



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1700965
Complainant:	LKK Health Products Group Ltd. (李锦记健康产品集团有限公司) (Authorized Representative: Paddy Tam of CSC Digital Brand Services Group AB)
Respondent:	Grace Lee
Disputed Domain Name(s):	<infinitususa.com>

1. The Parties and Contested Domain Name

The Complainant is LKK Health Products Group Ltd. (李锦记健康产品集团有限公司), of 38/F, Infinitus Plaza, 199 Des Voeux Road Central, Sheung Wan, Hong Kong.

The Respondent is Grace Lee, of 7297 Sea Boot Ct, Las Vegas, NV, 89131, USA.

The domain name at issue is infinitususa.com, which is currently registered by Respondent with 1&1 INTERNET SE, Ernst-Frey-Strasse 9, Karlsruhe 76135, Germany.

2. Procedural History and Ruling on the Language of the Procedure

2.1 Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Center ("ADNDRC")["Center"] on April 10, 2017, seeking for a transfer of the domain name in dispute.

On April 10, 2017, the Center sent an email asking for the detailed data of the registrant to the registration organization, and the registration organization, on April 11, 2017, responded with the detailed data checked, including checking over the registrant.

On April 11, 2017, the Center examined whether the Complaint meets formal requirements set out in the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the ADNDRC Supplemental Rules (the "Supplemental Rules").

On April 12, 2017, the Center sent to the Respondent the "Written Notice of Complaint" along with the Complaint via email. The Center informed the Respondent of a due date, May 2, 2017,

for the submission of its Response.

On May 4, 2017, the Center confirmed that the Respondent didn't submit the Response Form.

On May 8, 2017, the Center appointed Mr. Doo-Hyung Do as the Sole Panelist of this case, and with the consent for the appointment, impartiality and independence declared and confirmed by the panelist, the Center, in accordance with Paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

2.2 Ruling on the Language of the Procedure

Paragraph 11(a) of the Rules provides that unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise.

In this regard, the Panel determines that the language of this proceeding shall be English, taking into account the following factors:

- i. Since the Respondent has not responded at all to the Complaint, it does not appear that the use of English in this proceeding would impose unreasonable burden on the Respondent; and
- ii. Paragraph 10(c) of the Rules provides that the Panel shall ensure that the administrative proceeding takes place with due expedition.

3. Factual background

The Complainant is a corporation established in Hong Kong and a key member of Lee Kum Kee Group whose member companies specialize in R&D, production, sales and services of Chinese herbal health products; traditional Chinese medicine plantation management and sales of raw Chinese medicinal materials; mobile internet platform and related products and services; and property investment.

As of June 30, 2016, the Complainant employs approximately 5,000 staffs. Members of Lee Kum Kee Group include Infinitus (China) Company Ltd., Infinitus (Hong Kong) Company Ltd., Infinitus International Company Ltd., Infinitus International (Malaysia) Sdn Bhd., Infinitus Health Products (Singapore) Pte Ltd., Infinitus Innovations (Canada) Inc., Naturale (China) Pharma Co., Ltd., HeHa Digital Health Ltd. and Infinitus Property Investment (Hong Kong) Limited.

The Complainant is the owner of trademarks, in which 'INFINITUS' is the distinctive element of the trademarks (hereinafter referred to as 'INFINITUS' trademarks) and have registered such 'INFINITUS' trademarks in various jurisdictions as follows:

Trademark	Jurisdiction	Registration Number	Class	Registration Date
	China	758311	30	July 28, 1995

	China	1359907	35	January 28, 2000
	China	7174051	40	September 21, 2010
	Hong Kong	300299827	3, 5, 29, 30	October 12, 2004
	Hong Kong	301291004	3, 5, 29, 30, 32	February 20, 2009

The Respondent registered the disputed domain name on June 6, 2012.

