



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1701034
Complainant:	The Hong Kong and China Gas Company Limited
Respondent:	Tower Peters
Disputed Domain Name(s):	<towngasltd.com>

1. The Parties and Contested Domain Name

The Complainant is The Hong Kong and China Gas Company Limited, of Hong Kong, SAR represented by Mayer Brown JSM of Hong Kong, SAR.

The Respondent is Tower Peters, of New York, USA.

The domain name at issue is <towngasltd.com>, registered by Respondent with 007Names, Inc., of New Jersey, USA.

2. Procedural History

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (ADNDRC) on October 27, 2017, in accordance with the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).

On October 27, 2017, the Hong Kong Office sent an email to 007Names, Inc. (the Registrar of the Domain Name) requesting verification in connection with the relevant information of the Domain Name at issue.

On October 27, 2017, the Hong Kong Office confirmed receipt of the Complaint.

On November 8, 2017 and on November 23, 2017 the Hong Kong Office sent further reminders to the Registrar of the Domain Name requesting verification in connection with the relevant information of the Domain Name at issue.

On November 23, 2017, the Registrar of the Domain Name confirmed that the Respondent is Tower Peters and the Domain Name is registered with 007Names, Inc.

On November 29, 2017, the Hong Kong Office sent the Respondent a written notice of complaint which involved a notification that a complaint concerning the Domain Name <towngasltd.com> was submitted against the Respondent and a requirement to submit a Response within 20 days from 29 November 2017 (on or before 19 December 2017), and forwarded the Complaint (along with its Annexures) to the Respondent pursuant to the Policy, Article 4 of the Rules and Article 6 of the ADNDRC Supplemental Rules. The formal date of the commencement of the administrative proceeding on was 29 November 2017.

On December 20, 2017, the Hong Kong Office confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the Domain Name within the required period.

On 3 January 2018, the Hong Kong Office appointed Mr. Jonathan Agmon as the sole Panelist for this Domain Name dispute. And the appointment was accepted by Mr. Jonathan Agmon and the case files were transferred to the Panelist, on the same day.

3. Factual background

The Complainant, The Hong Kong and China Gas Company Limited., was founded in 1862 as Hong Kong's first public utility company. Today, the Complainant is one of the largest energy suppliers in Hong Kong and China.

The Complainant currently operates a pipeline network consisting of more than 3,600km of gas pipes in Hong Kong, supplies gas to approximately 1.9 million Hong Kong customers, and provides a full range of gas applications in Hong Kong.

The Complainant entered the Mainland China gas market in 1994, and currently has more than 220 projects, including piped city-gas projects, upstream and midstream developments, water and wastewater treatment schemes, natural gas filling stations, as well as new energy exploration and utilization ventures, staffed by over 40,000 employees, across 26 provinces, municipalities and autonomous regions throughout China.

The Complainant is the owner of several trademark registrations for the mark TOWNGAS in various designations, including in Asia. For example: Hong Kong trademark registration number 200316494 for TOWNGAS in class 39, registered on 22 March 2000; Hong Kong trademark registration number 1994B00707 for TOWNGAS in class 41 registered on 2 March 1992; and more.

The Complainant, along with its Hong Kong-listed subsidiary company Towngas China Co. Ltd. and its other subsidiaries, is currently the leading piped city-gas operator in China, serving more than 22 million residential, commercial and industrial customers, with sales volumes of over 15.5 billion cubic meters in 2016.

The Complainant has also expanded its business horizons in recent years, diversifying its business into telecommunications, building services, engineering and the new eco-energies, among many others.

The Complainant Group has registered and maintained various domain names including <towngas.com>, <towngaschain.com>, <towngastelecom.com> and <towngasshop.com>.

The disputed domain name was registered on September 9, 2017.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant is the owner of numerous trademark registrations for the mark TOWNGAS in various designations.
- ii. The Complainant further argues that the disputed domain name has incorporated the word "TOWNGAS" in its entirety and it confusingly similar to its TOWNGAS trademark.
- iii. The Complainant further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that it has not licensed, consented to or otherwise authorised the Respondent's use of its TOWNGAS mark, for any reason whatsoever, nor is the Respondent an authorised representative or partner of the Complainant. The Complainant further argues that the Respondent is not commonly known by the disputed domain name.
- iv. The Complainant further argues that the Respondent has registered and is using the disputed domain name in bad faith, since the Respondent must have known about the Complainant's rights in the TOWNGAS trademark long before the registration of the disputed domain name as the disputed domain name resolves to a web site that belongs to the Complainant's connected company.
- v. The Complainant further argues that the Respondent has registered and used the disputed domain name in bad faith when it is using various scam emails under the disputed domain name to purportedly on behalf of the Complainant or its connected companies offering recipients financial benefits.

