



ADMINISTRATIVE PANEL DECISION

Case No.:	HK-2101499
1st Complainant:	BB IN Technology Co., Ltd
2nd Complainant:	YANG, JEN-CHIEH (楊仁傑)
Respondent:	lin xie
Disputed Domain Name:	<bbin520.net>

1. The Parties and Contested Domain Name

The 1st Complainant is BB IN Technology Co., Ltd of 60 Market Square, P.O. Box 364, Belize City, Belize.

The 2nd Complainant is YANG, JEN-CHIEH (楊仁傑), CEO of BB IN Technology Co., Ltd.

The Respondent is lin xie of nananqu19hao, chongqingshi, Beijing, 400030, CN, +93.15681666666. Email: xielinhuwai@outlook.com.

The domain name at issue is <www.bbin520.net>, registered by the Respondent with GoDaddy.com, LLC, Corporate Headquarters 2155 E. GoDaddy Way, Tempe, AZ 85284 USA. Email: abuse@godaddy.com. Tel no: +1.4806242505.

2. Procedural History

On 19 July 2021, the Complainants' authorized representative, Hogan Lovells, 11/F, One Pacific Place, 88 Queensway, Hong Kong. Tel No: (852) 2219 0888. Fax No: (852) 2219 0222. Email: eugene.low@hoganlovells.com submitted the Complaint with Annexes against the Respondent's registration of the disputed domain name <www.bbin520.net> 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 Supplemental Rules to the ICANN Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules") effective from 31 July, 2015. The Complainant requested a single person panel.

On 20 July 2021, the Centre notified the Complainants of the formal deficiency of their Complaint.

In response to the Centre’s emails of 19 July 2021 and 30 July 2021 to the Registrar, the Registrar responded on 31 July, 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 English, (5) the date of the registration was 13 July, 2020 and the date of expiration will be 13 July, 2022, (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 6 August 2021, the Complainants submitted to the Centre a rectified version of the Complaint. On the same date, the Centre sent to the Respondent a written notice, informing the Respondent, among others, that it had to submit a Response within 20 days i.e., on or before 26 August 2021, in accordance with Article 5 of the Rules and the Supplemental Rules.

On 27 August 2021, the Centre notified the Parties of the Respondent’s default. On 27 August 2021, the Centre appointed Mr. Peter Cheung 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

The Complaint is based on the rights of the Complainants in the trademark “bbin” (in various forms) (“Mark”) which has been registered in Classes 41 and 42 in many jurisdictions including Taiwan, Mainland China, Hong Kong, Japan and Singapore. Copies of the relevant trademark certificates / official trademark records are provided as Annex B. The particulars of the said registrations are summarized as follows:

Mark	Jurisdiction	Registration No.	Registrant (Second Complainant)	Registration Date (date/month/year)	Goods/Services [For detailed specifications, please refer to Annex B]
	Hong Kong	302035890	楊仁傑	20-09-2011	Class 42 Computer software development, etc.
	Hong Kong	303248343	楊仁傑	23-12-2014	Class 41 Casino, entertainment, online games, etc.

Mark	Jurisdiction	Registration No.	Registrant (Second Complaint)	Registration Date (date/month/year)	Goods/Services [For detailed specifications, please refer to Annex B]
	Hong Kong	303920058	楊仁傑	03-10-2016	<u>Class 41</u> Casino, entertainment, online games, etc.
	China	9987511	楊仁傑	07-04-2013	<u>Class 42</u> Computer programming, etc.
	China	16158219	楊仁傑	21-03-2016	<u>Class 41</u> Amusement parks; entertainment; providing amusement arcade services, etc.
	China	16158428	楊仁傑	21-03-2016	<u>Class 42</u> Computer software consultancy, server hosting, computer software design, computer programming, etc.
	Taiwan	01537666	楊仁傑	16-09-2012	<u>Class 42</u> Computer graphics, design, computer programming, etc.
	Taiwan	01711095	楊仁傑	01-06-2015	<u>Class 41</u> Casino, entertainment, online games, etc.
	Taiwan	01711146	楊仁傑	01-06-2015	<u>Class 42</u>

