



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

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(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1200434
Complainant:	Changi Airport Group (Singapore) Pte. Ltd.
Respondent :	Shopping +

1. The Parties and Contested Domain Name

The Complainant in this administrative proceeding is Changi Airport Group (Singapore) Pte. Ltd., whose address is 60 Airport Boulevard #046-019, Changi Airport Terminal 2, Singapore 819643. The Complainant's authorized representative is Bryan Ghows of UniLegal LLC, 150 Cecil Street #05-03, Singapore 069543.

The Respondent is Shopping +, whose address is West Wing, 1 Press Enclave Road, Saket, Delhi 110017, India.

The domain name at issue is <changiairportshopping.com>, registered by Respondent with GoDaddy.com, LLC, whose address is 14455 North Hayden Road, Suite 219, Scottsdale, Arizona 85260, USA.

2. Procedural History

On 18 May 2012, the Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Center (“ADNDRC”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999. On 21 May 2012, the ADNDRC confirmed receipt of the Complaint. The Complainant elected that this case be dealt with by a one-person panel.

On 23 May 2012, the ADNDRC transmitted by email to the Registrar, GoDaddy.com, LLC, a request for registrar verification in connection with the disputed domain name. On 30 May 2012, the Registrar transmitted by email to the ADNDRC its verification response, confirming that the Respondent is listed as the registrant and providing contact details as markgm09@yahoo.com and 1.7278213.

On 1 June 2012, the ADNDRC transmitted the Complaint and evidence to the Respondent, by email addressed to markgm09@yahoo.com and to postmaster@changiairportshopping.com, and notified the Respondent of the commencement of the action, requesting that the Respondent submit a Response within 20 calendar days, and further specifying the due date as being on or before 21 June 2012 (“Notification”).

On 26 June 2012, the ADNDRC replied to the Complainant, advising that a Response to the Complaint had not been submitted to the ADNDRC within the required period of time. Since the Respondent defaulted and did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC informed the Complainant and Respondent that the ADNDRC would appoint a one-person panel to proceed to render the decision.

On 6 July 2012, having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the ADNDRC notified the parties that the Panel in this case had been selected, with Mr. David KREIDER acting as the sole panelist.

On 6 July 2012, the Panel received the file from the ADNDRC and should render the Decision on or before 20 July 2012, if there are no exceptional circumstances.

3. Factual background

For Claimant

The following facts are alleged by the Complainant in the Complaint:

The Complainant is the operator of Changi Airport, the international airport of Singapore. Prior to 2009, Changi Airport was owned, managed and operated by the Civil Aviation Authority of Singapore ("CAAS"), a statutory body formed by the Government of Singapore for the purposes of advising the government on matters relating to civil aviation, regulating and promoting the development of air transport in Singapore.

With the passage of the Civil Aviation Authority of Singapore Act 2009 ("the Act") by the Singapore Parliament on 13 April 2009, the property, rights and liabilities in Changi Airport were transferred to the Complainant, Changi Airport Group (Singapore) Pte. Ltd., which took over the management and operation of Changi Airport on 1 July 2009.

Serving approximately 100 airlines, Changi Airport is the seventh busiest airport in the world. More than 6,100 flights traverse Changi Airport every week. In 2011, some 301,700 aircraft and some 46.5 million passengers moved through Changi Airport. To date, Changi Airport has received over 390 awards, including awards and recognition as "Best Airport in the World".

For Respondent

The Respondent has defaulted and has not submitted a Response to the Complaint.

The Complainant alleges in the Complaint that, on 28 March 2012, the Complainant through their solicitors, Unilegal LLC, wrote to the then registrant of the disputed domain, one Xpert Web Builder by post to Champa Merket (1st Floor), Arkan Road, Chadgaon, Chittagong 33709, Bangladesh, and via email to xpertwebbuilder@yahoo.com, and that no reply was received from Xpert Web Builder.

The Complainant further alleges that, on 9 April 2012, Xpert Web Builder transferred the disputed domain name to the Respondent, Shopping +.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

I. The Disputed Domain Name is identical or confusingly similar to a trade mark or service mark to which the Complainant has rights

- a) The Complainant submits that disputed domain name, <changiairportshoppingcom>, is identical or confusingly similar to a service mark in which the Complainant has rights. The Complainant has filed the following service mark applications with the Intellectual Property Office of Singapore:

Date filed	Mark	Classes	TM no.
21 October 2011	Singapore Changi Airport, Changi Airport Singapore, Changi Airport	35, 36, 37, 39, 41, 42, 45	T1113796A
30 September 2011	Changi Airport Singapore with globe device	35, 36, 37, 39, 41, 42, 45	T1113591H
30 September 2011	Changi Airport Group with globe device	35, 36, 37, 39, 41, 42, 45	T1113592F

- b) The Complainant further submits that, by reason of the extensive use, advertising and marketing, use of the domain name changiairport.com and the prosecution of the service mark applications in respect of "Changi Airport", the Complainant has established substantial goodwill and reputation in the name "Changi Airport" and has further established common law service mark rights, and anticipates that it will soon attain registered service mark rights, in the name "Changi Airport".
- c) The Complainant submits that Changi Airport is known world-wide as the international airport for Singapore and that, by using the name "Changi Airport" as part of the disputed domain name, the disputed domain name is identical or confusingly similar to the Complainant's name and domain name.
- d) Furthermore, the Complainant alleges, for the reasons set forth in the paragraphs below, members of the public who visit the website of the disputed domain will wrongly assume a connection between Changi Airport and the website of the disputed domain name.

II. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name

- a) The Complainant submits that the Respondent should be considered as having no rights or legitimate interests in the domain name that is the subject of the Complaint. In support of its contention, the Complainant notes that the home page of the disputed domain name confusingly identifies itself as "Welcome to Changi Airport Shopping Web Site Pre-Order" with an image of the Changi Airport Control Tower, an architectural feature that is distinctive of Changi Airport.
- b) The Complainant submits that the home page of the disputed domain name attempts to pass itself off as the online shopping website of the Complainant by stating:

"Welcome to the world's BEST AIRPORT and the world's BEST AIRPORT SHOPPING adventure. We have been THE BEST AIRPORT for the 12th consecutive year. We have also won the BEST AIRPORT SHOPPING award from the reputable Business Traveler (Asia-Pacific). We are about excellent, exciting and wonderful shopping and eating experiences with more than 100 shopping and eating outlets to serve all your needs."

The website then attempts to entice the visitor to purchase goods online by stating:

"When traveling through Asia be sure to order airline ticket [sic] where your flight has a stop over in Changi. Here, we feature some of our trendiest, hottest, most exciting products, products which you want and dream [sic] all the time."

In the left column of the website appears:

"Flying through Changi? You can pre-order any of the products featured here. So, take your time to browse through and pre-order online. Collect and pay for your products when you land in Changi Airport at the respective shops."

Under the "Terms and Conditions" of the website of the disputed domain name, it is stated:

"Welcome to this website which is provided by the Civil Aviation Authority of Singapore (CAAS)¹ as a service to passengers using Singapore Changi Airport. Please take a few minutes to review the conditions governing your access to and use of this website."

¹ The predecessor operator of Changi Airport.

Finally, under the heading “Copyright”, the Complainant observes that the disputed domain name website states:

“The copyright on this website is owned by CAAS. No part of this website may be modified, copied, reproduced, distributed, broadcast, distributed, transmitted, displayed or published in any manner or by any means stored in an information retrieval system without the written permission of CAAS.”

- c) The Complainant concludes that all the above statements are fraudulent, unauthorised, untrue, misleading and deceptive; that the Respondent has no rights in respect of the disputed domain name and is not using the disputed domain name for any legitimate reason; and that the Respondent’s intention is clearly to mislead and divert the public to the website of the disputed domain for their own commercial gain and to tarnish, impair and harm the name and reputation of the Complainant and Changi Airport.²

III. The Disputed Domain Name has been registered and is being used in bad faith

- a) The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant asserts that the Respondent is not using the disputed domain for any legitimate purpose, but rather, is deceiving the public into thinking that there is an association between the disputed domain name and the Complainant's domain name and Changi Airport and that the statement that the website of the disputed domain name is owned by the Complainant's predecessor, CAAS, is an indication of such faith use.
- b) On 28 March 2012, the Complainant wrote to the then registrant of the disputed domain name, Xpert Web Builder, putting them on notice of the Complainant's rights under the UDRP and demanding the transfer of the disputed domain. No response was received from the then registrant. Thereafter, on or about 9 April 2012, the then disputed domain name was transferred to the Respondent. The Complainant submits that the Respondent is a proxy of the prior registrant, Xpert Web Builder, by reason of the transfer of the disputed domain name to the Respondent.
- c) Further, as on 16 January 2012, Xpert Web Builder’s website, www.xpertwebbuilder.com, the page entitled “Our Clients” represented falsely that “Changi Airport is one of their clients”, and that more recently, Changi Airport is no longer listed on their website as a client of Xpert Web Builder. The Complainant points to these acts as providing a strong indication that the

² The Complainant acknowledges that it has not determined the commercial motivation or purpose underlying the disputed domain name and its related website, noting: “*An attempt to purchase goods from the website of the dispute domain name results in an error report. It is not known at this time whether the disputed domain name is a ‘phishing’ site, a landing page intended to infect unwary visitors with malware or a landing page intended to drive ‘per click revenue’ on the numerous advertisements*”.

prior registrant received the Complainant's notice dated 28 March 2012 and that the Respondent is a proxy of the prior registrant.

