



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-1400656</b>
<b>Complainant:</b>	<b>Alibaba Group Holding Limited</b>
<b>Respondents:</b>	<b>Whois Privacy Protection Service and Dohir Solihin</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;alipayindo.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is Alibaba Group Holding Limited of Fourth Floor, One Capital Place, P.O. Box 847, George Town, Grand Cayman, Cayman Islands, British West Indies.

The Respondents are Whois Privacy Protection Service, Inc. of P.O. Box 639, Kirkland, WA 98083, USA and Dohir Solihin of Jl., Diponegoro No.49, Jakarta, 10130, Indonesia.

The domain name at issue is <alipayindo.com> registered by Respondent with Name.com Inc. of 2500 East Second Avenue, Second Floor, Denver, Colorado 80206, USA.

**2. Procedural History**

On 9 October 2014, pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999, the Complainant submitted a Complaint with only Whois Privacy Protection Service, Inc. as the Respondent to the Hong Kong Office of the Asian Domain Name Dispute Resolution Center (“Center”). The Center confirmed receipt of the Complaint that same day. The Complainant elected that this case be decided by a single panelist.

Also on 9 October 2014, the Center transmitted by e-mail to the Registrar, Name.com Inc., a request for registrar verification of the disputed domain name. On 11 October 2014, the Registrar transmitted by e-mail to the Center its verification response, confirming that Whois Privacy Protection Service, Inc. is not listed as the Registrant. The Registrar provided further details stating that the Registrant is in fact Dohir Solihin and his contact details are as follows: telephone +62.2261099488 and e-mail dohirsolihin@hotmail.com.

As Dohir Solihin had not been joined as the Respondent at that time, on 20 October 2014, the Center notified the Complainant of its deficiencies of the Complaint. On this basis and according to paragraph 4(b) of the Rules, the Center asked the Complainant to revise and resubmit its Complaint on or before 25 October 2014.

The Complainant resubmitted the Complaint on 22 October 2014.

On 23 October 2014, the Center confirmed receipt of the revised Complaint within the required period of time.

On 24 October 2014, the Center transmitted the Complaint and evidence to the Respondents, by e-mail addressed to both alipayindo.com@protecteddomainservices.com and dohirsolihin@hotmail.com, notifying the Respondents of the commencement of the action on 24 October 2014, and requesting that the Respondent submit a Response within 20 calendar days, further specifying the due date as being on or before 13 November 2014.

Since the Respondent defaulted and did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the Center informed the Complainant and Respondent that the Center would appoint a single-member to proceed to render the decision.

On 18 November 2014, having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the Center notified the parties that the Panel in this case had been selected, with Ms. Christina NG acting as sole panelist. The Panel determines that the appointment was made in accordance with Rule 6 and Articles 8 and 9 of the Supplemental Rules. The Panel received the file from the Center on the same day.

On the same day, the Panel has also been informed by the Center that the Complainant stated that additional facts have arisen since the revised Complaint was filed that are prudent to the proceedings, which could not have been contemplated by the Complainant at the time of filing the Complaint. As such, the Complainant would wish to make an application for their Supplemental Submissions and Annexes be taken into account by the Panel when reaching her decision.

Upon the application of the Complainant, on 20 November, the Panel gave the Administrative Panel Order No. 1 that:-

1. The Complainant's Request for Filing Supplemental Complaint Submissions and Annexures dated 17 November 2014 is allowed.
2. Respondents may file a Supplemental Response within 7 days from the date of this Order (if any), i.e. on or before 27 November 2014.
3. The time limit for the Panel to render a decision for this case shall be extended accordingly.

No Supplemental Response was submitted by the Respondents within the stipulated time.

### 3. Factual Background

#### A. Complainant

The Complainant is officially known as Alibaba, or “阿里巴巴” in Chinese, and operates its business through a number of subsidiaries and affiliates (collectively referred to as, “**Alibaba Group**”). Alibaba Group was founded in Hangzhou, China, in 1999. Since then, Alibaba Group has grown to become a global leader in the field of e-commerce. On 19 September 2014, the Complainant officially listed on the New York Stock Exchange (NYSE:BABA).

