ADNDRC Asian Domain Name Dispute Resolution Centre hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101523
Complainant:	**Sichuan Yibin Wuliangye Group Co., Ltd.**
Respondent:	**Haidong Chen**
Disputed Domain Name(s):	**<wuliangyenyc.com>**

1. The Parties and Contested Domain Name

The Complainant is Sichuan Yibin Wuliangye Group Co., Ltd. of No. 150, Minjiang West Toad, Yibin City, P.R.C..

The Respondent is Haidong Chen, of 33 Garden St., Staten Island, NY 10314, U.S.A.

The domain name at issue is **<wuliangyenyc.com>**, registered by Respondent with 1&1 IONOS SE of 701 Lee Road, Suite 300, Chesterbrook, PA 19087, U.S.A..

2. Procedural History

17 August 2021 – Chofn Intellectual Property ("**Chofn**"), representative of the Complainant to the Disputed Domain Name submitted the complaint and evidence to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "**Centre**" or "**ADNDRC**").

17 August 2021 – the Centre sent an email to 1&1 IONOS SE (the "**Registrar**"), the registrar of the Disputed Domain Name, notifying that it has received a complaint against the Disputed Domain Name and asking for confirmation of whether it is the registrar of the Disputed Domain Name; the identity of the registrant; whether the ICANN Uniform Domain Name Dispute Resolution Policy (the "**Policy**") is applicable; the language of the Registration Agreement; the registration and expiration date of the Disputed Domain Name; and confirmation to lock and withhold from transferring the Disputed Domain Name; and the WHOIS information regarding the Disputed Domain Name.

17 August 2021 – the Centre sent an email to Chofn acknowledging receipt of the Complaint and asking it to settle the case filing fee in accordance with Paragraph 19(c) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "**Rules**") and Article 15 of the ADNDRC Supplemental Rules (the "**Supplemental Rules**").

19 August 2021 – the Centre sent a follow up email to the Registrar.

19 August 2021 – The Registrar confirming that it is the Registrar; that the Respondent is the registrant of the Disputed Domain Name; the WHOIS data; that UDRP is incorporated into the registration agreement and applies to the Disputed Domain Name; the expiry date of 12 April 2022 for the Disputed Domain Name; that deletion, transfer and update of the Disputed Domain Name are prohibited; that English is the language of the registration agreement and the registration date of 12 April 2012 for the Disputed Domain Name.

20 August 2021 – Notification of deficiencies was issued to Chofn that the information of the Respondent in the Complaint is different from the WHOIS information provided by the Registrar and asking it to rectify the deficiency by updating the information in the Compliant Form.

20 August 2021 – Chofn submitted the revised Complaint Form to the Centre.

20 August 2021 – the Centre confirmed that the Complaint is in administrative compliance with the Policy.

20 August 2021 – the Centre notified and provided the Respondent with a copy for the Complaint and Annexes received in respect of the Complaint filed against the Disputed Domain Name pursuant to the Policy adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 and the Rules, and requested that the Respondent submits his Response to the Centre on or before 9 September 2021.

27 August 2021 – the Centre confirmed receipt of the case filing fee from the Complainant.

10 September 2021 – the Centre notified the Complainant and Respondent that it did not receive a Response from the Respondent in respect of the Complaint and that it will proceed to appoint a Panelist for the dispute of the Disputed Domain Name (the "**Dispute**").

10 September 2021 – the Centre sent an email to Peggy Cheung requesting if she would accept the appointment as the sole Panelist for the Dispute.

13 September 2021 – the Centre issued a follow up email to Peggy Cheung.

13 September 2021 – Peggy Cheung confirmed to the Centre of her acceptance of the appointment as panelist for the Dispute.

13 September 2021 – the Centre confirmed the appointment of Peggy Cheung as the sole panelist of the Dispute.

3. Factual background

Complainant's Background Information

The Complainant is Sichuan Yibin Wuliangye Group Co., Ltd. of No. 150, Minjiang West Toad, Yibin City, P.R.C..

Respondent's Background Information

The Respondent is Haidong Chen, of 33 Garden St., Staten Island, NY 10314, U.S.A.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

The Complainant was established in 1998. Its predecessor was formed by 8 ancient brewery workshops, namely, Changfasheng, Lichuanyong, Quanhengchang, Tianxifu, Zhangwanhe, Zhongsanhe, Tinyuelou and Liudingxing. It was renamed as Sichuan local state-owned Yibin Wuliangye Winery in 1959.

