



Asian Domain Name Dispute Resolution Centre

hong kong

(Centre)

ADMINISTRATIVE PANEL DECISION

Case No.:	HK-2101415
Complainant:	Westinghouse Electric Corporation
Respondent:	WuLingFeng (吴铃锋)
Disputed Domain Name:	<westinghouse-machinery.com>

1. The Parties and Contested Domain Name

The Complainant is Westinghouse Electric Corporation (“**Complainant**”) of 51 WEST, 52nd STREET, NEW YORK, NY 10019, U.S.A..

The Respondent is WuLingFeng (吴铃锋) (“**Respondent**”) of Xi Wu Ji Xie Xia Men You Xian Gong Si (西屋机械(厦门)有限公司) of XiaMenGuoJiHangYunZhongXinDDong8Ceng03DanYuan (厦门国际航运中心D栋8层03单元).

The domain name at issue is <www.westinghouse-machinery.com> (“**disputed domain name**”), registered by the Respondent with Xinet Technology Corporation (“**Registrar**”); Registrar’s abuse contact email: supervision@xinnet.com; and Registrar’s abuse contact phone: +86.1087128064.

2. Procedural History

On 6 January, 2021, the Complainant’s authorized representative, LexField IP Consultant Co. Limited of 5th Floor, 95 Queensway, Admiralty, Hong Kong, Email bo.yu@lexfieldlaw.com, submitted the Complaint with Annexes, in English, against the Respondent’s registration of the disputed domain name <www.westinghouse-machinery.com> to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**”) (“**Centre**”), in accordance with the Uniform Domain Name Dispute Resolution Policy (“**Policy**”) adopted by the Internet Corporation for Assigned Names and Numbers (“**ICANN**”) on 24 October, 1999, the Rules for UDRP (“**Rules**”) approved by the ICANN Board of Directors on 28 September, 2013, and ADNDRC’s Supplemental Rules for UDRP (“**Supplemental Rules**”) effective from 31 July, 2015. The Complainant requested a single person panel.

In response to the Centre’s email of 6 January, 2021, in Chinese, to the Registrar, the Registrar responded on 7 January, 2021 to the Centre, confirming that (1) the disputed domain name is being registered with the Registrar, (2) the Respondent is the current registrant or holder of the disputed domain name, (3) ICANN’s UDRP Policy applies to the Complaint, (4) the language of the

Registration Agreement of the disputed domain name is Chinese, (5) the date of the registration was 28 May 2018 and the date of expiration will be 28 May, 2028, (6) the disputed domain name would not be transferred to another holder during the pending administrative proceeding for a period of 15 business days after such proceeding is concluded pursuant to paragraph 8 of UDRP, and (7) the relevant information of the disputed domain name from the Registrar's Whois database, including the particulars of the registrant Respondent.

On 19 January, 2021, the Centre notified the Complainant, in both Chinese and English, of the formal deficiency of its Complaint. On 20 January 2021, the Complainant submitted to the Centre a rectified version of the Complaint. On 22 January, 2021, the Centre informed the Complainant, in both Chinese and English, that the Complaint was in administrative compliance.

On 25 January, 2021, the Centre sent to the Respondent a written notice, in both Chinese and English, informing the Respondent, among others, that it had to submit a Response within 20 days i.e., on or before 14 February, 2021, in accordance with Article 5 of the Rules and the Supplemental Rules.

On 28 January, 2021, the Centre sent to the Respondent a written notice, in both Chinese and English, seeking the Respondent's comment, on or before 2 February, 2021, on the working language of this proceeding as the Complaint and the Annexes that the Complainant submitted to the Centre were in English.

The Centre did not receive any comment or Response from the Respondent in respect of the language of the proceeding and the Complaint by the due dates. On 16 February, 2021, the Centre notified the Parties, in both Chinese and English, of the Respondent's default.

On 22 February, 2021, the Centre appointed Mr. Peter Cheung (张锦辉) as the Sole Panelist in the present dispute, who confirmed that he was available to act impartially and independently between the Parties in this matter.