Headquartered in Hangzhou, China, Alibaba Group, through its subsidiaries and affiliates, has offices in about seventy (70) cities across China, as well as in Hong Kong, Taiwan, Korea, India, Japan, Singapore, USA and Europe. For the year ended 31 March 2012 and the 9 months ended 31 December 2012, Alibaba Group reported a total revenue of about RMB20 billion and RMB25 billion, respectively. For the year ended 31 March 2013, and the 9 months ended 31 December 2013, Alibaba Group had a total revenue of over RMB 34 billion and RMB 40 billion, respectively. For the year ended 31 December 2013, Alibaba Group's total gross merchandising volume was over RMB 1.5 billion and it had over 230 million active buyers across its platforms.

Alibaba Group, through its affiliate, Alibaba.com Limited and its affiliates (“Alibaba.com”), operate two online business-to-business (B2B) marketplaces: a global trade marketplace (www.alibaba.com) for importers and exporters and a Chinese marketplace (www.alibaba.com.cn and www.1688.com) for domestic trade in the PRC (together, the “Alibaba.com Websites”). Alibaba.com, through its affiliates, also offers business management software and Internet infrastructure services targeting small businesses across China and incubates e-commerce talent for Chinese small businesses. As of December 31, 2012, Alibaba.com had around 36.7 million registered users from more than 240 countries and regions and showcased more than 2.8 million supplier storefronts. In the same period, Alibaba.com's Chinese marketplace (www.alibaba.com.cn and www.1688.com) had around 77.7 million registered users and showcased more than 8.5 million supplier storefronts.

In May 2003, Alibaba Group also founded the brand “Taobao” (in Chinese “淘宝”) at www.taobao.com (also known as “淘宝网” in Chinese), a Chinese language consumer-to-consumer (“C2C”) Internet retail platform, focused on Chinese consumers. In the last ten years, the C2C platform operated under the Taobao brand (“Taobao Marketplace”) has grown to become one of China's largest online retail platforms and the primary online shopping destination in China. As at March 2013, Taobao Marketplace had about 760 million product listings showcased on its websites. Taobao Marketplace receives more than 50 million unique visitors daily and is one of the world’s top 20 most visited websites according to the Alexa and DoubleClick Ad Planner by Google, Inc.

Following the success of the Alibaba.com Websites and the Taobao Marketplace, Alibaba Group, through its affiliates, launched the Alipay platform (www.alipay.com) in 2004, under the brand “ALIPAY” and “支付宝” (i.e. “ALIPAY” in Chinese). The Alipay platform is now one of the most widely used independent third-party payment solutions in China. It provides an easy, safe and secure way for millions of individuals and businesses to make and receive payments on the Internet. On 11 November 2013, the Alipay platform set a record of single-day transactions, processing 171.3 million payments during the 24-

hour period. The Alipay platform provides an escrow payment service that reduces transaction risk for online consumers. Shoppers have the ability to verify whether they are happy with the goods they have purchased before releasing funds to the seller. The Alipay platform partners with more than 180 financial institutions including leading national and regional banks across China as well as Visa and MasterCard to facilitate payments in China and abroad. The Alipay platform provides payment solutions for more than 460,000 merchants, covering a wide range of industries including online retail, virtual gaming, digital communications, commercial services, air ticketing and utilities. It also offers an online payment solution to help merchants worldwide sell directly to consumers in China and supports transactions in 14 major foreign currencies. According to iResearch, Alipay is one of the largest third-party online payment service providers in China by total payment volume.

The Alipay platform links to Alibaba Group's other online platforms, including the Alibaba.com Websites; Taobao Marketplace ([www.taobao.com](http://www.taobao.com)); the AliExpress Marketplace ([www.aliexpress.com](http://www.aliexpress.com)), a leading global e-marketplace made up of small business sellers that offer a wide variety of consumer products at great prices; Alimama ([www.alimama.com](http://www.alimama.com)), China's leading online advertising platform; Alibaba Cloud Computing ([www.aliyun.com](http://www.aliyun.com)) which is a developer of advanced data-centric cloud computing services; Tmall.com ([www.tmall.com](http://www.tmall.com)), one of the China's leading business-to-consumer (B2C) shopping destination for quality and brand-name goods; and Juhuasuan ([www.juhuasuan.com](http://www.juhuasuan.com)), a comprehensive group shopping platform in China.

