC)("The Centre"). The Centre acknowledged receipt the same day. The case filing fee was deposited by bank transfer on the same day as the Complaint was filed and acknowledged on 14 July 2016.

On 5 July 2016, the Centre transmitted by email to the Registrar, Network Solutions LLC, a request for registrar verification in connection with the registrant of the disputed domain name. On 7 July 2016 the Registrar replied, verifying that the registrant of the domain name is the Respondent, that the address is "1 Jalan SS 22/10, Registrant City: KL, Registrant State/Province: KL, Registrant Postal Code: KL, Registrant Country: MY" Further details were given as follows: Registrant Phone: 60104214092 and the Registrant's email: eric@centurytouch.com. The Registrar confirmed that the Uniform Domain Name Dispute Resolution Policy ("the Policy") applied to the chiefgroup.com domain name. It

also confirmed that the chiefgroup.com would remain locked during the pending administrative proceedings.

On 15 July 2016 the Centre served Written Notice of Complaint on the Respondent by email to eric@centurytouch.com and postmaster@chiefgroup.com, with copy to the Complainant. The Written Notice stated that on 5 July 2016 a Complaint had been submitted by the Complainant pursuant to the Policy to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("ADNDRC"). The Complaint concerned the domain name <chiefgroup.com> registered and being used by the Respondent. The Notice referred to the Mandatory Domain Name Dispute Resolution Proceedings pursuant to the Respondent's Registration Agreement with the Registrar and stated that, in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") effective from 31 July 2015, the formal date of the commencement of the administrative proceeding is 15 July 2016. The Written Notice then gave notice to the Respondent that according to Article 5 of the Rules, the Respondent was required to submit a Response (the Response Form R and its Annexures) to the Centre within 20 days from 15 July 2016 (namely on or before 4 August 2016). The Complaint and its annexes were attached to the Written Notice.

On 15 July 2016 the Centre received the following email from Eric Yew Kee Wong:

" Hi Paddy,

You better check with Network Solutions when I first registered this domain name back in year February 2000. The domain name was bought and registered by me Eric Wong Yew Kee with the email wongyewkee@yahoo.com. My wongyewkee@yahoo.com was being hacked and I have reported this to Network Solutions. All this are fact, the domain was being used by this company name Chief Securities without my knowledge. Therefore, once I knew they have been using this without my written consent, I have no other choices but to take it back. There is nothing they can dispute this domain name. Centurytouch is Malaysia registered company, therefore, if they wanted to dispute, please ask them to check with Malaysia High Court and see if they have their 'chief' trademark in Malaysia before February 2000. Otherwise, please don't waste my time.

w.regards,

Eric W"

This was followed shortly by a further email from the same source which read:

" Hi Paddy,

If the company Chief Securities said the domain name is their ownership, please ask them to show the proof when and who, bought the domain? Unless they have another staff name Mr. WONG YEW KEE back in 2000 to make the purchase. Please ask them to proof if there are any written consent to say they can use the domain name, with my signature on it. Please remember, .com is global name, not a name confine in Hong Kong or Macau or Taiwan only.

w.regards,

eric w"

There was yet a further email dated the same day from the same source which read:

" Hi Paddy,

If you want to tell the whole world to know that www.chiefgroup.com is belongs to this company Chief Securities Ltd, than please as them to show to me as well as Network Solutions, they bought the domain name and registered the domain name

back in 21st February 2000. That's the most and simple proof to justify they are the owner of the domain name, and not just sending all those irrelevant documents and lawyer letter and rubbish documents to me. So simple justification your client also cannot proof it, than how can they claim that the domain name is their property ?? Even a small child knows if you buy a car from a car dealer, they should and must give you a receipt and registration name and purchaser name. Please check with Network Solutions, on February 2000, who bought this domain name and who registered this domain. I can tell you exactly who bought it and who registered it. That's me Mr. WONG YEW KEE (ERIC) with the email at that time wongyewkee@yahoo.com. This is fact and is a real fact. Nobody can denied it, every proof and records are in the Network Solutions system.