The Panel finds that the Administrative Panel was properly constituted and appointed in accordance with the Rules and the Supplemental Rules.

3. Factual background

In the US, the Complainant's trademark portfolio includes, amongst others, the following registered trademarks:

Trademark	Registration No.	Class	Application Date	Registered Date
WESTINGHOUSE	5069011	8	2013.11.20	2016.10.25
	5082553	21	2013.11.20	2016.11.15
	4682746	37	2013.10.29	2015.02.03
	3298673	9	2003.04.30	2007.09.25
	3030756	11	2003.04.30	2005.12.13

The Complainant also owns a portfolio of registered trademarks in China, including but not limited to the following:

Trademark	Registration No.	Class	Application Date	Registered Date
	16216343	7	2015.01.23	2017.08.21
	16303413	9	2015.02.04	2016.05.28
	18068165	21	2016.10.16	2016.11.21
	18068166	20	2016.10.16	2016.11.21
	18068167	11	2016.10.16	2016.11.21
	18154625	9	2015.10.26	2016.12.07

Annex 2: Excerpts from the Complainant’s corporate website

Annex 3: Trademark particulars of the abovementioned trademarks (non-comprehensive list)

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions are as follows:

i) **The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:**

The Complainant views the Disputed Domain Name www.westinghouse-machinery.com to be identical to its Westinghouse Trademarks.

First of all, there is no doubt that the Disputed Domain Name contains the Complainant’s Westinghouse Trademarks in its entirety. Previous UDRP panels have consistently held that a domain name is identical or confusingly similar to a trademark for purposes of the Policy “when the domain name includes the trade mark, or a confusingly similar approximation, regardless of the [presence of] other terms in the domain name” (Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662).

Meanwhile, generally speaking, a user of a mark “may not avoid likely confusion by appropriating another’s entire mark and adding descriptive or non-distinctive matter to it.” (The Argento Wine Company Limited v. Argento Beijing Trading Company, WIPO Case No. D2009-0610; General Electric Company v. CPIC NET and Hussain Syed, WIPO Case No. D2001-0087; PCCW-HKT DataCom Services Limited v. Yingke, HKIAC Case No. 0500065). Given that, the mere addition of the word “machinery”—a non-distinctive term

whose dictionary meaning is “a group of machines, or the movable parts of a machine”—to the Disputed Domain Name will further mislead the relevant consumers into believing this is an official, authorized or endorsed website of the Complainant in China, providing Westinghouse devices for the same.

In addition, a simple keyword search on Baidu for “Westinghouse” shows that the vast majority (if not all) of the results on the first three pages are related directly to the Complainant. This fully supports the assertion that as a brand, Westinghouse has acquired substantial fame and recognition in the China and demonstrates that there is a high degree of actual public (e.g., relevant consumer, industry, media) recognition between the Westinghouse mark and the Complainant, with a clear corresponding relationship tying the two together in the public’s view. Moreover, the Complainant and its registered Westinghouse Trademarks enjoy a widespread reputation in China and the world with regards to its Westinghouse Products.

Last but not least, the prior fame of the “WESTINGHOUSE” Trademarks has already been clearly recognized in previous UDRP decisions discussing nearly identical facts, where panelists have stated: “The mark WESTINGHOUSE is not a term commonly used in the English language, except in relation to Complainant’s globally renowned brand. Complainant has demonstrated that it enjoys prior rights in the Marks preceding the Respondent’s registration of the Disputed Domain Name, and moreover, Complainant has not authorized or licensed Respondent to use its Marks”, (Westinghouse Electric Corporation v. Chen Hong Wei, HKIAC Case No. 1500704).

In another recent decision relating the “WESTINGHOUSE” Trademarks, the panelist “found that evidence submitted by Westinghouse was sufficient to prove that Westinghouse’s trademarks and trade name enjoy a relatively high level of fame worldwide, including in China... due to the fame of the Complainant’s marks, the Respondent should know or should have known the “Westinghouse” mark, which was entirely incorporated into the disputed domain name and would cause confusion to the public.” (Westinghouse Electric Corporation v. Shang Fu Yue, HKIAC Case No. 1500614).