The growth of Alibaba Group, and the success of the Alipay platform and other services offered by Alibaba Group, have garnered a significant amount of media attention and resulted in a high public profile for Alibaba Group and its brands globally. Among them are articles published in some of the world's most highly respected and well-read newspapers and magazines, including Reuters, The Wall Street Journal, and Business Week.

Alibaba Group's services provided via the Alipay platform are and have always been carried on, supplied and marketed continuously and substantially under and/or by reference to the Alipay Trade Marks registered in various jurisdictions around the world. The date of Alibaba Group's first use of the brand "ALIPAY" and "支付宝" was in 2004. Since then, the Alipay Trade Marks have acquired distinctiveness through extensive use by the Complainant and its affiliates in commerce, so that the Alipay Trade Marks are immediately recognisable to consumers as being associated with the Complainant, its affiliates and their business.

Alibaba Group has expended significant time and effort to extensively promote its "ALIPAY" and "支付宝" brand, and the products and services available at the Alipay platform, for several years via the Internet and through publicity and advertising in trade press and other print media. In addition, Alibaba Group has been promoting its "ALIBABA" and "ALI" branded e-commerce services and products extensively since 1999 via the Internet, trade press, trade shows and other print media. Millions of dollars have been spent annually to promote its business and services and the "ALIBABA", "ALIPAY", and other "ALI" related trade marks (e.g. "ALIEXPRESS", "ALIYUN" and "ALIMAMA"). For instance, Alibaba.com's affiliates launched a US\$30 million marketing campaign throughout 2008 and 2009 in key buyer markets such as the United States and Europe, as well as in emerging markets with meaningful buyer growth potential.

## B. Respondents

Whois Privacy Protection Service, Inc. is a proxy service provider. Based on WHOIS search results at the time of filing of the Complaint, Whois Privacy Protection Service, Inc. was the registrant organization of the Disputed Domain Name.

Dohir Solihin is the true underlying registrant of the Disputed Domain Name.

## 4. Parties' Contentions

### A. Complainant

The Complainant's contentions may be summarized as follows:-

#### **i) The Disputed Domain Name is identical and/or confusingly similar to trade or service marks in which the complainant has rights**

The Complainant (formerly known as Alibaba.com Corporation) has registered numerous trade marks comprising of the words "ALIPAY" and "支付宝" to protect its interests around the world, including the following:

- Indonesian trade mark "ALIPAY", registration number IDM000096721, class 9, registered on 10 November 2006;
- Indonesian trade mark "ALIPAY", registration number IDM000096722, class 35, registered on 10 November 2006;
- Indonesian trade mark "ALIPAY", registration number IDM000096723, class 36, registered on 10 November 2006;
- Indonesian trade mark "ALIPAY", registration number IDM000096724, class 38, registered on 10 November 2006;
- Indonesian trade mark "ALIPAY", registration number IDM000096725, class 39, registered on 10 November 2006;
- Indonesian trade mark "ALIPAY", registration number IDM000096726, class 42, registered on 10 November 2006;
- Indonesian trade mark "", registration number IDM000403904, classes 38 and 42, registered on 4 May 2010;

- Chinese trade mark "ALIPAY", registration number 4580577, class 9, registered on 21 January 2008;
- Chinese trade mark "ALIPAY", registration number 4580578, class 35, registered on 14 October 2008;
- Chinese trade mark "ALIPAY", registration number 4580579, class 36, registered on 14 October 2008;
- Chinese trade mark "ALIPAY", registration number 4580580, class 38, registered on 14 October 2008;
- Chinese trade mark "ALIPAY", registration number 4580576, class 39, registered on 14 October 2008;
- Chinese trade mark "ALIPAY", registration number 4580582, class 42, registered on 14 October 2008;
- Chinese trade mark "支付宝", registration number 4384835, class 9, registered on 28 February 2009;
- Chinese trade mark "支付宝", registration number 4384833, class 35, registered on 7 October 2008;
- Chinese trade mark "支付宝", registration number 4384851, class 36, registered on 7 October 2008;
- Chinese trade mark "支付宝", registration number 4384849, class 38, registered on 7 October 2008;
- Chinese trade mark "支付宝", registration number 4384847, class 39, registered on 7 October 2008;
- Chinese trade mark "支付宝", registration number 4384845, class 42, registered on 7 October 2008;