Mark	Jurisdiction	Registration No.	Registrant (Second Complaint)	Registration Date (date/month/year)	Goods/Services [For detailed specifications, please refer to Annex B]
					Computer graphics, computer software design, computer programming, etc.
	Japan	5764174	楊仁傑	15-05-2015	<u>Class 41</u> Entertainment information, etc.
	Japan	5777537	楊仁傑	10-07-2015	<u>Class 42</u> Computer software design, computer programming, etc.
	Japan	5953283	楊仁傑	09-06-2017	<u>Class 41</u> Entertainment information, etc.
	Japan	5953284	楊仁傑	09-06-2017	<u>Class 42</u> Computer software design, computer programming, etc.
	Singapore	T1113232C	YANG, JEN-CHIEH	23-09-2011	<u>Class 42</u> Computer software consultancy, computer software design, etc.
	Singapore	4020140278 4Q	YANG, JEN-CHIEH	23-12-2014	<u>Class 41</u> Casino services, entertainment information, etc.

Mark	Jurisdiction	Registration No.	Registrant (Second Complainant)	Registration Date (date/month/year)	Goods/Services [For detailed specifications, please refer to Annex B]
 寶盈集團	Singapore	4020161615 8Y	YANG, JEN- CHIEH	30-09-2016	<u>Class 41</u> Casino services, entertainment information, etc.

4. Parties' Contentions

A. Complainants

The Complainants' contentions are as follows:

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

Background

The 1st Complainant is "BB IN Technology Co., Ltd". The 2nd Complainant is "YANG, JEN-CHIEH" ("楊仁傑" in Chinese) who is the CEO of the 1st Complainant. The 1st Complainant is the beneficial owner of the Mark and has authorised the 2nd Complainant to hold the aforesaid trademark registrations on its behalf. A copy of a letter of the 1st Complainant dated 25 July 2016 confirming the 2nd Complainant has been appointed as its CEO since August 2004 is provided as Annex C.

The 1st Complainant is a leading gaming software developer and supplier in Asia, with successful collaborations with more than 500 clients around the world. The 1st Complainant has been the beneficial owner of the domain name "bb-in.com" since 1 September 2005. The 1st Complainant licensed State Leader Co., Ltd. to hold the domain name "bb-in.com" on the 1st Complainant's behalf until April 2015, and has always used its official website www.bb-in.com ("1st Complainant's Website") to promote its online gaming products. A copy of the WHOIS search on the domain name "bb-in.com" is provided as Annex D. Since the registrant's details are not publicly available for data privacy reasons, a copy of the print-out of the 1st Complainant's account registered with GoDaddy.com showing the 1st Complainant as the current registrant of the domain name "bb-in.com" is provided as Annex E.

The Complainants' "BBIN" group is an active participant in gaming events and exhibitions in Asia. For instance, the Complainants' group has taken part in the Global Gaming Expo Asia ("G2E Asia") for 7 consecutive years. G2E Asia is a premier Asian trade event and the largest regional sourcing platform for global gaming and entertainment products. Annually, more than 95% of the top Asian gaming operators attend the show. Website screenshots showing participation at G2E Asia by the Complainants' "BBIN" group are provided as Annex F.

Rights of the Complainants

As mentioned above, the Complainants enjoy trademark rights under the Mark in many jurisdictions by way of trademark registrations of the Mark (in various forms) including in Taiwan, Mainland China, Hong Kong, Japan and Singapore. The Complainants have also built up a protectable goodwill in the Mark through active use of the Mark on the 1st Complainant's Website and through other activities in Asia (e.g. participation at G2E Asia).

The Complainants would also like to draw the panelist's attention to various domain name complaints filed by the Complainants: one example is Case Ref. ADNDRC (DCN-1600699) in respect of the domain name "bb-in.com.cn", in which the panelist found that the Complainants have a relatively high reputation in Asia and that this "bbin" mark/name is distinctive and is a creative combination of "bb" and "in".