Given all that, when the public / relevant consumers encounter the Disputed Domain Name, there is a high likelihood that they will wrongly consider the main part of the Disputed Domain Name, the "Westinghouse" part, as having its origin in or a clear connection with the Complainant, its series of registered Westinghouse Trademarks and its products. Hence, the public / relevant consumers will likely conclude that the website associated with the Disputed Domain Name actually belongs to the Complainant or at the very least, is closely connected with or specifically authorized or endorsed by the Complainant. The Disputed Domain Name will create the misapprehension that the Respondent is authorized by the Complainant to offer its products or services via the Disputed Domain Name, which will result in public confusion.

In conclusion, the Disputed Domain Name is identical with or confusingly similar to the registered Trademarks owned by the Complainant, which is likely to cause confusion. The Complainant's reasoning is wholly in accord with Article 4 (a) (i) of the Uniform Domain Name Dispute Resolution Policy.

ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

The Respondent is not authorized by the Complainant to use its Westinghouse Trademarks, making it clear that the Respondent does not have any legitimate interest in the Disputed Domain Name. In spite of that, the Respondent has incorporated the Complainant's Westinghouse Trademarks in its entirety when registering the Disputed Domain Name.

The Disputed Domain Name is being used in connection with a website used in a purely profit-making, commercial venture that offers the Complainant's Westinghouse Products sold under the trademarks WESTINGHOUSE MACHINERY. The Complainant submits that it has not licensed or otherwise authorized the Respondent to use any of its trademarks or to register a domain name incorporating its Westinghouse trademark (let alone to sell its products).

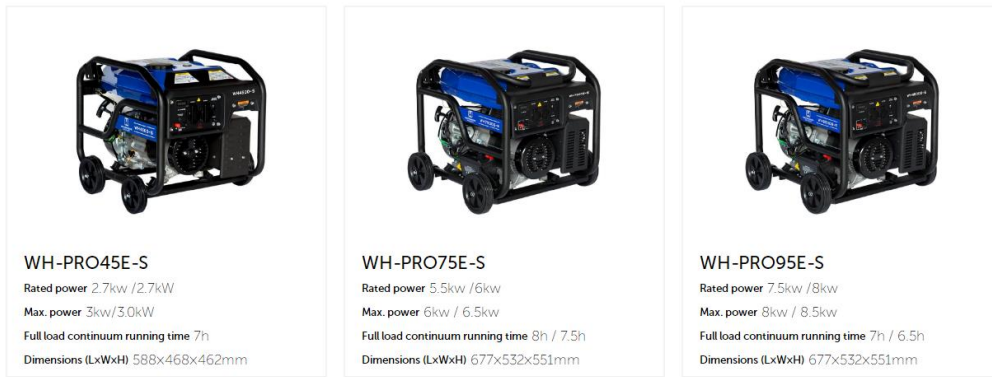
All of this shows that the Respondent's use of the Disputed Domain Name is not in connection with a bona fide offering of goods or services (See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903)

Accordingly, in light of the above, there clearly is no legitimate non-commercial or fair use of the Disputed Domain Name being made by the Respondent here, and the Disputed Domain Name was clearly registered for the sole purpose of trading off the Complainant's name, reputation, trademarks, and services related to the Westinghouse products in a commercial manner.

In conclusion, the Respondent does not have any rights or legitimate interests in the Disputed Domain Name, and the Complainant's case complies with Section 4 (a) (ii) of the Uniform Domain Name Dispute Resolution Policy. The Respondent is not authorized by the Complainant to use its Westinghouse Trademarks, making it clear that the Respondent does not have any legitimate interest in the Disputed Domain Name. In spite of that, the Respondent has incorporated the Complainant's Westinghouse Trademarks in its entirety when registering the Disputed Domain Name.