- Chinese trade mark "  ", registration number 5273374, class 9, registered on 28 April 2009;



- Chinese trade mark "  ", registration number 5273377, class 16, registered on 7 July 2009;



- Chinese trade mark "  ", registration number 5273372, class 41, registered on 14 March 2010;



- Chinese trade mark "  ", registration number 5273373, class 45, registered on 28 September 2009;

- Hong Kong trade mark "支付宝 ALIPAY", registration number 300337969, classes 9, 35, 36, 38, 39 and 42 registered on 15 December 2004;



- Hong Kong trade mark "  ", registration number 300299962AA, classes 9, 35, 36, 38, 39 and 41, registered on 12 October 2004;



- Hong Kong trade mark "  ", registration number 301029212AA, classes 36 and 39, registered on 10 January 2008;



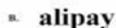
- Hong Kong trade mark "  ", registration number 301029212AB, classes 9, 35, 38 and 42, registered on 10 January 2008;



- Hong Kong trade mark "  ", registration number 301409607AA, classes 9, 35 and 42, registered on 19 August 2009;



- Hong Kong trade mark "  ", registration number 301409607AB, classes 36 and 38, registered on 19 August 2009;



- Hong Kong trade mark "  ", registration number 302032307, classes 9, 35, 36, 38, 39, 41 and 41, registered on 15 September 2011;



- Hong Kong trade mark "  ", registration number 302032316AA, classes 9, 35, 36, 38, 39, 41 and 42, registered on 15 September 2011;



- Taiwanese trade mark "ALIPAY", registration number 1167652, class 39, registered on 1 August 2005;

- Taiwanese trade mark "ALIPAY", registration number 1177315, class 9, registered on 16 October 2005;
- Taiwanese trade mark "ALIPAY", registration number 1178345, class 35, registered on 16 October 2005;
- Taiwanese trade mark "ALIPAY", registration number 1176367, class 36, registered on 1 October 2005;
- Taiwanese trade mark "ALIPAY", registration number 1178520, class 38, registered on 16 October 2005;
- Taiwanese trade mark "ALIPAY", registration number 1178673, class 42, registered on 16 October 2005;
- Taiwanese trade mark "支付宝", registration number 1158241, class 9, registered on 16 June 2005;
- Taiwanese trade mark "支付宝", registration number 1178298, class 35, registered on 16 October 2005;
- Taiwanese trade mark "支付宝", registration number 1219986, class 36, registered on 16 July 2006;
- Taiwanese trade mark "支付宝", registration number 1187690, class 38, registered on 16 December 2005;
- Taiwanese trade mark "支付宝", registration number 1165074, class 39, registered on 16 July 2005;
- Taiwanese trade mark "支付宝", registration number 1178673, class 42, registered on 16 October 2005;
- Taiwanese trade mark "", registration number 1355058, classes 9, 35, 36, 38, 39 and 42, registered on 16 March 2009;
- USA trade mark "ALIPAY", registration number 3761346, classes 9, 35, 36, 38, 39 and 42, registered on 16 March 2010;
- USA trade mark "", registration number 4036742, classes 9, 35, 36, 38, and 42, registered on 11 October 2011;
- USA trade mark "支付宝", published application number 85576922, classes 9, 35, 36, 38, 39, 41 and 42, claiming a priority filing date of 15 September 2011.

Therefore, the Complainant has established that it has rights in the Alipay Trade Marks, including "ALIPAY" and "支付宝" in Indonesia, China, Hong Kong, Taiwan, the USA and other parts of the world.

The Disputed Domain Name (<alipayindo.com>) incorporates the Complainant's "ALIPAY" trade mark in its entirety. The only difference between the Disputed Domain Name and the Complainant's "ALIPAY" mark is the inclusion of the word "indo" as a suffix. The Complainant submits that "indo" is simply a geographical reference to Indonesia, especially taking into account that the second Respondent is located in Indonesia and the content of the website to which the Disputed Domain Name resolves, i.e. the contact details on the website refers to an office in Indonesia which is identified as "Alipay Indo", the website lists other companies in Indonesia as its partner companies, and the website appears to promote business in Indonesia (e.g. the front webpage states "Indonesia have so many potentials offers for everyone in this world...Indonesia is a bigger economy class...[sic]").