More recently, in 2020, the panelists in three decisions (Case Ref. HK-2001382, HK-2001383 and HK-2001384) found that the Complainants' "bbin" Mark is well-known in the field of gaming in Asia.

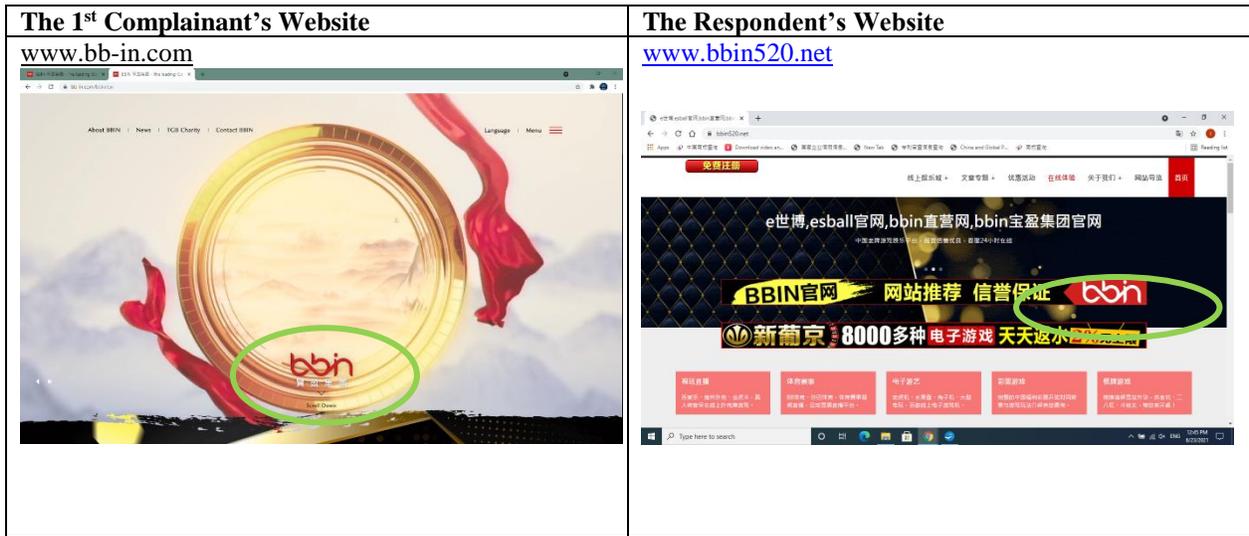
Moreover, the Complainants filed complaints with ADNDRC (Case No. HK-2001386) last year in respect of the domain names "bbin.com", "bbin88.com", "bbin77.com", "bbin66.com", "bbin33.com", and "bbin22.com", in which the panelist found that the Complainants have provided evidence that they commenced use of and have been using for a long time the trade mark "bbin" and own various trademark registrations in Taiwan and several countries in Asia as well. The panelist also considered that the inclusion of the numerals "77", "66", "33" and "22" does not distinguish the disputed domain names from the Complainants' "bbin" Mark. The panelist ordered that the domain names "bbin.com", "bbin88.com", "bbin77.com", "bbin66.com", "bbin33.com" and "bbin22.com" be transferred to the Complainants.

Disputed Domain Name is identical or confusingly similar to the Complainants' trade mark

The distinguishing element of the Disputed Domain Name is "bbin", which is identical to the "bbin" Mark in which the Complainants have rights. The first four letters of the Disputed Domain Name and the Complainants' "bbin" Mark are identical and could be mistaken easily. Given the visual and aural similarities of the Disputed Domain Name and the Complainants' official domain name "bb-in.com", the Disputed Domain Name is very likely to mislead people into thinking that the Disputed Domain Name relates to the Complainants' businesses. The other parts of the Disputed Domain Name could not practically distinguish it from the Mark to reduce the likelihood of confusion.

