



Asian Domain Name Dispute Resolution Centre

hong kong

Case No.	HK-1300551
Complainant:	OSIM International Ltd
Respondent:	Sugar Land Medical Supply
Disputed Domain Name(s):	<osimmassagechair.com >, <osimmassagechairs.com>

1. The Parties and Contested Domain Name

The Complainant is OSIM International Ltd. of Singapore

The Respondent is Sugar Land Medical Supply, of Texas, United States

The domain names at issue are <osimmassagechair.com>, <osimmassagechairs.com>, registered by Respondent with GoDaddy.com, LLC of United States.

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Center ("ADNDRC")["Center"] on October 9, 2013, seeking a transfer of the domain names in dispute.

The Center examined whether the Complaint met formal requirements set out in the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the ADNDRC Supplemental Rules (the "Supplemental Rules").

The Center sent to the Respondent the "Complaint Transmission Cover" together with the Complaint via email as well as via registered mail. The Center informed the Respondent of a due date for the submission of its Response.

The Respondent did not submit the Response by the due date of November 18, 2013.

On November 26, 2013 the Center appointed Professor Moonchul Chang as a Presiding Panelist of this case and Mr. Shaojie Chi and Dato Ambiga Sreenevasan as Co-Panelists of this case. With the consent to the appointment, and impartiality and independence declared and confirmed by the panelists, the Center, in accordance with paragraph 7 of the Rules, set up the Panel in this case.

3. Factual background

The Complainant owns the registered trademarks “OSIM” in many countries such as Singapore, Australia, United States of America, Indonesia, Germany, Egypt, United Kingdom and others. The mark “OSIM” is also used as the company name and as the trademark on its products. The Complainant has sold its health related equipment and products around the world.

According to the WhoIs information of the registrar concerned, the Respondent registered the disputed domain name on April 22, 2013. The Respondent currently does not use the disputed domain name.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- (1) OSIM International Ltd. (“the Company”) is a well-known company in the field of health related equipments and products under the brand name “OSIM”. The trademark OSIM connotes the Complainant’s brand name, trade name and domain name.

- (2) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant exclusively owns the trademark OSIM which is registered in many countries including Singapore, Australia, United States of America and United Kingdom. The Company has a global presence under the mark OSIM and the trademark/name refers exclusively to the Complainant and no one else.
- (3) The Respondent registered the disputed domain names which include the Complainant's trademark in its entirety. This amounts to an infringement of the company's rights in the trademark OSIM and is likely to cause confusion amongst the public and which will dilute the distinctiveness of the Company's trademark. The Respondent is not using the disputed domain names and offered to sell the disputed domain names to the Complainant for US\$1,000,000. This shows that the Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

5. Findings

Paragraph 4(a) of the Policy provides that in order for a Complainant to prevail, the following three elements must be shown:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The registrant has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a *prima facie* case

that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of rebuttal is transferred to the Respondent. In this case the Respondent did not reply to the Complaint.

A. Similarity between the Trade Mark and the Domain Name disputed

The disputed domain names <osimmassagechair.com > and <osimmassagechairs.com> entirely incorporate the Complainant's trademark OSIM and include its products namely "massagechairs". Therefore they are likely to be associated with the Complainant who has no connection with the Respondent. The Panel finds that the domain names registered by the Respondent are "confusingly similar" within the meaning of the policy.

Accordingly, the Panel finds the first element under paragraph 4(a)(i) of the Policy has been satisfied by the Complainant.

B. Rights or Legitimate Interests of the Respondent

Firstly, in the absence of any license or permission from the Complainant to use the Complainant's trademark, no actual or contemplated *bona fide* or legitimate use of the domain name could reasonably be claimed by the Respondent.

Secondly, there is no evidence presented to the Panel that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services at present. In addition there is no evidence to suggest that the Respondent has been commonly known by the disputed domain names.

Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a)(ii) of the Policy in the present case.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy the Complainant must show that the domain name “has been registered and is being used in bad faith.” Evidence of the registration and use of a domain name in bad faith includes circumstances indicating that the registrant has registered the 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 for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name.

The disputed domain names include in its entirety the Complainant’s trademark OSIM and include a description of the Complainant’s goods, namely “massage chairs”. It is therefore evident that the Respondent knew of the Respondent’s business and registered the disputed domain name with notice of the Complainant’s trademark. The Respondent in all likelihood registered the disputed domain name to take advantage of the similarity for commercial gain.

In addition, the Respondent is neither using the disputed domain names nor is there any evidence of any attempted plans of *bona fide* use. In the email communication with the Complainant dated September 2, 2013, the Respondent proposed to sell the disputed domain names to the Complainant for a price US499, 995.00 for each name which is far in excess of the Respondent's out-of-pocket costs.

The Panel finds that the Respondent registered the disputed domain names in bad faith for the purpose of selling the same to the Complainant for substantial gain.

Based on the foregoing, the Panel is satisfied that bad faith registration and use have been sufficiently established by the Complainant with respect to the disputed domain names in accordance with paragraphs 4(a) and 4(b)(i) of the Policy.

6. Decision

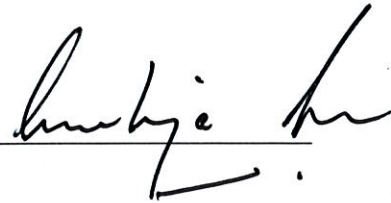
For all the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the domain names <osimmassagechair.com> and <osimmassagechairs.com> be transferred to the Complainant.



Moonchul Chang, Presiding Panelist



Shaojie Chi, Co-Panelist



Ambiga Sreenevasan, Co-Panelist

Dated: December 10, 2013