



Asian Domain Name Dispute Resolution Centre

beijing

PANEL DECISION

Case No. CN-1500908

Complainant: Chengdu Jiushi Agel Ecommerce Ltd.

Respondent: FENGLI ZHANG

Domain Name: tjcx.com

Registrar: ENOM, INC.

1. Procedural History

On September 2, 2015, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules).

On September 14, 2015, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, ENOM, INC., a request for registrar verification in connection with the disputed domain name.

On September 15, 2015, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On September 24, 2015, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar, ENOM, INC., of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On October 15, 2015, the ADNDRC Beijing Office notified the Respondent's default, and informed the Complainant and the Respondent that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. WU Yuhe on October 20, 2015, the ADNDRC Beijing Office notified the parties on the same day that the Panel in this case had been formed, with Mr. WU Yuhe acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rule Article 6 and Articles 8 and 9 of the Supplemental Rules.

On October 20, 2015, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before November 3, 2015.

On October 24, 2015, the Complainant further submitted to the ADNDRC Beijing Office the Renewal Certificates of Registered Trademarks No.3738938 and No.3738942 together with a Complaint amended with updated information of the Respondent. On October 25, 2015, the ADNDRC Beijing Office transmitted the Renewal Certificates and the amended Complaint to the Panel for consideration, and to the Respondent for comments and reply.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

2. Factual Background

For the Complainant

The Complainant in this case is Chengdu Jiushi Agel Ecommerce Ltd. (成都九石电子商务有限公司). The registered address is No.168, Guang Fu Road, Qingyang District, Chengdu City, Sichuan province, China. The authorized representative in this case is Chengzhong Wang, legal representative of the Complainant.

For the Respondent

The Respondent in this case is FENGLI ZHANG. The registered address is NO.18-2, Zhangqilidian Cun, Wenfeng Qu, Anyang City, Henan Province, China. The Respondent is the current registrant of the disputed domain name "tjcx.com" according to the Whois information. The disputed domain name was registered through the Registrar ENOM, INC. on December 21, 1998.

3. Parties' Contentions

The Complainant

In order to maintain brand image and better develop business, the Complainant has registered several trademarks related to tjcx.com.

The Complainant registered "tjcx.com" on December 21, 1998, and the registration is valid until December 21, 2019. The domain name "tjcx.com" has been managed by the Complainant until it is stolen.

Established in 1999, the original name of the Complainant was "成都市新时代经济文化发展有限公司", which was later changed to "成都蓝信信息技术有限公司", then changed to "Chengdu Jiushi Agel Ecommerce Co., Ltd (成都九石电子商务有限公司)" in 2008. The Complainant began to use the domain name "tjcx.com" from 1999, and has operated "糖酒快讯网" until now. Although the name of the Complainant has gone through several changes, the website name "糖酒快讯网" and the domain name "tjcx.com" did not change at all.

In 2005, the Complainant used the previous name "成都蓝信信息技术有限公司" to separately register the trademarks "Tjcx" and "糖酒快讯: tjcx.com".

In 2015, the Complainant used the new name "成都九石电子商务有限公司" to register the trademarks "Tjcx" and "糖酒快讯: tjcx.com".

As seen from the trademark "糖酒快讯: tjcx.com" and the website name "糖酒快讯 (Tangjiu news flash)" which have been operated for many years that, the website operated by the Complainant is an vertical website which provides information and serves for wine and food (such as liquor, wine, dairy products, beverage) industries. It provides whole set of commercial and information service for the raw material providers, manufacturers, distributors and consumers in the industry, and it can guide this industry to orderly develop. The main businesses contain books publishing, online electronic books and magazines publishing, electronic publications provision, advertising communication, advertising agency, online advertising and commercial agency. The website operated by the Complainant is at the top of the same industry, and it has already had great reputation. The domain name "tjcx.com" has become the public access channel for the website to operate the business. "Tjcx" is not only the trademark of the Complainant, but also is the enterprise and brand image of the Complainant. Most users visit the Complainant website through "Tjcx" with search engines.

The registered trademarks of the Complainant are:

- 1). Trademark No. 3738938 is approved for registration in item 35 on Sep. 14 2005;
- 2). Trademark No. 3738785 is approved for registration in item 39 on Dec. 28 2005;
- 3). Trademark No. 3738784 is approved for registration in item 41 on Dec. 28 2005;
- 4). Trademark No. 3738939 is approved for registration in item 16 on Mar. 28 2006;
- 5). Trademark No. 3738941 is approved for registration in item 38 on Oct. 12 2006;
- 6). Trademark No. 3738942 is approved for registration in item 41 on Nov. 14 2005.

The disputed domain name should be transferred to the Complainant for the following reasons:

A) The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights

The domain name "tjcx.com" currently owned by the Respondent is the same as or extremely similar to the trademark or service identification of the Complainant, and thus it is easy to be confused.

The Complainant began to use "tjcx.com" to make website and carry out business as early as 1999, and then registered the trademark "Tjcx" and "糖酒快讯: tjcx.com" according to the domain name "tjcx.com" owned by the Complainant. Regarding the domain name "tjcx.com" currently owned by the Respondent, except for ".com", its main identification part "tjcx" is totally same with the registered trademark "Tjcx" of the Complainant. "糖酒快讯: tjcx.com" registered by the Complainant contains the domain name "tjcx.com". Therefore, the disputed domain name "tjcx.com" is same as or similar to the trademark or service identification of the Complainant.