The likelihood of confusion is further increased due to the following:

- 1) The domain name of the 1st Complainant's Website, "bb-in.com" is almost identical to the Disputed Domain Name.
- 2) The website associated with the Disputed Domain Name ("Respondent's Website") features the mark "bbin" in an identical or confusingly similar style as the Mark, and is clearly set up as to imitate and pass off the 1st Complainant. This is demonstrated by the comparison below.



3) The Respondent presents itself as an online gaming platform which is identical or confusingly similar to the online gaming services provided by the 1st Complainant as shown in the 1st Complainant's profile below.



The relevant screenshots of the 1st Complainant's Website and the Respondent's Website are provided as Annex G.

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

The Respondent has no rights or legitimate interests in the Disputed Domain Name for the reasons below.

The Complainants have not authorised or licensed anyone to use or register any domain names consisting of their Mark “bbin” or “bb-in”.

Moreover, the Complainants’ legal representatives have conducted online trademark searches for Hong Kong, Mainland China, Taiwan, Japan and Singapore. The searches revealed that the owner of the trademark applications and registrations for the mark “bbin” is the 2nd Complainant. The search results are provided as Annex H. The search results for “lin xie” are provided as Annex H-1.

The registrant of the Disputed Domain Name is “lin xie”. The Complainants have no knowledge of the registrant and have no reason to believe that the registrant has any rights or legitimate interests in the Disputed Domain Name.

In addition, as illustrated under Ground 1 above, the Respondent’s Website attempts to mislead customers into associating the Respondent’s Website with the 1st Complainant’s Website. In particular, the Respondent’s Website prominently features a stylised “bbin” mark in the form

of  which is a clear imitation of the Complainants’ stylised “bbin” Mark, i.e. . Further, the Respondent’s Website claims itself to be the official website of the 1st

Complainant by displaying the image  (which means “BBIN official website”) The Respondent is clearly using the Disputed Domain Name in bad faith (see Ground 3 below); as such, it cannot be said that the Respondent has any rights or legitimate interests in the Disputed Domain Name.

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

It is obvious that the Disputed Domain Name has been registered and is being used in bad faith, for the reasons below.

1) The Respondent was and is clearly aware of the Complainants, the Mark and the associated goodwill, which is evidenced by the following:

a. The Disputed Domain Name was registered on 13 July 2020.

The Complainants were established in the year 1999. As mentioned above, the 1st Complainant has been the beneficial owner of the domain name “bb-in.com” since 1

September 2005. Furthermore, the Complainants’ Marks



and





were registered in various jurisdictions as early as in 2011 (e.g.  and  were registered in the 2nd Complainant's name in Hong Kong on 20 September 2011 and 23 December 2014 respectively).

b. The Respondent, who (based on the Respondent's Website) claims to be a provider of integrated platform services including provision of online games, must have been aware of the Complainants' group which has been well-established in the Asian gaming industry since 1999.

c. The Respondent's Website features the mark  which is a clear imitation of the Complainants' stylised "bbin" Mark .

2) By the aforesaid reasons, it is apparent that the Respondent must have been aware of the Complainants' businesses and associated goodwill, and deliberately registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor (i.e. the Complainants), and using the Disputed Domain Name in an attempt to attract, for commercial gain, Internet users to the Respondent's Website, by creating a likelihood of confusion with the Mark. This is clear evidence of "bad faith" under Paragraph 4(b)(iii) and (iv) of the Uniform Domain Name Dispute Resolution Policy.

For the above reasons, the registration and use of the Disputed Domain Name is in bad faith.

Remedies sought:

In accordance with Paragraph 4(b)(i) of the Policy, for the reasons described above, the Complainants request the Panel appointed in this administrative proceeding to issue a decision that the Disputed Domain Name shall be transferred to the 1st Complainant, BB IN Technology Co., Ltd.

The Annexes mentioned above refer to the annexes to the Complaint which are not attached to this Decision.

B. Respondent

The Respondent is "lin xie" with its address and contact details as "nananqu19hao, chongqingshi, Beijing, 400030, CN, +93.15681666666, xielinhuwai@outlook.com".