It is well established that in cases where the distinctive and prominent element of a disputed domain name is the complainant's mark and the only deviation from this is the inclusion of a geographic indicator as a prefix or a suffix, such prefix or suffix does not negate the confusing similarity between the disputed domain name and the mark. See *Kabushiki Kaisha Toshiba dba Toshiba Corporation v. WUFACAI*, WIPO Case No. D2006-0768; *BASF SE v nanchangbasifuhuangongyoxiangongsiJianKangChen*, ADNDRC Case No. HK-1100390; and *Alibaba Group Holding Limited ("ALIBABA", formerly known as Alibaba.com Corporation) v. Lai Qixing*, ADNDRC Case No. HK-0900273; *Alibaba Group Holding Limited v. heilongjianghoubanyitongwangluokejiyoxiangongsi*, ADNDRC Case No. HK-1300519; *Alibaba Group Holding Limited v. Shangwei Ding*, ADNDRC Case No. HK-1400574.

Lastly, the Complainant submits that it is a well-established rule that in making an enquiry as to whether or not a trade mark is identical or confusingly similar to a domain name, the generic top-level domain extension, in this case <.com>, may be disregarded: *Rohde & Schwarz GmbH & Co. KG v. Pertshire Marketing, Ltd*, WIPO Case No. D2006-0762.

The Complainant accordingly submits that they have proved that the Disputed Domain Name is identical and/or confusingly similar to registered trade marks in which the Complainant has rights or interests for the purposes of paragraph 4(a)(i) of the Policy.

**ii) The Respondents have no right or legitimate interest in respect of the disputed Domain Name**

Since their first use by the Complainant in 2004, the Alipay Trade Marks have acquired distinctiveness through their extensive use by the Complainant and its affiliated companies in commerce, so that the Alipay Trade Marks, including the "ALIPAY" mark, are immediately recognisable to consumers as being associated with the Complainant, its affiliated companies, and their business.

The Respondent registered the Disputed Domain Name on 28 December 2013, which is about 9 years after the "ALIPAY" trade mark was first used, adopted and registered by the Complainant. The Complainant has not licensed, consented to or otherwise authorised the Respondent's use of its Alipay Trade Marks for any reason whatsoever, nor is the Respondent an authorised representative or partner of the Complainant. Given the fame of the Alipay Trade Marks, coupled with the fact that it is a made-up word uniquely associated with the Complainant and the Complainant's adoption and first use of the Alipay Trade Marks significantly predates the Respondent's registration and use of the Disputed Domain Name, has the practical effect of shifting to the Respondent the burden of proof in establishing that it has rights and/or legitimate interests in the Disputed Domain Name.

There is no evidence to suggest that the Respondent has been commonly known by the Disputed Domain Name. The Respondent's name does not reflect or correspond with the Disputed Domain Name, and there is no justification or apparent need for the Respondent to use "alipay" in the Disputed Domain Name.

Further, to the best of the Complainant's knowledge and information, the Respondent does not own any trade mark registrations reflecting or corresponding to the Disputed Domain Name in Indonesia or the USA (where the Respondent is apparently domiciled). It is logical to presume that the USA and Indonesia would be the first countries in which the Respondent would seek to register a trade mark, since the Respondent is allegedly domiciled there and the Disputed Domain Name resolves to a website that appears to have connections with Indonesia.

The Disputed Domain Name currently resolves to a website (the "Website") that offers payment services for the transfer of payments from a transferee to a transferor. The Website also alleges to be "Alibaba's payment for Southeast Asia [sic]". However, the Respondent is not an authorised representative or partner of the Complainant. The Respondent is therefore clearly aware of the Complainant and its rights in the Alipay Trade Marks, as it is offering competing services to the Alipay platform under the "ALIPAY" brand, and the Website has numerous references to the Alipay Trade Marks, the Complainant and the Complainant's "ALIBABA" trade

mark. For example, as can be seen from the screenshots of Disputed Domain Name website:

- (a) the Website displays the logo "ALIPAY INDO" at the top of the Website, which incorporates the Complainant's "ALIPAY" trade mark; and
- (b) the Website claims to be associated with Alibaba Group, i.e. at the bottom of the website it says "Alibaba's company".