The Disputed Domain Name is being used in connection with a website used in a purely profit-making, commercial venture that offers the Complainant's Westinghouse Products sold under the trademarks WESTINGHOUSE MACHINERY. The Complainant submits that it has not licensed or otherwise authorized the Respondent to use any of its trademarks or to register a domain name incorporating its Westinghouse trademark (let alone to sell its products).

All of this shows that the Respondent's use of the Disputed Domain Name is not in connection with a bona fide offering of goods or services (See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903), as demonstrated by the below screenshots:



Accordingly, in light of the above, there clearly is no legitimate non-commercial or fair use of the Disputed Domain Name being made by the Respondent here, and the Disputed Domain Name was clearly registered for the sole purpose of trading off the Complainant's name, reputation, trademarks, and services related to the Westinghouse products in a commercial manner.

In conclusion, the Respondent does not have any rights or legitimate interests in the Disputed Domain Name, and the Complainant's case complies with Section 4 (a) (ii) of the Uniform Domain Name Dispute Resolution Policy.

iii) The Disputed Domain Name has been registered and is being used in bad faith:

The Respondent registered the Disputed Domain Name as a part of a broad and wide-ranging scheme (described in details below) to unfairly associate itself with the Complainant and its Westinghouse Products, as well as services related to them (services which are being provided by the Respondent without the Complainant's authorization). This scheme is clearly intended to mislead relevant consumers in order for the Respondent to obtain an improper benefit by taking advantage of the Complainant's existing brand equity and high reputation amongst those relevant consumers in the Complainant's registered "WESTINGHOUSE" Trademarks.

First of all, the Respondent has maliciously registered the Disputed Domain Name with clear knowledge of the Complainant's registered "WESTINGHOUSE" Trademarks. As mentioned above, the Complainant's "WESTINGHOUSE" Trademarks have achieved a high reputation and recognition amongst relevant consumers on a global basis and are already well-known, including in the Greater China Region, through the Complainant's long-term and extensive

promotion (in accordance with local laws) and use. Given the overwhelming reputation of the Westinghouse Trademarks, the Respondent is fairly assumed to have full knowledge of the Complainant's Westinghouse Trademarks. Further, given the clearly-coined nature of the Westinghouse Trademarks, the Respondent's use of the identical coined term "Westinghouse" in the Disputed Domain Name simply cannot be considered a coincidence.

Secondly, it has come to the Complainant's attention that the Respondent has also set up and has been operating a website associated with that Disputed Domain Name, on which extensive use of the Westinghouse Trademarks is being made. In particular, the products offered by the website all bear the WESTINGHOUSE MACHINERY mark. This unfairly rides on the Complainant's fame and reputation, and is a clear effort to create the false impression that the Respondent's business is supported by, associated with authorized or endorsed by the Complainant.

Additionally, it is argued that the Respondent deliberately made it appear as though its company was based in America in order to increase the apparent legitimacy of its dishonest operation. As mentioned earlier, the website lists a Californian address (18575 E Gale Ave., City of Industry, CA 91748) as the company's "headquarters". A Business Entities search confirmed that a company named Westinghouse Machinery Co Ltd. is registered at the exact Californian address mentioned above. However, according to Google Maps, this location is merely a business complex mainly for medical services targeting Chinese peoples in the USA. A review of Respondent's business records revealed that its sole shareholder is a foreign company by the name of Westinghouse Machinery Co Ltd. Further, it was revealed that the Respondent's legal representative is a Chinese individual named Wu Lingfeng.

The facts suggest that the establishing of Westinghouse Machinery Co Ltd. as the "headquarters" of the company is an attempt for Wu Lingfeng and the Respondent company to legitimize its operation. The fact that the Californian location is merely a business complex for unrelated services supports this argument.

Furthermore, the Respondent no longer exists as it dissolved on September 30, 2020. Thus, the Respondent did not intend to use the domain name, but merely prevented the right holder from registering the domain name out of bad faith.

