Asian Domain Name Dispute Resolution Centre

ADNDRC Hong Kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1901299
Complainant:	voestalpine High Performance Metals Pacific Pte. Ltd. (formerly ASSAB Pacific Pte Ltd)
Respondent:	liang zishuang
Disputed Domain Name:	**<assab-dg.com>**

1. The Parties and Contested Domain Name

The Complainant is voestalpine High Performance Metals Pacific Pte. Ltd. (formerly ASSAB Pacific Pte Ltd), of 8 Cross Street, #27-04/05, Manulife Tower, Singapore 048424. The Complainant is represented in these administrative proceedings by Mr. James Lau from Baker & McKenzie, whose address is 14th Floor, Hutchison House, 10 Harcourt Road, Hong Kong.

The Respondent is liang zishuang, of baoanqu,xixiang,gushu,tangxig gongyequCdong1lou,shenzhen guangdong 518100 China.

The domain name at issue is <assab-dg.com>, registered by Respondent with Bizcn.com, Inc., of abuse@bizcn.com.

2. Procedural History

On 28 October 2019, the Complainant submitted a complaint in English to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("the ADNDRC-HK") and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy ("the Policy") approved by the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy ("the Rules") and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("the ADNDRC Supplemental Rules").

Upon receipt of the complaint, the ADNDRC-HK sent to the Complainant by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules. On 30 October 2019, upon request by the ADNDRC-HK, the Registrar transmitted by email to the ADNDRC-HK its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 15 November 2019, the ADNDRC-HK notified the Respondent about the commencement of the proceedings. On the same day, the ADNDRC-HK notified the Complainant that the complaint had been confirmed and transmitted to the Respondent, and also notified the Registrar of the commencement of the proceedings.

On 15 November 2019, the ADNDRC-HK notified the Complainant that the language of the registration agreement was Chinese and invited response from the Complainant. On 20 November 2011, the Complainant filed in a supplemental complaint in response, which was also forwarded to the Respondent on 21 November 2019, inviting response from the Respondent on or before 26 November 2019.

The Respondent had not filed any response within the stipulated time. On 9 December 2019, the ADNDRC-HK sent out notice noting that no response had been received and the complaint was to be proceeded to a decision by the Panel to be appointed.

On 9 December 2019, the ADNDRC-HK sent to the Complainant and the Respondent notification for the selection of a one-person panel to proceed to render the decision. Having received a declaration of impartiality and independence and a statement of acceptance, the ADNDRC-HK notified the parties, on 11 December 2019, that the Panel in this case had been appointed, with Mr. Gary Soo acting as the sole panelist.

On 11 December 2019, the Panel received the file by email from the ADNDRC-HK and was requested to render the Decision on or before 25 December 2019.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the administrative proceedings shall be the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceedings. The language of the current Disputed Domain Name registration agreement is Chinese. The Complainant submits that the Panel has authority to determine the language of the proceedings having regard to the circumstances under Paragraph 11 (b) of the Rules and requests the language to be in English. The Complainant highlights, inter alia, that the domain name in dispute is in the English language. The Panel notices that the name of the Respondent is also in English. In the circumstances, given there is no response from the Respondents to the Complainant's request, the Panel determines English as the language of the proceedings.

3. Factual background

The Complainant

The Complainant in this case is voestalpine High Performance Metals Pacific Pte. Ltd. (formerly ASSAB Pacific Pte Ltd). The registration address is 8 Cross Street, #27-04/05, Manulife Tower, Singapore 048424. The Complainant appointed Mr. James Lau from Baker & McKenzie, the address of which being at 14th Floor, Hutchison House, 10 Harcourt Road, Hong Kong, as its authorized representative in this matter.

The Respondent

The Respondent, liang zishuang, is the current registrant of the Disputed Domain Names <assab-dg.com> according to the Bizcn.com, Inc.. The address of the Respondent from the registration information is "baoanqu,xixiang,gushu,tangxig gongyequCdong1lou,shenzhen guangdong 518100 China". The Respondent's email is assab_dongguan@163.com.

4. Parties' Contentions

A. Complainant

The Complainant, voestalpine High Performance Metals Pacific Pte. Ltd. (formerly ASSAB Pacific Pte Ltd), contends that it holds trademark registrations for the "ASSAB" trademark and other related trademarks ("ASSAB Series Marks") in various jurisdictions worldwide. The Complainant brings this action to protect its rights in the "ASSAB Series Marks". The Complainant's registered "ASSAB Series Marks" include those registered in Hong Kong, Taiwan and Mainland China.