The complainant is a large state-owned enterprise and its main business is Chinese baijiu liquor. The Complainant's leading product, Wuliangye baijiu liquor made from proso millet, maize, glutinous rice, long-grain rice and wheat. The brewing technology of Wuliangye baijiu liquor has been passed down for more than 1,000 years. A brief history of " wuliangye " is as follows:

Wuliangye liquor originated from Chongbi liquor in the Tang Dynasty. Since the Tang Dynasty, Chongbi liquor has been brewed with multiple grains. In 765 AD, the great poet Du Fu passed through Yibin, and the local chief executive hosted a banquet serving Chongbi liquor. After drinking, Du fu wrote a poem, named 宴戎州杨使君东楼 (胜绝惊身老，情忘发兴奇。座从歌伎密，乐任主人为。重碧拈春酒，轻红擘荔枝。楼高欲愁思，横笛未休吹。). In 782 AD, the ninth emperor of the Tang Dynasty issued an edict: Chongbi liquor shall become the official liquor.

During the Northern Song Dynasty, Yao Junyu, a great gentleman in Yibin, opened the Yao's liquor shop and improved the brewing method of Chongbi liquor and named it "Yao Zi Xue Qu".

In the Ming Dynasty, the Chen family founded the "Wen Defeng" liquor shop and improved the "Yao Zi Xue Qu" brewing formula again, forming a better "Chen's formula" brewing process. The Chen family renamed "yao zi xue qu" to "za liang liquor".

In the late Qing Dynasty, after Deng Zijun inherited the "Wen Defeng" liquor shop, he changed its name to "Li Chuan Yong".

In 1909, at a local celebrity dinner, the late Qing literati Yang Huiquan changed the name of "za liang liquor" to "wuliangye".

From the late Qing Dynasty to 2021, the "五粮液" trademark has been used for a century, the Complainant was awarded the title of "Chinese Time-honored Brand" by the Ministry of Commerce of the People's Republic of China in 2006. Wuliangye baijiu liquor was brought to all parts of the world by the Chinese, and it is well-known all over the world.

Today, the Complainant owns 2 A-share listed companies in China (stock code 000858, 600793) and has nearly 50,000 employees. The Complainant has a production capacity of 200,000 tons of commercial liquor per year, the world's largest brewing workshop with an annual output of 40,000 tons, and a storage capacity of 600,000 tons of base liquor. The Complainant has more than 32,000 pits, and the oldest ancient pits in the Ming Dynasty have been in continuous production since 1368. In 2008, the Complainant's wine-making skills were included in China's list of intangible cultural heritage. The Complainant's Industrial Park has a planned area of 18 square kilometers and is a national AAAA-level tourist attraction. The Complainant's brand was ranked 79th in the "Top 500 Global Brand Values", 37th in the "Top 500 Asian Brands", and No. 3 in the "Top 100 Chinese Brand Values". Up to now, the Complainant has won hundreds of domestic and international honors and awards, including the following U.S. awards:

In February 1992, the Complainant was awarded the gold medal at the 1st US International Jrade-Only Wine and Spirits Exposition.

In February 1994, the Complainant was awarded the gold medal at the 3rd US International Trade-Only Wine and Spirits Exposition.

In 1995, the Complainant was awarded the Gold medal at the Panama International Exposition in the United States.

Search of "wuliangye" on the internet would show results pointing to the Complainant and its "wuliangye" brand, and it is therefore clear that "wuliangye" belongs to and is unique to the Complainant.

Its trademark "五粮液" (which transliterates as "wuliangye") has been protected as a well-known trademark in China. Since at least as early as 1991, the Complainant has filed an application with the US Trademark Office (USPTO) to protect its trademark "WULIANGYE 五粮液". In addition, the Complainant has also applied for and obtained numerous registrations for its trademarks "wuliangye" and "五粮液" in many countries and jurisdictions around the world, including the following:

Trademark	Application date	Registration time	Trademark number	Class	Country/region
WULIANGYE 五粮液	1991-12-04	1995-11-28	1937643	33	USA
WULIANGYE	2007-02-12	2007-07-27	2446413	33	UK
WULIANGYE	2007-01-22	2007-01-22	3475993	33	FR
WULIANGYE	2007-01-30	2007-05-25	30705594	33	DE
WULIANGYE 五粮液	2008-04-23	2009-02-06	4020080019706	33	KR

WULIANGYE 五粮液	1991-03-25	1991-03-25	567961	33	WIPO
五粮液	2001-07-13	2001-07-13	764393	32、33、34	WIPO
注册商标 WULIANGYE 五粮液	1981-05-18	1982-08-15	160922	33	CN

B. Respondent

The Respondent has failed to file any Response to the Complaint.