- d) Finally, as a further indicia of the Respondent's bad faith use, the Complainant points to the "strong likelihood" of the public receiving wrong information, because certain information on the website of the disputed domain is out of date. As examples of this, the Complainant notes that the website refers to Changi Airport having only two (2) airport terminal, when in actual fact, Changi Airport now has four (4) terminals. The airlines serving the airport's current terminals are different than when Changi Airport only had two terminals.

B. Respondent

The Respondent failed to submit a Response to the Complaint within the specified time period.

5. Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4 (a) of the Policy requires that the Complainant should prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

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

Paragraph 5(e) of the Rules directs that if, as is the case here, a Respondent does not submit a Response, then in the absence of exceptional circumstances, the Panel should decide the dispute based upon the Complaint.

A) Identical / Confusingly Similar

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

To meet this requirement, the Complainant provided a table, supported by printouts of searches made on 27 April 2012, setting forth the particulars of service marks for which the Complainant has applied with the Intellectual Property Office of Singapore, including "Singapore Changi Airport", "Changi Airport Singapore", and "Changi Airport". The dates shown in the Complainant's table reflect the dates of first filing of these registrations. The Panel observes, however, that all of the Complainant's dates of application, the earliest of which being 30 September 2011, are later than the

date of registration of the disputed domain name by the Respondent's predecessor registrant, Xpert Web Builder, being 14 January 2000.

The Complainant further submits that, by reason of the extensive use, advertising and marketing, use of the domain name changiairport.com and the prosecution of the service mark applications in respect of "Changi Airport", the Complainant has established substantial goodwill and reputation in the name "Changi Airport" and has further established common law service mark rights, and anticipates that it will soon attain registered service mark rights, in the name "Changi Airport", and that Changi Airport is known world-wide as the international airport for Singapore.

The Complainant points to the 10 November 2005 decision of Sole Panelist Ho-Hyun Nahm in ADNDRC Case No. HK-0500072, in which the Complainant was the Civil Aviation Authority of Singapore. In that case, in relation to the disputed domain name changiairport.com, the Panel found that the Claimant had established common law service mark rights to the domain and ordered the transfer of the domain to the instant Complainant's predecessor in interest, the CAAS.

On this basis, the Panel is satisfied that the Complainant enjoys the service mark rights to "CHANGI AIRPORT" and to the domain changiairport.com.

The Panel now turns to the issue of whether the Respondent's domain is identical or confusingly similar to the Complainant's service mark "CHANGI AIRPORT".

By using the name "Changi Airport" as part of the disputed domain name, the Complainant urges, the disputed domain name is identical or confusingly similar to the Complainant's name and domain name. Based upon the misrepresentations appearing in the website associated with the disputed domain name, as set out in detail in Paragraphs II (a) and (b) above, the Panel agrees with the Complainant's assertion that members of the public visiting the website of the disputed domain will wrongly assume a connection between Changi Airport and the website of the disputed domain name.

The Panel therefore holds that the Complaint fulfills the condition provided in Paragraph 4 (a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant's assertion is sufficient to establish a prima facie case under Policy 4 (a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests. The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name.

The disputed domain name does not appear to be in use for any *bona fide* offering of goods or services or to have been established in anticipation for such use, and there is no indication that the Respondent was known by the name "Changi Airport Shopping" prior to the registration of the domain name. The Respondent is not, and has never been, a "client" of the Complainant, nor is the Respondent authorized or licensed to use the Claimant's mark, nor does any evidence suggest a legitimate non-

commercial or fair use of the domain name. These allegations are sufficient to satisfy the Claimant's obligation to make a *prima facie* showing that Respondent lacks a legitimate interest. The Respondent has defaulted and failed to rebut the allegations.

The Panel therefore finds that the Complaint fulfills the conditions provided in Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

The Complainant submits that the disputed domain name was registered and is being used in bad faith, rather than for any legitimate purpose. The Respondent is deceiving the public into thinking that there is an association between the disputed domain name and the Complainant's domain name and Changi Airport, where no such association exists.

The Complainant points to the false representation that the website of the disputed domain name is owned by the Complaint's predecessor, CAAS, as one indication of such bad faith use, and to the transfer of the website from the then registrant of the disputed domain name, Xpert Web Builder, to the Respondent on or about 9 April 2012, after the Complainant put Xpert Web Builder on notice of its intention to bring an administrative proceeding under the UPRP, an apparent instance of "cyberflight".

Finally, the Complainant identified significant incorrect and outdated information about Changi Airport that appears on the disputed domain name website, which creates a substantial risk that the public will be misled and confused.

This Panel finds, as is contended by the Complainant, that the disputed domain name website serves no legitimate purpose and is highly likely to mislead the public.

In conclusion, the Panel finds that the Respondent has registered and used the domain name in bad faith. Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4 (a) (iii) of the Policy.

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the <changiairportshopping.com> domain name must be TRANSFERRED from the Respondent to the Complainant.

David KREIDER
Sole Panelist

Dated: 9 July 2012