The Complainant further submits as follows:

i. 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 was formed in 1945 to market high quality tool steel from Sweden, renowned for its quality standards. Headquartered in Singapore, the Complainant operates close to 50 sales offices in the Asia Pacific supplying the best available steel in the market. Coupled with its best-in-class metallurgical tooling services and technical know-how, the Complainant is both the pioneer and the leader in tool steel solutions in Asia.

The Complainant anchors the distribution network for Uddeholm – the world's leading tool steel manufacturer with more than 300 years of experience in the tool steel industry. The two companies together service leading multinational companies (MNCs) across practically all key industrial sectors in more than 90 countries.

Rapid industrialization in Asia has led to an exponential growth in demand for steel. The Complainant companies in Asia therefore focus on bringing superior quality steel to the market. The Complainant's "Total Tooling Economy" provides the Complainant's customers with key value-added services. In the greater China region, ASSAB is 一胜百 (Yi Sheng Bai) which, when literally translated, means "One beats One Hundred" and underlines the Complainant's position as an industry leader. The Complainant is more than just another tool steel supplier.

The Complainant operates close to 50 branches and sales offices in the Asia Pacific. The Complainant's presence in China dates back more than 60 years. In the mid-1950s, ASSAB tool steels were distributed in southern China. In the early 1990s, the Complainant established its own first-ever outlet in Shenzhen. Today, the Complainant has more than 500 employees in 22 locations across mainland China and continues to expand its network of services in tandem with

the growing needs and precision requirements of the manufacturing industry in China. There are 18 affiliates in locations, such as Beijing, Changchun, Changzhou, Chongqing, Dalian, Dongguan, Guangzhou, Hong Kong, Hunan, Ningbo, Qingdao, Shanghai, Suzhou, Tianjin, Wuhan, Xiamen, Xi'an and Yantai.

Below is the sales record of the Complainant's products in China. The total amount of sales of the Complainant's products in China reached RMB 1.36 billion from 2006 to 2011.

Year	Amount (RMB)
2006	205,602,516.00
2007	265,875,839.00
2008	62,595,886.00
2009	225,476,595.00
2010	268,167,845.00
2011	332,601,092.00
Total Amount:	1,360,319,773.00

The PRC National Library Search indicates that the Complainant's "ASSAB" / "一胜百" trademarks have obtained a high degree of fame among the relevant consumers.

The disputed domain name <assab-dg.com> contains the following two elements:

	Disputed Domain Name	First Element	Second Element
1	assab-dg.com	assab-dg	.com

Numerous UDRP precedents have established that the top-level domain ".com" does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion. The only distinctive part of the disputed domain name should be the first element of the names as set out above. As "dg" can be used as abbreviation of "Dongguan", which is a city in Guangdong Province of China where the Respondent is located at and operate his/her business, it cannot be recognized as being distinctive. Thus, the only distinctive part of the disputed domain should be "assab", which is identical to the Complainant's "ASSAB" trademark.

The disputed domain name <assab-dg.com> contains the Complainant's "ASSAB" trademark and the Complainant's trade name in its entirety. This striking resemblance will no doubt mislead consumers into believing that the website is operated by or associated with the Complainant.

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

According to the WHOIS record), the Respondent registered the disputed domain name on 12 January 2017, long after most of the application and registration dates of the Complainant's "ASSAB Series Marks"

After years of extensive use, the "ASSAB Series Marks" have acquired significant recognition worldwide. The Complainant and the Respondent have no prior connection, and the latter has not been authorized by the former to use its mark in the disputed domain name. Additionally, the mark ASSAB is not a term commonly used in the English language. There is also no evidence that the Respondent has been commonly known by the disputed domain. It is therefore impossible to conceive of a circumstance in which the Respondent would use the disputed domain name, except in a deliberate attempt to take advantage of the "ASSAB" mark for commercial gain. The Complainant has established a prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name, and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

iii. The disputed domain name(s) has/have been registered and is/are being used in bad faith

It is clear that the disputed domain name has been registered and is being used in bad faith.

As mentioned above, the Complainant obtained its registration for the "ASSAB" trademark in Class 6 (Reg. No. 19570513) in Hong Kong in as early as 1957. The Complainant's "ASSAB Series Marks" have become widely-known among consumers and relevant public as a result of its long-term promotion and use. The Respondent must have had prior knowledge of the Complainant's "ASSAB Series Marks" before the registration of the disputed domain name on January 12, 2017.

The disputed domain name <assab-dg.com> resolves to a website that is claimed to be operated by a PRC company named 一胜百模具(东莞)有限公司 (Yi Sheng Bai Mould (Dongguan) Co., Ltd.).

This Chinese company name appearing on the website contains the Complainant' s trademarks "一胜百 (ASSAB in Chinese)" and "ASSAB" in their entirety.