In light of the above, the Respondent is clearly aware of the Complainant and its Alipay Trade Marks, and is using the Disputed Domain Name to unfairly capitalise upon or otherwise take advantage of the confusing similarity between the Complainant's Alipay Trade Marks and the Disputed Domain Name, to attract and redirect Internet users to the Website for commercial gain, which cannot provide the Registrant with a right or legitimate interest in the Disputed Domain Name.

The Complainant therefore submits that the Respondents are precluded from arguing under paragraph 4(c) of the Policy that:

- (i) its use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name is in connection with a bona fide offering of goods or services; or
- (ii) it has been commonly known by the Disputed Domain Name; or
- (iii) it is making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant accordingly submits that it has proved that the Respondents have no right or legitimate interest in respect of the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy.

**(iii) The Disputed Domain Name has been registered and is being used by the Respondents in Bad Faith**

The Complainant submits that the Disputed Domain Name has been registered and is being used by the Respondent in bad faith on the following grounds:

- (a) The Respondent has no rights or legitimate interests in the Disputed Domain Name, which is in itself evidence of bad faith.
- (b) The Disputed Domain Name does not reflect or correspond to the Respondent name. The Complainant's "ALIPAY" mark is a made up word, having no common meaning in English or any other language independent of the Complainant's "ALIPAY" and "支付宝" trade marks. This lends support to the presumption that the Respondent's registration of the Disputed Domain Name, which incorporates the word "alipay" in its entirety, was motivated solely to take advantage of the Complainant's reputation in the Alipay Trade Marks and thereby make undue profits. This also lends support to the presumption that the Respondent had knowledge of the Complainant and its Alipay Trade Marks at the time it registered the Disputed Domain Name.
- (c) Furthermore, the Complainant first began using the Alipay Trade Marks in 2004 – 9 years before the Disputed Domain Name was registered. The Alipay Trade Marks have acquired distinctiveness through their extensive use for over a decade by the Complainant in commerce, so that they are immediately recognisable to consumers as being associated with the Complainant and its businesses. In light of the worldwide fame of the Alipay Trade Marks, and the fact that the word "alipay" has no common meaning in English or any other language independent of the Complainant's Alipay Trade Marks, it is inconceivable that the Respondent was not aware of the Complainant's Alipay Trade Marks at the time it registered the Disputed Domain Name. Further, the Respondent must have been aware of the Complainant's prior rights and interests in the Disputed Domain Name, as outlined above in relation to legitimate rights and interest (e.g. use of the Alipay Marks on the Website; claiming to be "Alibaba's payment for Southeast Asia [sic]" (which is false); and incorporating references to the Complainant and

Alibaba Group in order to infer that the Website is associated with them (which is false).

- (d) Due to the confusing similarity between the Disputed Domain Name and the Alipay Trade Marks; the fact that the Respondent's name does not in any way correspond to the Disputed Domain Name; and the fact that the Respondent had to have been aware of the Complainant and its Alipay Trade Marks (for the reasons stated above), it is reasonable to infer that the Disputed Domain Name was registered to mislead and confuse Internet users into believing that the Disputed Domain Name is associated with the Complainant and its Alipay Trade Marks, and that the Respondent is an authorized partner of the Complainant (which is false), in order to increase the number of Internet users that access the Website for commercial gain.
- (e) It is well established that the Respondent's registration and use of the Disputed Domain Name must involve mala fides in circumstances where the registration and use of the Disputed Domain Name was and continues to be made in the full knowledge of the Complainant's prior rights in the Alipay Trade Marks, and in circumstances where the Respondent did not seek permission from the Complainant, as the owner of the trade marks, for such registration and use.
- (f) The Disputed Domain Name is likely to mislead users into believing that the Disputed Domain Name and Website is the website for the Complainant's operations in Indonesia. In these circumstances of blatant misappropriation of the Complainant's Alipay brand, there can be no possible grounds on which to find that the Respondent's registration and use of the Disputed Domain Name has been otherwise than in bad faith and for the sole purpose of misappropriating the Complainant's goodwill and disrupting the Complainant's business. Such registration and use is in bad faith and falls squarely within the scope of Article 4(b)(iv) of the Policy.
- (g) The Complainant experiences a high incidence of infringers registering domain names that are confusingly similar to its Alipay Trade Marks and other trade marks. In fact the Complainant filed complaints for the recovery of about 13 infringing domain names in 2011, about 9 complaints in 2012, about 14