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

5. Findings

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 contains two elements: "bbin" and "520", and the generic top-level domain ".net". It is trite rule that the generic top-level domain name suffix ".net" 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 Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

Trademarks are not case sensitive. The potential distinctive elements of the Disputed Domain Name are "bbin" or "520". The dominant part are the letters "bbin". They are identical to the Complainants' "BBIN" trademarks. The addition of the numeral "520" 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 Complainants' "BBIN" trademarks, as it only indicates that the Disputed Domain Name is related to a numeral "520". 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 Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

The Panel takes the view that considering the Disputed Domain Name as a whole, the addition of the descriptive numeral of "520" after "bbin", is confusingly similar to the Complainants' "BBIN" 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 Complainants' proprietary trademarks.

The Panel takes the view that the addition of the numeral "520" in this case further increases the likelihood of confusion due to the Complainants' notable presence in the field of online gaming in Asia, as the general public are likely to believe that the Disputed Domain Name relates to the Complainants' online gaming services and would further divert Internet users away from the Complainants' official website.

The Panel notes that the Complainants have demonstrated that they own the trademark registrations for the "BBIN" trademarks in Hong Kong on 20 September 2011, in Singapore on 23 September, 2011, in Taiwan on 16 September, 2012, in Mainland China on 7 April, 2013, and in Japan on 15 May, 2015, long before the Respondent registered the Disputed Domain Name on 13 July, 2020. Given the established registered rights in the "BBIN" 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 Complainants have 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 Complainants to use its BBIN trademarks. The Disputed Domain Name is being used in connection with a website used by the Respondent in a profit-making, commercial venture under the trademark BBIN. The Panel takes that the view that such an unlicensed or unauthorized use of the Complainants' 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 any Complainants' 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 Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

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

It is 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 commercial use, the BBIN trademarks have acquired the recognition of the relevant sector of the public. The Complainants and the Respondent have no prior connection. The BBIN 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 Complainants have not licensed or otherwise permitted the Respondent to use the Disputed Domain Name or use any domain name incorporating the dominant part of the Complainants' 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 Complainants' 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 1st Complainant is a leading gaming software developer and supplier in Asia and the distinctive BBIN trademarks are well-known in the field of online gaming in Asia 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 13 July 2020 and contains the BBIN trademark in its entirety. Given the fame and reputation of the Complainants' BBIN trademarks in Asia including Mainland 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 1st Complainant and the BBIN 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 Complainants from using their marks in a corresponding domain name, and disrupted the business of the Complainants. Worst still, it has also created confusion among the general public in respect of the relationship between the Respondent's website and the 1st 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 1st Complainant, and/or confuse the public into thinking that the Respondent is a licensee or sponsor of the BBIN trademarks when in fact this is not the case. See para.3.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

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 Complainants' goodwill in the BBIN 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 Complainants in some way, or that the Respondent's use of the Disputed Domain Name is authorized by the Complainants, or to attract Internet traffic by capitalizing on the association with the Complainants' BBIN trademarks, further

keeping the Disputed Domain Name from being used by the Complainants. It is a trite rule that use of the Disputed Domain Name merely intended to divert the public to the Respondent's websites 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 Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

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 13 July, 2020 is in good faith. The Panel draws the irresistible inference that the Respondent must have prior knowledge of the Complainants' BBIN trademarks. The Panel takes the view that the Respondent, by registering the Disputed Domain Name, is a dishonest misappropriation of the Complainants' registered trademarks, making the Respondent's cybersquatting an instrument of fraud. See para.3.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

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 Complainants have provided sufficient proof of their contentions, have proven each of the three elements of paragraph 4 of UDRP with respect to the Disputed Domain Name and have established a case upon which the relief sought must be granted. The Panel therefore orders that the registration of the Disputed Domain Name <www.bbin520.net> be transferred to the 1st Complainant, as sought.

Sole Panelist: Peter Cheung *P. Cheung*

Date: 10 September, 2021