Last but not least, a reverse ICP Recordal i.e. (Internet Content Provider Recordal, a statutory mandatory recordal with the Ministry of Industry and Information Technology (MIIT), which are applicable for all websites in China) shows that the Respondent here has also applied for recordal of another domain name "westinghouse-machiney.cn" under a same recordal number of the Disputed Domain Name , see screenshot below:



Accordingly, in light of the above, there clearly is no legitimate non-commercial or fair use of the Disputed Domain Name being made by the Respondent here, and the Disputed Domain Name was clearly registered for the sole purpose of trading off the Complainant’s name, reputation, trademarks, and services related to the Westinghouse products, all in a wholly commercial manner.

All in all, the Respondent’s misuse and abuse of the Disputed Domain Name, the act of displaying the registered trademarks of the Complainant on the Disputed Domain Name’s associated website infringes upon the Complainant’s exclusive right to use and enjoy the Westinghouse Trademarks and other of its valuable associated intellectual property rights, harming the Complainant, and potentially diluting the value of the brand assets protected under relevant associated intellectual property rights. The fact that the Respondent attempted to legitimize its operation by listing its “headquarters” in California is further evidence of the Respondent’s bad faith.

This entire course of conduct, including registering the Disputed Domain Name, using it in conjunction with a related website that itself contains further infringing materials, and the Respondent’s attempts to legitimize its dishonest operation, also makes clear that the Respondent is taking unfair advantage of the goodwill and reputation associated with the Complainant’s “WESTINGHOUSE” Trademarks and other associated intellectual property rights, and intentionally attempting to mislead relevant consumers into believing that the Disputed Domain Name, the website associated with it, and/or the Respondent’s business are licensed by, have an association with or are otherwise endorsed by the Complainant.

Annex 4: Printouts of the Respondent’s Website (Non-exhaustive) and business information regarding the Respondent

Annex 5: Search results on Google for the address “18575 E Gale Ave., City of Industry, CA 91748”

Annex 6: California Company Search Results for “WESTINGHOUSE MACHINERY CO LTD”

The Complainant requests that ***the disputed domain name(s) be transferred to the Complainant.***

B. Respondent

The Respondent is WuLingFeng (吴铃锋) of Xi Wu Ji Xie Xia Men You Xian Gong Si (西屋机械(厦门)有限公司) of XiaMenGuoJiHangYunZhongXinDDong8Ceng03DanYuan (厦门国际航运中心 D 栋 8 层 03 单元).

The Respondent uses the contact email: lyndon@westinghouse-machinery.com when registering the domain name. The Respondent did not file any Response in reply to the Complainant's contentions.

5. Findings

Language of the Proceedings

Under Article 11 of the Rules, the Panel has the authority to determine the language of the proceedings having regard to the circumstances. Article 10(b) of the Rules provides that the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case. See para.4.5 of WIPO Jurisprudential Overview 3.0.

The general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel's discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the working language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her ability to articulate the arguments for the case.

Where a respondent does not respond to the complainant's communications (and thus it was not possible for the complainant to come to an agreement on the issue of the language of the proceeding), and the material facts of the proceeding are generally in English (eg, disputed domain name, the language of the respondent's and the complainant's websites, the services provided in the websites, etc), the proceedings should be in English. This is so even if the respondent is on record not a native English speaker, if persuasive evidence has been adduced to suggest that the respondent is conversant and proficient in the English language. The objective is to ensure the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding. See para.4.5 of WIPO Jurisprudential Overview 3.0.

Upon weighing all the relevant and special circumstances of the Parties, particularly the lack of response on the part of the Respondent after having been given a fair opportunity to comment, the Panel determines that it is appropriate for the Panel to exercise its discretion to conduct the proceeding in English.

As to the main substantive issue of this matter, the UDRP provides, at Paragraph 4(a) (Applicable Disputes), that each of three findings must be made in order for a Complainant to prevail:

- i. the Respondent's domain name is 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 Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The Disputed Domain Name <westinghouse-machinery.com> contains two elements: "westinghouse" and "machinery", and the generic top-level domain ".com". It is trite rule that the generic top-level domain name suffix ".com" is technical in nature, does not have any proprietary significance, cannot confer any distinctiveness and is incapable of differentiating the disputed domain name from others' proprietary rights, and as such, is disregarded under confusing similarity test. See para.1.11 of WIPO Jurisprudential Overview 3.0.