The Complainant actually has a Dongguan subsidiary with the same name, 一胜百模具（东莞）有限公司 (ASSAB Tooling (Dongguan) Co., Ltd.).

Consumers will be no doubt be confused by the use of the company name 一胜百模具(东莞)有限公司 (Yi Sheng Bai Mould (Dongguan) Co., Ltd.) listed at the top of the <assab-dg.com> website, in conjunction with "一胜百 (ASSAB in Chinese)", as they may be misled into believing that the website is owned and operated by the Complainant's Dongguan subsidiary in some way.

The Respondent has also copied the introduction and history of the Complainant. The content of the introductory page on "www.assab-dg.com" has been directly copied from the introductory page on "www.assab-china.com" owned by the Complainant.

Further, the Respondent uses the email address "assabsteel@sina.com" as the contact email on its webpage. It is obvious that the Respondent is trying to deceive consumers into believing that it is related to the Complainant by using the mailbox "assabsteel", which again contains the Complainant's "ASSAB" mark to its entirety. A screenshot of the home page of the "www.assab-dg.com" website showing the contact email is attached below.

WHOIS searches reveal that the following domain names of these webpages were registered by Luo Ding Yi Sheng Bai Mould Co., Ltd. (罗定市一胜百模具有限公司), which is also a cybersquatter intending to copy the Complainant's famous "ASSAB Series Marks":

Domain Name	**Registrant**	**Creation Date**	**Remarks**
Assab101.cn	罗定市一胜百模具有限公司	2018-01-22	Favourable decision obtained by the Complainant for this domain name on 2019-05-25 under DCN-1900882.
Assab102.cn	罗定市一胜百模具有限公司	2018-01-22	Both domain names are directed to a similar webpage named 一胜百模具(东莞)有限公司
Assab100.cn	罗定市一胜百模具有限公司	2017-11-16	

Further, as provided by HKIAC, the Respondent's organization name is shenzhenshiyishengbaimojuyouxiangongsi, which is the Romanization of 深圳市一胜百模具有限公司. Previous WHOIS searches against 深圳市一胜百模具有限公司 reveal that it had registered the below listed domain names, which clearly infringe the Complainant's "ASSAB Series Marks". The Complainant filed UDRP Complaints against these domain names and received favourable Decisions.

Domain Name	**Creation Date**	**Remarks**
assab-tooling.com	2015-09-07	Favourable decision obtained by the Complainant on 2016-10-26 under HK-1600887
assab-gz.com assab-sz.com	2016-12-21	Favourable decision obtained by the Complainant on 2017-12-21

Domain Name	Creation Date	Remarks
		under HK-1701039
assab-mould.com.cn assab-tooling.cn assabtooling.cn assabtooling.com.cn assabmold.cn assabmold.com.cn assab-tooling.com.cn assab-steel.cn assab-steel.com.cn	2016-12-20 2017-01-24 2017-01-24 2017-01-12 2017-01-12 2017-01-12 2017-01-12 2017-01-24 2017-01-24	Favourable decision obtained by the Complainant on 2018-08-16 under HK-1800834

In summary, in the current case, there are sufficient grounds for an inference of bad faith based on the following:

1) The long history and high degree of fame enjoyed by the Complainant and its trademarks in the world, including in China;

2) The filing dates of the Complainant's marks long before the registration date of the disputed domain name;

3) The incorporation of the Complainant's famous trademark in its entirety in the disputed domain name;

4) The various additional infringing domain names associated with the Respondent targeting the Complainant's ASSAB trademarks;

5) The striking similarity of the Complainant's and the Respondent's websites;

6) The false and misleading claims regarding the Respondent's history on the website; and

7) The use of the Complainant's Chinese mark "一胜百 (ASSAB in Chinese)" in the name of the Chinese company owned by the Respondent.

As demonstrated, it is clear that the disputed domain name has been registered and is being used in bad faith.

The Complainant also would like to mention that in recent decisions, whereby the respondents have registered various "assab" domain names similar to the disputed domain name, the respondents were ordered to transfer the domain names to the Complainant:

1) HK-1600872 <china-assab.com>
2) HK-1600887 <assab-tooling.com>
3) HK-1600888 <assab-cn.com>
4) HK-1600889 < dgassab.com >

5) HK-1600890 <assab-zg.com>
6) HK-1600891 <assab-tool.com>
7) HK-1600892 <assab-gd.net>
8) DCN-1700756 <assabdongg.cn>
9) DCN-1700782 <assab-mould.cn> and <assabsteel.cn>
10) HK-1701019 <assab.xin>
11) HK-1701036 <assab-steel.com>
12) HK-1701038 <dongguan-assab.com>
13) HK-1701039 <assab-gz.com > and <assab.sz.com >
14) DCN-1800807 <assanshenz.cn> and <assabguanz.cn>
15) DCN-1800834 <assab-mould.com.cn> and other 8 domain names
16) DCN-1900882 <assab101.cn>
17) DCN-1901229 <as0p.com>

In these decisions, the Panelists decided that (1) the domain names are all confusingly similar to the Complainant's name or mark in which the Complainant has rights; (2) the respondents have no rights or legitimate interests in respect of the domain names; and (3) the respondents have registered and are using the domain name in bad faith.