The disputed domain name resolves to a website which shows in the heading the Complainant's


 and 'INFINITUS', introduces the entity operating the website as 'INFINITUS' and lists descriptions of the goods and services which are very similar to those of the Complainant's Lee Kum Kee Group.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant has an exclusive right for the 'INFINITUS' trademarks which were registered in China and Hong Kong during the period of 1995 to 2009.
- ii. The disputed domain name consists of two parts, namely 'infinitus' and 'usa', of which the former is identical to the 'INFINITUS' part of the Complainant's 'INFINITUS' trademarks and 'usa', the latter part, should not be considered when considering the identity or similarity between the Complainant's 'INFINITUS' trademarks and the disputed domain name since 'usa' merely signifies the name of the country and thus lacks distinction.
- iii. The goods and services being introduced at the website of the disputed domain name are identical or confusingly similar to those goods and services currently provided by the Complainant's Lee Kum Kee Group.
- iv. The Respondent has neither obtained any license from the Complainant for the use of the 'INFINITUS' trademarks and logo, nor any right for providing and distributing goods and services bearing the above trademarks. However, the Respondent falsely

claimed at website of the disputed domain name that the Respondent is the legitimate distributor of the goods and services bearing the above trademarks.

- v. The goods and services provided by the Complainant's Lee Kum Kee Group under the 'INFINITUS' trademarks are well known in China and Hong Kong and the Complainant's Lee Kum Kee Group has spent a lot of money for the advertisement of these goods and services in the countries where it is engaged in the business.

B. Respondent

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

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for the 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

Though the 'INFINITUS' part of the 'INFINITUS' trademarks registered in the name of the Complainant in China and Hong Kong is not identical to the 'infinitususa' part of the disputed domain name, the latter can be reasonably divided into, and recognized as a combination of, two parts of "infinitus" and "usa", of which "infinitus", Latin word meaning 'infinite'(adjective) and 'infinite'(noun), is a distinctive element of the disputed domain name, whereas 'usa' lacks distinction, thus is not worth considering when determining whether a domain name is confusingly similar to a registered trademark.

Further, 'INFINITUS' is deemed to be extremely similar to 'infinitus' since the difference of whether capital or small letters are used in the 'INFINITUS' and 'infinitus' is negligible and thus irrelevant when determining whether a domain name is confusingly similar to a registered trademark.

On the other hand, the addition of a generic top-level domain extension such as ".com" is irrelevant when determining whether a domain name is confusingly similar to a registered trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's 'INFINITUS' trademarks, and that the Complainant has satisfied the first element of the Policy.

B) Rights and Legitimate Interests

The Policy provides, at Paragraph 4(c), for some examples without limitations of how a respondent can demonstrate a right or legitimate interest in a domain name:

- i. Before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or
- ii. The respondent has been commonly known by the domain name; or
- iii. The respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

The Complainant has not licensed nor authorized the use of its trademark to the Respondent, and there is no indication that the Respondent is commonly known by the disputed domain name.

The Respondent uses the logo identical to that of the Complainant's Lee Kum Kee Group and further adopts the 'INFINITUS' as its entity's name in the website resolved from the disputed domain name, and the goods and services introduced at this website are very similar to those goods and services provided by the Complainant's Lee Kum Kee Group.

There exists no evidence to demonstrate the Respondent's intent to use or to make demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

Based on the Respondent's default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case.

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainant has proven the second element of the Policy.

C) Bad Faith

The Policy states, at Paragraph 4(b), that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name 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 documented out-of-pocket costs directly related to the domain name; or
- ii. The respondent 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 online 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 Panel has the view that the following facts and considerations must be taken into account in finding the intent of the Respondent when registering the disputed domain name:

The disputed domain name does not reflect or correspond to the Respondent's own name;

The Complainant has marketed and sold its goods and services using the 'INFINITUS' trademarks since 1995, about 7 years before the disputed domain name had been registered;

The website resolved from the disputed domain name introduces the goods and services very similar to those of the Complainant's Lee Kum Kee Group; and

The entity operating the above website introduces itself as 'INFINITUS' without disclosing its

full name and address, but also uses the logo  belonging to the Complainant's Lee Kum Kee Group, so that it is quite probable that ordinary internet users visiting this website might view the Respondent to be a member of the Complainant's Lee Kum Kee Group.

In light of the foregoing facts and considerations, it is fairly reasonable to infer that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website, by creating a likelihood of confusion with the Complainant's 'INFINITUS' trademarks as to the source of the "INFINITUS" goods and services on its website.

Accordingly, the Panel finds that the Complainant has proved that the disputed domain name was registered and is being used in bad faith, satisfying the third element of the Policy.

6. Decision

For the foregoing reasons, in accordance with the paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <infinitususa.com> be transferred to the Complainant.

Do, Doo-Hyung
Sole Panelist

Date: May 25, 2017