I also owned www.121.net domain name, is that mean UK Telecom giant (One2One) can come to Malaysia and claim that my 121.net belongs to them ??? Sorry to inform you, your client has not got the permission to use this domain name at all. I am so upset to hear that, you don't even understand and know the owner of this domain name and started to claim this domain name belongs to your client. This is a completely unprofessional at all. As I said, if you can show to me and to Network Solutions, your client is the owner who bought the domain name in 21st February 2000 and your client is the registered person on 21st February 2000, than show it to me and show it to Network Solutions.

Please don't waste our time and energy, trying to take something which is not belongs to you.

*w.regards,
eric w"*

On 28 July 2016, the Centre informed Eric Yew Kee Wong by email that the point of contact at the Centre had changed due to Paddy Tam's departure and that according to Article 5 of the Rules, the Respondent was required to submit a Response (the Response Form R and its Annexures) to the Centre within 20 days from the date of the commencement of the administrative proceeding, 15 July 2016 (i.e. on or before 4 August 2016). The email contained a link to the URL where the format of a Response Form can be downloaded.

There was a response by email the same day which read:

" Hi Mandy

I think u all got abit of problems. Why the hack the real owner of the property need to defence for his/her own property?? U should clarify with the real ownership and Network Solutions registration first before come and disturb me.

I m a busy man. I am not those rubbish man and waiting to take your complaints every minute. This is a .com global domain, not .com.hk domain. I really dont have that rubbish time and energy to entertain those idiots, everyday keep claiming others properties is their own properties.

W.regards

Eric"

Again on 28 July 2016 there was a further response:

" Sorry, my company is Malaysia company. If u need to bring any legal issue to court, please come to Malaysia and submit your case to Malaysia magistrate and/or High Court. Please dont waste my time and energy to entertain those irrelevant issue.

W.regards

Eric"

On 5 August 2016 the Centre informed both the Complainant and the Respondent that the Centre had not received a response form from the Respondent and would shortly proceed to appoint the Panelist.

On 10 August, 2016, the Centre appointed Anthony Rogers GBS, QC, JP as Panelist in the administrative proceeding. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Centre to ensure compliance with Rule 7.

The Panel finds that the Centre has performed its obligations under Rule 2(a) of the Rules of Procedure "to employ reasonably available means calculated to achieve actual notice to Respondent".

In accordance with Rule 15(a) of the Rules of Procedure, the Panel is of the view that it shall decide the Complaint on the basis of statements and documents submitted.

Also, according to Rule 15(d) of the Rules of Procedure, HKIAC Supplemental Rules and Section 67 of the Hong Kong Arbitration Ordinance (Cap. 609) of the Laws of Hong Kong, this Panel shall issue a reasoned award.

3. Factual background

The following facts are taken from the Complaint and, as indicated above, the Respondent has not filed any form R.

In 1979, Mr. Chau Chung Kai ("Mr. Chau") established Chief Investment Company. That company held a securities brokerage licence. In the 1990s, Chief Investment Company was active in expanding its securities business. In order to further develop the business, Chief Investment Company was transformed into a limited company and renamed "Chief Securities Ltd", (the Complainant in this case). During that time, Mr. Chau set up other companies to provide various financial services, in particular futures and options dealings. Chief Investment Company became a member in the stock options trading and also a clearing member of the Hong Kong Stock Exchange. The business operated by Mr. Chau further expanded and the "Chief Group" gradually came into being with the Complainant as the core company.

The Complainant is the owner of a number of Trade Marks registered both in Hong Kong and in Taiwan. It is sufficient to refer to a few of these only which all have the word Chief as a prominent part of the Mark:

1. Hong Kong Trade Mark 301263050. Registered as of 24 December 2008, in respect of various services in Class 36, specifically financial and monetary services.
2. Hong Kong Trade Mark 303580010. Registered as of 29 October 2015, in respect of various services in Class 36, specifically financial and monetary services.