B. Respondent

As said, the Respondent, liang zishuang, is the current registrant of the Disputed Domain Name < assab-dg.com > according to the Bizcn.com, Inc.. The Respondent registered the Disputed Domain Name on 12 January 2017.

The Respondent has not submitted a response within the stipulated time.

5. Findings

Paragraph 14 of the Rules provides that, in the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the complaint; and that, if a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Paragraph 15(a) of the Rules instructs the Panel as to the principles that the Panel is to use in determining the dispute, stating that the Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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 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, though with name changed, was and is the holder of the various trademark registrations for the "ASSAB" series, i.e. the ASSAB Series Marks and the registrations were with various jurisdictions and of dates earlier than the registration of the domain name in issue by the Respondent. From the documents and evidence supplied, the Complainant is of worldwide scale operation with the ASSAB Series Marks, at places including the People's Republic of China ("PRC"). To all these, the Panel accepts and finds that the Complainant has the necessary legal rights and interests over the ASSAB Series Marks for the purpose of the Complaint.

The Panel finds it clear that the domain name in issue the domain name in dispute < assab-dg.com > incorporate the "assab" part as its keep part for distinctive identification purposes and the part "-dg" does not feature out to likewise extent. The Panel also believes that some internet users in PRC may take "-dg" to mean Dongguan, a place in PRC, that can be read from the registered email of the Respondent.

Accordingly, the Panel finds that the Complainant has succeeded in proving the element in Paragraph 4(a)(i) of the Policy as regards <assab-dg.com>.

B) Rights and Legitimate Interests

In the present case the Complainant alleges that Respondent has no rights or legitimate interests in respect of the domain name. Also, the Complainant submits that the Complainant and the Respondent have no prior connection, and the latter has not been authorized by the former to use its mark in the disputed domain name. As per the above, the ASSAB Series Marks have acquired significant recognition worldwide, prior to the registration of the domain name in issue.

Furthermore, the Panel agrees that the part "assab" is not a term commonly used in the English language and there is also no evidence that the Respondent has been commonly known by the disputed domain.

To all theses, the Respondent does not respond to disagree or to submit contrary evidence.

Thus, the Panel finds that the Complainant has succeeded in proving the element in Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Under Paragraph 4(b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use in bad faith:

(i) Circumstances indicating that the Respondent has registered or acquired the domain 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 or service mark or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

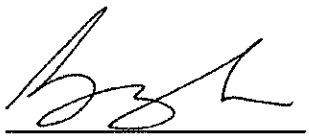
The Complainant contends that it is clear that the disputed domain name has been registered and is being used in bad faith. The Complainant highlights that the Complainant obtained its registration for the "ASSAB" trademark in Hong Kong as early as 1957 and, since then, the Complainant's ASSAB Series Marks have become widely-known among consumers and relevant public as a result of its long-term promotion and use. The Complainant submits that the Respondent must have had prior knowledge of the Complainant's ASSAB Series Marks before the registration of the disputed domain name on 12 January 2017. In particular, the Complainant points out that the disputed domain name resolves to a website that is claimed to be operated by a PRC company named 一胜百模具(东莞)有限公司 (Yi Sheng Bai Mould (Dongguan) Co., Ltd.) and this Chinese company name appearing on the website contains the Complainant' s ASSAB Series Marks in Chinese and "ASSAB" in their entirety.

To all theses, the Respondent does not respond to disagree or to submit contrary evidence. The Panel accepts these as factual findings and agrees with the Complainant that the Respondent registers the domain name in issue knowing the rights and interests of the Complainant over the ASSAB Series Marks. The Panel finds that all these do constitute bad faith on the part of the Respondent.

Therefore, the Panel also finds that the Complainant has succeeded in proving the elements in Paragraph 4(a)(iii) of the Policy as regards <assab-dg.com>.

6. Decision

Having established all three elements required under the Policy in respect of the Disputed Domain Name <assab-dg.com>, the Panel concludes that relief should be granted in favour of the Complainant. Accordingly, the Panel decides and orders that the Disputed Domain Name <assab-dg.com> shall be transferred from the Respondent to the Complainant.



Gary Soo
Sole Panelist
17 December 2019