B. Respondent

The Respondent did not respond to the Complaint.

5. Findings

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

Pursuant to the Policy, paragraph 4(a)(i), a complainant must prove that a disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. In line with such requirement, a complainant must prove its trademark or service mark right and the similarity between the disputed domain name and its trademark or service mark.

The Complainant is the owner of several trademark registrations for the mark TOWNGAS in various designations, including in Asia. For example: Hong Kong trademark registration number 200316494 for TOWNGAS in class 39, registered on 22 March 2000; Hong Kong trademark registration number 1994B00707 for TOWNGAS in class 41 registered on 2 March 1992; and more.

The disputed domain name <towngasltd.com> reproduces entirely the Complainant's TOWNGAS trademark with the addition of the letters "ltd" and the gTLD suffix ".com". The letters "ltd" commonly refer to the word "limited", which describes the form of corporation of some companies and cannot serve to distinguish the disputed domain name from the Complainant's mark, especially since the Complainant is a company limited by shares. The gTLD ".com" is without legal significance in the present case since the use of a TLD is technically required to operate a domain name. The disputed domain name is therefore confusingly similar to the Complainant's TOWNGAS registered trademark.

The Panel therefore finds that the disputed domain name <towngasltd.com> is confusingly similar to the Complainant's registered marks. Accordingly, the Complainant has proven the element required by the Policy, paragraph 4(a)(i).

B) Rights and Legitimate Interests

Once the Complainant establishes a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 2.1.

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests. Moreover, the Complainant alleged and provided evidence showing copies of emails that were sent from the email domain under the disputed domain name which appear to show that the Respondent is engaged in phishing.

The Respondent has not submitted any substantive Response to the Complaint and did not provide any explanation to his actions, nor evidence to show any rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's case. The use of domain name for what appears to be illegal activities cannot generate rights in a domain name nor amount to a legitimate interest. (*Accor v. SANGHO HEO / Contact Privacy Inc.*, WIPO Case No. D2014-1471; *Syngenta Participations AG v. Guillaume Texier, Gobain*

ltd., WIPO Case No. D2017-1147, *CMA CGM v. Diana Smith*, WIPO Case No. D2015-1774)

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C) Bad Faith

The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that shows that the Respondent registered the disputed domain name long after the Complainant registered its trademark. The Complainant has owned a registration for the TOWNGAS trademark since at least 1992. It is suggestive of the Respondent's bad faith in these particular circumstances that the trademark, owned by the Complainant, was registered long before the registration of the disputed domain name (*Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

The Complainant also submitted evidence that suggests that the disputed domain name is used in what appears to be an elaborate phishing scheme to solicit Internet users to provide personal information in order to be offered a position, which seems to be related to the Complainant, but is in fact not. The evidence provided to the Panel shows that disputed domain name email domain (@towngas.com) was used to send and correspond with unsuspecting Internet users under the false pretense that such emails emanate from the Complainant or its Officers. Such emails are purportedly signed by officers of the Complainant and seek to phish personal information. To provide the appearance of authenticity, these emails comprise, among other things, links to the Complainant's official website, Facebook pages, YouTube videos, and Instagram account. These emails did not originate from the Complainant. To further provide the sham appearance of authenticity, the Respondent has redirected the disputed domain name to a website that belongs to one of the Complainant's associated companies, without the Complainant's knowledge or approval.

The evidence provided by the Complainant appears to suggest that the Respondent took the disputed domain name with knowledge of the Complainant and its trademarks, in order to engage in a phishing scheme designed to obtain personal information from unsuspecting Internet users. Previous Panels have considered the use of a domain name for phishing activity is considered as having been registered and used in bad faith. (*Samsung Electronics Co., Ltd. v. Albert Daniel Carter*, WIPO Case No. D2010-1367). In addition, the use of the Complainant's registered trademark to engage in phishing activity would further provide clear indication that the domain name has been registered and used in bad faith under paragraph 4(b)(iv) of the Policy. (*Hana GmbH & Co. KG v. Duke Imoh / Hewlett*, WIPO Case No. D2015-1372)

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

6. Decision

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

Jonathan Agmon
Panelist

Dated: January 16, 2018