



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101493
Complainants:	BB IN Technology Co., Ltd. (1 st Complainant); Yang Jen-Chieh (楊仁傑) (2 nd Complainant)
Respondent:	Zhonghua Yang
Disputed Domain Name:	<bbin9839.com>

1. The Parties and Contested Domain Name

Complainant 1 is BB IN Technology Co., Ltd., of 60 Market Square, P.O. Box 364, Belize City, Belize and Complainant 2 is Yang Jen-Chieh (楊仁傑), of 60 Market Square, P.O. Box 364, Belize City, Belize.

The Respondent is Zhonghua Yang, of Sichuan Sheng, Pingchang Xian, Sichuan, 636400, PR China.

The domain name at issue is bbin9839.com, registered by Respondent with GoDaddy.com, LLC, Inc. of 2155 E. GoDaddy Way, Tempe, AZ 85284, United States; email: abuse@godaddy.com.

2. Procedural History

On 19 July 2021, the Complainant filed a Complaint in this matter with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC-HK”). On the same day, the ADNDRC-HK confirmed receipt of the Complaint and requested the Complainant to submit the case filing fee.

On 19 July 2021, the ADNDRC-HK informed GoDaddy.com, LLC. (“Registrar”) of the Disputed Domain Name of the proceedings by email.

On 20 July 2021, the Registrar acknowledged the email of ADNDRC-HK confirming that the Disputed Domain Name is registered with the Registrar, that Zhonghua Yang is the holder of the Disputed Domain Name, that the Internet Corporation for Assigned Names and Numbers Uniform Domain Name Dispute Resolution Policy (“the Policy”) is applicable to the Disputed Domain Name, the language of the Disputed Domain Name is English as provided by the WHOIS information in relation to the Disputed Domain Name and confirmed that the Disputed Domain Name is under Registrar lock status.

On 6 August 2021, the ADNDRC-HK sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of the Respondent’s nominated registrant contact for the Disputed Domain Name (as recorded in the WHOIS database). The Notification gave the respondent twenty (20) calendar days to file a Response (i.e. on or before 26 August 2021).

The Panel comprising of Dr. Shahla F. Ali as a single panelist was appointed by the ADRDRC-HK on 30 August 2021. The papers pertaining to the case were delivered to the Panel by email on the same day.

3. Factual background

According to the documents submitted by Complainants 1 and 2 (“Complainants”), BB IN Technology Co., Ltd., and Yang Jen-Chieh (楊仁傑), the Complaint is based on the Complainants 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. 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	<u>Class 42</u> Computer software development, etc.
	Hong Kong	303248343	楊仁傑	23-12-2014	<u>Class 41</u> Casino, entertainment, online games, etc.
	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.

Mark	Jurisdiction	Registration No.	Registrant (Second Complainant)	Registration Date (date/month/year)	Goods/Services [For detailed specifications, please refer to Annex B]
	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> 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	40201402784 Q	YANG, JEN-CHIEH	23-12-2014	<u>Class 41</u> Casino services, entertainment information, etc.
	Singapore	40201616158 Y	YANG, JEN-CHIEH	30-09-2016	<u>Class 41</u> Casino services, entertainment information, etc.

The Complainants submit that 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.

According to the documentation provided by the Complainants, 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.

Further, the Complainants provide documentation showing that 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. According to the Complainant, annually, more than 95% of the top Asian gaming operators attend the show.

According to documentation submitted by the Complainants, 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 further submit that they 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 also reference 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, the Complainants note that 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.

Finally, the Complainants reference a complaint they filed 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 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” did 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.

The Respondent, Zhonghua Yang of Sichuan province registered the disputed domain name on 8 April 2017. The Respondent did not file a Reply with the Centre.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainants argue that 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.

Furthermore, the Complainants provides visual documentation suggesting that the likelihood of confusion is further increased due to the following: a) The domain name of the 1st Complainant's Website, "bb-in.com" is almost identical to the Disputed Domain Name and b) 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 the Complainants mark.

The Complainants note that 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.

- ii. The Respondent has no rights or legitimate interests in respect of the domain name:

The Complainants notes that they 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.

According to documents provided by the Complainants, the registrant of the Disputed Domain Name is “zhonghua yang”. 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, the Complainants reiterate that 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



imitation of the Complainants’ stylised “bbin” Mark, i.e. . The Complainants argue that the Respondent is clearly using the Disputed Domain Name in bad faith; 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:

On the bad faith issue, the Complainants contend that the Respondent was and is clearly aware of the Complainants, the Mark and the associated goodwill, which is evidenced by the following:

i. The Disputed Domain Name was registered on 8 April 2017.

As the Complainants note, 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).

ii. The Complainants further claim that 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.

iii. The Claimants further note that the Respondent's Website features the



mark which is a clear imitation of the Complainants' stylised



"bbin" Mark 

Based on the aforesaid reasons, the Complainants claim 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.

B. Respondent

The Respondent's contentions may be summarized as follows:

The Respondent did not submit a reply.