In 2000, in view of the booming internet and IT sectors, the Complainant began to plan for the introduction of online stock trading services. Mr. Chau planned to use the English name of the group, "Chiefgroup" as the domain. One of the Complainant's directors was

Mr. Chau's daughter, Ms. Maggie Chau ("Ms. Chau"). She had special responsibility for all IT issues. In 2000, Eric Wong Yew Kee ("Mr. Eric Wong"), was Ms. Chau's boyfriend. Mr. Eric Wong claimed that he was familiar with information technology and he could represent the "Chief Group" to handle the registration procedures. Ms. Chau agreed. Due to Ms. Chau's trust and reliance on Mr. Eric Wong, Ms. Chau gave Mr. Eric Wong full authority to handle the application for registration of the domain name "Chiefgroup".

Mr. Eric Wong successfully registered the domain name <chiefgroup.com> in the name of the Complainant. Mr. Eric Wong then held the administrative account and the password of the domain name and at all relevant times acted on the basis that he held them on behalf of the Complainant.

Since registration in January 2002, the Complainant (through Ms. Chau) had paid the renewal fees. Having consulted the Complainant's records, Ms. Maggie Chau has confirmed that on or about 2nd or 3rd March 2009, she paid the subscription or license fees of HK\$2182.44 for renewal of the disputed domain name <chiefgroup.com> and thereafter reserved the use of the disputed domain name for 10 years, i.e. up to 2019.

The relationship between Ms. Chau and Mr. Eric Wong has subsequently turned bad in the recent years and they have broken up. Also, Ms. Chau has resigned from the Complainant in December 2015.

According to their internal records, the Complainant commenced using the internet service for its commercial purposes and service in 2001. The Complainant has been using www.chiefgroup.com as the home page of the website of the Chief group to promote and introduce its business. Snapshots of the website of www.chiefgroup.com captured by Domain Tools in the daytime from 2004 to 22 May 2016 show the logos with the prominent word "CHIEFGROUP.COM". The website was not only the Complainant's platform for showing its products, services and new market information, but also the interface for the customers of the Chief group to login to the online services.

In May 2016 the Complainant discovered that notwithstanding the website contained the words: "This Page is under Construction-Coming Soon" at the top right hand corner of the first page of the website www.chiefgroup.com but at the same time many pages showed the related links of numerous securities companies, such as China Galaxy Securities Co., Ltd and Bright Mark Securities. These operate similar business as that of the Complainant.

On 24 May 2016, Mr. Maco Wong, one of the Complainant's staff, sent an email to Mr. Eric Wong requesting he be allowed and enabled to reconfigure the settings of the website as problems had been discovered. That was rejected by Mr. Eric Wong who replied:
" U can go n talk to Maggie Chau. Please dont disturb me. Sorry i dont know u. "

Mr. Maco Wong repeated his request and said that he was not in contact with Ms. Chau. Mr. Eric Wong then replied:
" Very sorry to let u know. I bought this domain name back in 2000. I only lend for Chief to use it. Now Chief have used it for 16 years already, and i will take it back and sell it to another customer. Maggie is back in HK since 24th April 2016. U can find her at her father house at The Peak.

Very sorry to tell u, i have sold the domain name to a company in Suzhou, China already for US \$750,000. Now i mjust waiting for the transaction to complete and than i will change all info at Network Solutions to the buyer."

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Respondent and/or Mr. Eric Wong, by refusing to return the account information and password, has seriously infringed the rights and the legitimate interests of the Complainant as the registrant of the disputed domain name;
- ii. The Respondent and/or Mr. Eric Wong, by using the disputed domain name without the approval of the Complainant, has infringed the rights of in respect of the registered trademarks owned by the Complainant;
- iii. The Respondent has no legitimate right or claim to the use of the name Chief Group or chiefgroup.
- iv. The Respondent and/or Mr. Eric Wong, by creating a website using the disputed domain name to promote the business of the Complainant's competitors without the Complainant's approval, has seriously and adversely affected the normal business operations of the Complainant, and has misled the Complainant's customers and the general public as to the identity of the Complainant. It amounts to the use of the disputed domain name in bad faith;
- v. The Respondent's claim to have sold the disputed name for US\$750,000 is an indication that the Respondent or Mr. Eric Wong is simply wishing to make a substantial profit and that is a further indication of bad faith in the matter.