complaints in 2013, and over 35 complaints in 2014 in relation to its various trade marks. The Complainant has found that infringers often keep a very close eye on the business of Alibaba Group (e.g. monitoring trade mark applications, press mentions and domain name registrations) to try and anticipate their new ventures and register domain names which incorporate these brands, with a view to later selling them to Alibaba Group or its competitors.

- (h) The Complainant discovered that two other domains names, <singapore-alipay.com> and <malaysia-alipay.com>, had been registered using the proxy service provider, Whois Privacy Protection Service, Inc., and resolved to websites that were substantially similar to the Website to which the Disputed Domain Name resolves. The Complainant therefore filed separate proceedings under the Policy involving the domain name <singapore-alipay.com> (ADNDRC Case No. HK-1400663) and <malaysia-alipay.com> (ADNDRC Case No. 1400666), which are currently pending resolution ("Singapore-alipay Dispute" and "Malaysia-alipay Dispute").

The Complainant contends that the Respondent is the same as or is associated with the respondent identified in the Singapore-alipay Dispute (i.e. Rachmat Rahardjo) and the underlying registrant of <malaysia-alipay.com> in the Malaysia-alipay Dispute (note that the respondent is currently identified as Whois Privacy Protection Service, Inc).

The Complainant accordingly submits that it has proved that the Respondents have registered and is using the Disputed Domain Name in bad faith for the purposes of paragraph 4(a)(iii) of the Policy.

#### B. Respondents

Respondents have defaulted and have not submitted a Response 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.

The Panel will address these three requirements *seriatim*:

#### **A) Identical / Confusingly Similar**

The disputed domain name incorporates Complainant's widely registered and globally reknown "ALIPAY" trademark.

Seeing that the whole of the Complainant's trademark has been incorporated into the disputed domain name, the Panel finds that the disputed domain name is identical and/or confusingly similar, to the Complainant's registered trademarks and trade names.

#### **B) Rights and Legitimate Interests**

The Complainant clearly indicated that they have not licensed, consented to or otherwise authorised the Respondents' use of their Alipay Trade Marks for any reason whatsoever, nor are the Respondents authorised representatives or partners of the Complainant. Furthermore, there is no evidence to suggest that the Respondents have been commonly known by the disputed domain Name. The Respondents' names do not reflect or correspond with the disputed Domain Name.

The Panel finds on the evidence adduced by the Complainant that the Respondents who have filed no response and have defaulted in these proceedings, have no rights or legitimate interests in respect of the disputed domain name.

#### **C) Bad Faith**

The domain name in dispute was registered on 28 December 2013, while the Complainant has been widely publicizing its "ALIPAY" mark since 2004. The Panel agrees that the Respondents should have known of the Complainant's business. It is inconceivable that at the time of registration, the Respondents were not aware of the Complainant's business and their "ALIPAY" trade mark.

The Disputed Domain Name is likely to mislead users into believing that the Disputed Domain Name and Website is the website for the Complainant's operations in Indonesia and/or associated with the Complainant and its Alipay Trade Marks, and that the Respondents are authorized partners of the Complainant (which is false), in order to increase the number of Internet users that access the Website for commercial gain.

The Panel finds that the disputed domain name was registered and is being used by the Respondents in bad faith.

**6. Decision**

Having established all three elements required under Art. 4(a) of the ICANN Policy, the Panel concludes that relief should be granted. Accordingly it is ordered that the domain name <alipayindo.com> be TRANSFERRED from the Respondents to the Complainant.

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CHRISTINA NG  
Sole Panelist

Dated: 11 December 2014