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

The Complainants have established its right to "bbin" Mark by submitting trademark registration certificates and records in a number of jurisdictions including in China, Hong Kong, Singapore, Taiwan and Japan. The Disputed Domain Name <bbin9839.com> contains three elements: "bbin" the number "9839" and the top-level domain ".com". Numerous precedents have established that the top-level domain does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion. See *Abt Electronics, Inc. v. Gregory Ricks*, FA 904239 (Nat Arb. Forum Mar. 27, 2007) ("The Panel also finds that Respondent's <abt.com> domain name is identical to Complainants ABT mark since addition of a generic top-level domain ('gTLD') is irrelevant when conducting a Policy ¶ 4(a)(i) analysis."); see also *Jerry Damson, Inc. v. Tex. Int'l Prop. Assocs.*, FA 916991 (Nat. Arb. Forum Apr. 10, 2007) ("The mere

addition of a generic top-level domain ('gTLD') '.com' does not serve to adequately distinguish the Domain Name from the mark.”).

The only difference between the Disputed Domain Name and the Complainant’s “bbin” mark is the inclusion of the numbers “9839” as a suffix. 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 addition is a generic term that adds no distinctive element, such an addition does not negate the confusing similarity between the Disputed Domain Name and the mark. See, for example *LEGO Juris A/S v. Huangderong*, WIPO Case No. D2009-1325; *National Football League v. Alan D. Bachand, Nathalie M. Bachand d/b/a superbowl-rooms.com*, WIPO Case No. D2009-0121; *National Football League v. Peter Blucher d/b/a BluTech Tickets*, WIPO Case No. D2007-1064.

“bbin” is the distinctive and prominent component of the Disputed Domain Name and the addition of the numbers “9839” does not substantively distinguish it from the “bbin” mark.

The prominence of the Complainants “bbin” mark (particularly in the PRC where the Respondent is located) is such that the use of the numbers “9839” in connection with the word “bbin” does nothing to dispel confusion as to an association with the Complainants and its services in the PRC. The connection between “bbin” with the numbers “9839” as a suffix to the Complainant’s mark is such that the relevant Disputed Domain Name considered as a whole would be likely regarded by potential customers of the Complainants as a reference to the Complainants’ business. See, for example *eBay Inc. v. SGR Enterprises and Joyce Ayers* (Case No. D2001-0259) where, the Panel held that the domain names in question, namely <ebaylive.com> and <ebaystore.com>, were confusingly similar to the Complainant’s trademark.

The only distinctive part of the Disputed Domain Name should be "bbin", which is identical to the Complainants’ "bbin" mark. This striking resemblance will no doubt mislead consumers into believing that the website is operated by or associated with the Complainants.

There is no doubt that the Disputed Domain Name <bbin9839.com> completely incorporates the Complainants “bbin” mark which is the distinctive part of the Disputed Domain Name, and such incorporation makes the Disputed Domain Name confusingly similar with the Complainants mark.

In conclusion, the Panel finds that the Complainants have satisfied the Paragraph 4(a)(i).

B) Rights and Legitimate Interests

Complainants must first make a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy 4(a)(ii), and then the burden shifts to Respondent to show it does have rights or legitimate interests. See *Hanna-Barbera Prods., Inc. v. Entm’t Commentaries*, FA 741828 (Nat. Arb. Forum Aug. 18, 2006).

The Respondent has never been authorized by the Complainants to use the mark “bbin” under any circumstances. Furthermore the Respondent has no business relationship with

the Complainants. Thus, the Respondent does not have any rights with regard to the mark “bbin.”

Second, the Respondent’s name, address and other identifying information cannot be linked with “bbin.”

It is also noted that according to the WHOIS search result, the Disputed Domain Name was registered on 8 April 2017, over 6 years after the Complainant registered the trademark “bbin” beginning in 2011.

Given the general recognition of the Complainants’ “bbin” marks including in the PRC where the Respondent resides, the Respondent must have known of the existence of the “bbin” marks when registering the Disputed Domain Name.

Given the above reasons alongside a lack of response by the Respondent on its right and/or interest in the Disputed Domain Name, this Panel concludes that the Respondent has no rights and/or legitimate interests in respect of the Disputed Domain Name.

C) Bad Faith

In determining whether the Respondent has registered or used the Disputed Domain Name in bad faith, paragraph 4(b) of the Policy sets down four (4) factors which the Panel will need to examine. The four (4) factors are as follows:

“Evidence of Registration and Use in Bad Faith. 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.”

According to information provided by the Registrar, the Respondent registered the disputed domain name on 8 April 2017, and Complainant's earliest registration of its trademark was in 2011.

The Respondent, domiciled in the PRC, must have been aware of the Complainants' prior rights and interest in the Disputed Domain Name given the Complainants' reputation in the mark "bbin" as of the date that the Respondent registered the Disputed Domain Name.

The fact that the website features the name "bbin" in relation to the provision of integrated platform services including provision of online games bearing the Complainants' marks, makes it clear that the Respondent knew of the Complainant's mark and registered the Disputed Domain Name in an attempt to attract internet traffic to the website on the mistaken belief that it is associated with the Complainant's business, and to make profit from the sale of gaming and related services.

No evidence has been provided showing that the Respondent sought the permission of the Complainants to use its mark, nor any evidence showing that the Complainants gave such permission to the respondent.

Given the above findings, the Panel is of the view that the Respondent registered and used the contested domain name in bad faith.

6. Decision

Pursuant to Paragraph 4(i) of the Policy and Article 15 of the Rules, the Panel orders that the disputed domain name <bbin9839.com> be transferred to the Complainant.



Dr. Shahla F. Ali
Panelist

Dated: 7 September 2021