Trademarks are not case sensitive. The potential distinctive elements of the Disputed Domain Name are "westinghouse" or "machinery". The dominant part are the letters "westinghouse". They are identical to the Complainant's "WESTINGHOUSE" trademarks. The addition of "machinery" to the distinctive portion of the Disputed Domain Name does not draw a reasonable Internet user's attention away from the principal element of the Disputed Domain Name which is identical to the Complainant's "WESTINGHOUSE" trademarks, as it only indicates that the Disputed Domain Name is related to machinery. It is a well-established rule that the addition of descriptive terms does not negate confusing similarity but often tends to emphasize it, and is irrelevant to consider in the determination of Paragraph 4(a)(i) of UDRP. See para.1.7 of WIPO Jurisprudential Overview 3.0.

The Panel takes the view that considering the Disputed Domain Name as a whole, the addition of the descriptive or non-distinctive hyphen, and letters "machinery" after "westinghouse", is confusingly similar to the Complainant's "WESTINGHOUSE" trademarks. It does not confer to the whole a new meaning and does not dispel confusing similarity between the Disputed Domain Name as a whole and the Complainant's proprietary trademarks.

The Panel takes the view that the addition of "machinery" in this case further increases the likelihood of confusion due to the Complainant's notable presence in the field of machinery, as the general public are likely to believe that the Disputed Domain Name relates to Complainant's machinery products and would further divert Internet users away from Complainant's official website.

The Panel notes that the Complainant has demonstrated that it owns the trademark registrations for the "WESTINGHOUSE" trademarks eg in US and in China, long before the Respondent applied to register the Disputed Domain Name on 28 May, 2018. Given the worldwide established registered rights in the "WESTINGHOUSE" trademarks, and the above facts, the Panel finds that the Disputed Domain Name is either identical or confusingly similar to a trade mark in which the Complainant has rights, satisfying paragraph 4(a) (i) of UDRP.

B) Rights and Legitimate Interests

The Panel also notes that the Respondent is not authorized by the Complainant to use its WESTINGHOUSE trademarks.

While the Disputed Domain Name is being used in connection with a website used by the Respondent in a profit-making, commercial venture that offers the Complainant's products sold under the trademark WESTINGHOUSE MACHINERY, the Panel takes the view that such an unlicensed or unauthorized use of the Complainant's trademark could never vest any right or legitimate interest in the Respondent.

As proving a negative is always difficult, it is a well-established rule that a Complainant's burden of proof on this element is light. The Panel rules that there is *prima facie* evidence to support that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. It is up to the Respondent to discharge the evidential burden to prove it has rights or legitimate interests in respect of the Disputed Domain Name. See para.2.1 of WIPO Jurisprudential Overview 3.0.

The Respondent did not file any Response in reply to the Complainant's contentions.

It is a trite rule that the mere registration of the Disputed Domain Name by the Respondent itself is not sufficient to establish that it owns rights and legitimate interests. Intellectual property infringement including passing off the goodwill and reputation of others are contrary to the object and purpose of UDRP and cannot derive any rights or legitimate interests.

The Panel takes notice that after widespread worldwide commercial use, the WESTINGHOUSE trademarks have acquired the recognition of the relevant sector of the public. The Complainant and the Respondent have no prior connection. The WESTINGHOUSE trademarks are not a term commonly used in the English language. Further, the Respondent has submitted no evidence to demonstrate that it has been commonly known by the Disputed Domain Name.

Nobody has any right to represent his or her goods or services as the goods or services of somebody else. The Complainant has not licensed or otherwise permitted the Respondent to use the Disputed Domain Name or use any domain name incorporating the dominant part of the Complainant's registered trademarks. The Panel considers that there is no evidence that would tend to establish that the Respondent has rights to or legitimate interests in respect of the Disputed Domain Name. The Panel draws the irresistible inference that the Respondent is not using the Disputed Domain Name on a non-commercial or fair use basis without intent to misleadingly divert the relevant sector of the public to its operation. On the contrary, the Respondent is using the Disputed Domain Name to tarnish the goodwill and reputation of the Complainant's trademarks.

The Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name, satisfying paragraph 4 (a) (ii) of UDRP.

C) Bad Faith

Paragraph 4 (b) (Evidence of Registration and Use in Bad Faith) of UDRP provides that for the purposes of Paragraph 4 (a) (iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) *circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor, or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location.

The Panel takes notice that the Complainant is a renowned company and its distinctive WESTINGHOUSE trademarks have become well-known due to their long term and extensive use. On the other hand, the Respondent does not have any rights or legitimate interest in registering and/or using the Disputed Domain Name.

The Panel also notes that the Disputed Domain Name was only registered on 28 May 2018 and contains the WESTINGHOUSE trademark in its entirety. Given the fame and reputation of the Complainant and the WESTINGHOUSE trademarks globally including China, the Panel considers that it is virtually impossible for the Respondent to have selected the Disputed Domain Name without knowing it. The Respondent should have been well aware of the Complainant and the WESTINGHOUSE trademarks prior to registration, and the Panel accepts that the Disputed Domain Name has clearly been registered and is being used in bad faith.

By registering and using the Disputed Domain Name, the Panel takes the view that the Respondent has prevented the Complainant from using its marks in a corresponding domain name, and disrupted the business of the Complainant. Worst still, it has also created confusion among the general public in respect of the relationship between the Respondent's website and the Complainant's. Such would further increase the likelihood of confusion since the activities featured on the Respondent's website are closely related to the products offered by the Complainant, and/or confuse the public into thinking that the Respondent is a licensee or sponsor of the WESTINGHOUSE trademarks when in fact this is not the case. See para.3.1 of WIPO Jurisprudential Overview 3.0.

As no reasonable explanation was offered by the Respondent for its continued registration and use of the Disputed Domain Name, the Panel infers that the Respondent has done so with the obvious intent to trade on the Complainant's goodwill in its WESTINGHOUSE trademarks, and lead Internet users into believing that the Disputed Domain Name and/or the Respondent's website or the business and activities are associated with, endorsed or sponsored by the Complainant in some way, or that the Respondent's use of the Disputed Domain Name is authorized by the Complainant, or to attract Internet traffic by capitalizing on the association with the Complainant's WESTINGHOUSE trademarks, further keeping the Disputed Domain Name from being used by the Complainant. It is a trite rule that use of the Disputed Domain Name merely intended to divert the public to the Respondent's website cannot be considered as a bona fide offering of goods and services. Accordingly, the Panel considers the Respondent's continued registration and use of the

Disputed Domain Name are clear acts of bad faith. See para.3.1 of WIPO Jurisprudential Overview 3.0.

It is trite rule that use which intentionally trades on the fame of another cannot constitute a “bona fide” offering of goods or services. Further, the Respondent has provided no evidence to demonstrate use of the disputed domain name registered on 28 May, 2018 is in good faith. The Panel draws the irresistible inference that the Respondent must have prior knowledge of the Complainant’s WESTINGHOUSE trademarks. The Panel takes the view that the Respondent, by registering the Disputed Domain Name, is a dishonest misappropriation of the Complainant’s registered trademarks, making the Respondent’s cybersquatting an instrument of fraud. See para.3.2 of WIPO Jurisprudential Overview 3.0.

The Panel therefore finds that the Respondent’s domain name has been registered and is being used in bad faith, satisfying paragraph 4 (a) (iii) of UDRP.

6. Decision

For all the foregoing reasons, the Panel concludes that the Complainant has provided sufficient proof of its contentions, has proven each of the three elements of paragraph 4 of UDRP with respect to the Disputed Domain Name and has established a case upon which the relief sought must be granted. The Panel therefore orders that the registration of the Disputed Domain Name <www.westinghouse-machinery.com> be transferred to the Complainant.

Sole Panelist: Peter Cheung (张锦辉) SBS *P. Cheung*

Date: 4 March, 2021