The Respondent's has not filed a form R and in so far as any contentions may be gleaned from the emails coming from Mr. Eric Wong they demonstrates an inconsistency which undermines any credibility.

5. Findings

The 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 is 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

The Complainant has established that it is the owner of a number of Trade Marks registered both in Hong Kong and in Taiwan. In particular reference has been made above to Hong Kong Trade Mark 301263050. The prominent feature of the Mark is the word Chief. It is registered as of 24 December 2008, in respect of financial and monetary services; financial consulting, analysis and management; brokerage and trading of bonds, securities, commodities, derivatives and futures; stock exchange and futures exchange quotations; market making service; securities valuation service; financial information; advisory services and investments in collective investment scheme; securities lending service; dividend collection service; gold exchange services; providing an on-line computer database of financial information and transactions; all included in Class 36.

Similarly Hong Kong Trade Mark 303580010, registered as of 29 October 2015 has the same prominent feature of the word Chief and is registered in respect of the same services.

There can be no doubt that the domain name chiefgroup.com is confusingly similar to these Trade Marks, registered in respect of the services in Class 36.

B) Rights and Legitimate Interests

On the facts set out in the Complaint, the rights and legitimate interests in respect of the domain name <chiefgroup.com> clearly belong to the Complainant which has been using the website upwards of 15 years as part of its business. The Complainant has been using www.chiefgroup.com as the home page of the website of the Chief Group to promote and introduce its business. The website was not only the Complainant's platform for showing its products, services and new market information, but also the interface for the customers of the Chief group to login to the online services.

The Complainant has clearly established a *prima facie* case it has the rights and legitimate interests in domain name <chiefgroup.com>. In providing the explanation as to how it came about that Mr. Eric Wong was responsible for the initial registration of the domain name and the application and renewal fees were paid by the Complainant through Mr. Eric Wong, the Complainant has correspondingly established a *prima facie* case that neither the Respondent nor Mr. Eric Wong has any right or legitimate interest in the domain name.

Neither the Respondent Mr. Eric Wong has discharged the burden of showing that they have any right or legitimate interest in the domain name. On the contrary Mr. Eric Wong's emails to the Complainant merely direct attention to his former relationship with Ms. Chau and his emails show an attempt to divert attention to some unnamed party in Suzhou.

In the light of this allegation that the domain name might be worth a large sum of money, Mr. Eric Wong's assertion that he simply lent the name to the Complainant for 15 years simply is as unbelievable as it is facile.

C) Bad Faith

There can be no doubt on the facts presented in the Complaint and in the other material before the panel, that the domain name <chiefgroup.com> has been registered in the name of the Respondent in bad faith and is being used in bad faith. The history of the use of the domain name by the Complainant in relation to its financial services business demonstrates the connection which the public and in particular the Complainant's customers would have


between the domain name and the Complainant. It is clear beyond a peradventure that the use by the Respondent of the domain name purportedly in relation to financial services and the like would be and in all likelihood is severely disruptive of the Complainant's business.

The use by other financial organisations of the domain name shows an intent to attract for commercial gain internet users. Given the previous use of the domain of the complainant this can only cause severe confusion with the Complainant's Marks and business.

The fact that the statement made by Mr. Eric Wong that he had sold the domain name for US\$750,000 to a Suzhou company seems to be idle in view of the fact that the Respondent is a Malaysian company, can be construed as indicative that Mr. Eric Wong was using his control over the website for the purposes of selling, renting or otherwise causing the Complainant to pay a ransom to obtain the return of the domain name.

6. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name <chiefgroup.com> be transferred to the Complainant



Anthony Gordon Rogers GBS, QC, JP
Panelists

Dated: 24 August 2016