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 Disputed Domain Name is confusingly similar to the trademarks "wuliangye" and "五粮液" owned by the Complainant. Regarding the confusion test under this first element, the main identifying part of the Disputed Domain Name contains all or at least one main feature of the trademark, which is usually regarded as confusion. If the suffix ".com" is removed from the Disputed Domain Name "wuliangyenyc.com", then the remaining part is " wuliangyenyc".

According to information available, the Respondent had used the Disputed Domain Name for the website of his Chinese restaurant in New York City. It is therefore plausible that the letters "nyc" at the end of the Dispute Domain Name are to indicate the geographical location of the restaurant in New York City, and these letters are therefore merely descriptive and indistinctive additions to the distinctive and part of the Disputed Domain Name "wuliangye".

Given that the distinctive part of the Dispute Domain Name is "wuliangye", which is identical to the Complainant's trademark "wuliangye" and which is the transliteration of the Complainant's well-known Chinese trademark "五粮液", and that the use and registration of the Complainant's trademark "wuliangye" and "五粮液" (including in the U.S.) pre-dates the date of registration of the Disputed Domain Name, it is the panel's opinion that the Disputed Domain Name is confusingly similar to the trademark of the Complainant.

B) Rights and Legitimate Interests

According to the information provided by the Complainant, no trademark application or registration under the name of the Respondent was identified, and furthermore, the Respondent is not a distributor or partner of the Complainant or is otherwise an authorized user of the Complainant's trademarks "wuliangye" and "五粮液".

Based on the information provided by the Complainant, the "wuliangyenyc.com" has shut down the website, but one would still be directed to information on the Respondent's Chinese restaurant in New York City named "Wu Liang Ye" "五粮液" (which is identical to the Complainant's trademarks) from the Disputed Domain Name.

It is the opinion of the panel that in the absence of any trademark registration or other evidence, the Respondent does not have any rights and legitimate interests in the Disputed Domain Name.

C) Bad Faith

As the Disputed Domain Name "wuliangyenyc.com" was registered on April 12, 2012, which was much later than the time when the Complainant commenced use of its well-known trademarks "wuliangye" and "五粮液", and/or operation of its business outside China, including the U.S., the panel believes that the Respondent was aware of the Complainant's trademarks at the time of registration of the Disputed Domain Name .

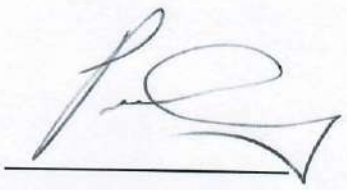
Although the Respondent has shut down the website, nonetheless, based on evidence provided by the Complainant, the webpages that the Disputed Domain Name pointed to before it was shut down showed pictures of the restaurant signage. It is clear from the pictures that the name of the restaurant, "Wu Liang Ye" is identical to the "wuliangye" trademark of the Complainant, the Chinese name of the restaurant, "五粮液" which is shown prominently on the signage, is identical to the Chinese trademark of the Complainant, and uses that same font as that used by the Complainant. It is therefore likely that the Respondent had chosen to register the Disputed Domain Name to ride on the goodwill and reputation of the Complainant's trademarks, and the public is likely to be misled that the Respondent's restaurant is associated with the Complainant, and thereby gaining commercial benefits for himself.

Based on the above, the panel is of the opinion that the Respondent has registered and used the Disputed Domain Name in bad faith.

6. Decision

Based upon the above findings, the panel determines that the Complainant has satisfied the 3 requirements under Paragraph 4(a) of the Policy, and in accordance with Paragraph 4(a) of the Policy and Article 15 of the Supplemental Rules, the remedy sought by the

Complainant is hereby granted, and the Panel directs that the Disputed Domain Name be transferred to the Complainant as requested.



Peggy Po Yee CHEUNG
Panelist

Dated: 24 September 2021