B) No rights or legitimate interests in respect of the disputed domain name

When registered the trademark, the Complainant also had the domain name "tjcx.com". Then, the Complainant used "tjcx.com" to make website and carry out business. The time when the Complainant had certain influence was far ahead of the time when the Respondent became the registrant, and the Complainant has never authorized the Respondent to carry out business related to the trademarks "Tjcx" and "糖酒快讯: tjcx.com". Under the condition that the Complainant normally uses the domain name "tjcx.com" and the trademark "糖酒快讯: tjcx.com" to carry out business, the Respondent illegally invaded the domain name management account of the Complainant, and transferred the domain name away. Therefore, the Respondent does not have the rights or legitimate interests of this domain name.

C) Registration and use in bad faith

The Complainant uses the domain name "tjcx.com" and the two registered trademarks to carry out business, and has achieved extremely significant influence and reputation. The Respondent has illegally stolen the domain name of the Complainant. One of the objectives of the Respondent is to sell, lease or transfer this domain name to the Complainant. In fact, the Complainant once received an email from the Respondent which inquired the intention of the Complainant to buy the domain name "tjcx.com". Without authorization of the Complainant, the Respondent transferred the domain name of the Complainant to another account through another registrar, which has caused tremendous economic loss to the Complainant. Therefore, the behavior that the Respondent obtains the disputed domain name has composed the malicious condition described in Paragraph 4(b)(i), 4(b)(ii), and 4(b)(iv) of the Policy.

D) Other relevant details

The website resolved by the domain name "tjcx.com" is still the website of the Complainant. The Respondent has not changed the IP resolution setting of the domain name. It can confuse the website technical persons of the Complainant. The existing website logo is the trademark logo registered by the Complainant. The value-added telecommunications business license and filing information at the bottom of the website are the information of the Complainant.

In October 2014, the Complainant could manage the domain name "tjcx.com" in the

platform of domain name registrar.

On August 11, 2015, the Complainant planned to transfer the domain name "tjcx.com" to another domain name registrar "HICHINA ZHICHENG TECHNOLOGY LTD". The Complainant found that the domain name could not be transferred, so the Complainant consulted the customer service of the registrar "XIN NET TECHNOLOGY CORPORATION" for the reasons. On the next day, the customer service of the registrar "XIN NET TECHNOLOGY CORPORATION" replied to the Complainant that "the domain name had been transferred out of XIN NET at 05:16:03 on November 13, 2014".

Before the domain name was stolen, the registrant organization of the domain name was always the Chinese spelling "Chengdu Jiushi DianziShangwu Youxiangongsi" of the company name of the Complainant "成都九石电子商务有限公司". Now, checking in some Whois history websites, the name of the Complainant can also be found as the registrant organization of this domain name. In order to better carry out business, the Complainant has filed the domain name "tjcx.com" before the Ministry of Industry and Information Technology. The filing number is "蜀 ICP 备 09003944 号". The value-added telecommunications business license of the Complainant is "川 B2-20050271".

All these can adequately explain that the domain name "tjcx.com" always belongs to the Complainant, and the Complainant has registered the trademark related to this domain name to carry out business. The Respondent has illegally stolen the domain name of the Complainant, which damaged the legitimate rights and interests of the Complainant and caused tremendous loss to the Complainant. The Respondent does not have the rights or legitimate interests of this domain name.

In conclusion, the Complainant requests the Panel to issue a decision to transfer the disputed domain name "tjcx.com" to the Complainant.

The Respondent

The Respondent failed to submit a Response within the specified time period, and did not provide any counter-evidence either.

4. Findings

The Policy provides, at Paragraph 4(a), that the Complainant must prove that each and all of the following three elements are present in order for the Complainant to prevail:

- i. Respondent's domain name is identical with or confusingly similar to a trademark or service mark in which the 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) Identity or Confusing Similarity

To satisfy the first element of Paragraph 4(a), the Complainant needs to prove its

rights in the mark and secondly the domain name is identical with or confusingly similar to the mark.

To prove its rights in trademarks, the Complainant adduced copies of two registration certificates and renewal certificates thereof issued by Chinese Trademark Office:

① No.3738938 Chinese trademark "", which was approved for registration in class 35 on September 14, 2005, and will be valid until September 13, 2025 after renewal;

② No.3738942 Chinese trademark "", which was approved for registration in class 41 on November 14, 2005, and will be valid until November 13, 2025 after renewal.

As reflected by above two registration certificates, the name of the registrant thereof is "成都蓝信信息技术有限公司". The Complainant further submitted copies of its Business License and Approval Notice of Name Change issued by Chengdu Administration for Industry and Commerce, to prove "成都蓝信信息技术有限公司" was the previous name of the Complainant and was approved to be changed to current name of the Complainant - "Chengdu Jiushi Agel Ecommerce Co., Ltd (成都九石电子商务有限公司)" on July 16, 2008. The Panel also noted from the official website of the Chinese Trademark Office that "Chengdu Jiushi Agel Ecommerce Co., Ltd (成都九石电子商务有限公司)" is the registrant of above two registered trademarks. Hence, the Panel accepts the authenticity of above certificates and deems Chinese trademarks No.3738938 and No.3738942 are owned by the Complainant and are currently in valid.

The disputed domain name "tjcx.com" composes of "tjcx" and ".com", in which "tjcx" is the identifying part of the disputed domain name while ".com" is a top-level domain name suffix which is non-distinctive in the disputed domain name. Although the first

letter of the Complainant's No.3738938 Chinese trademark "" is in capital, letters in capital or not have no difference in domain name. The Panel therefore finds that the identifying part "tjcx" of the disputed domain name "tjcx.com" is identical with the Complainant's No.3738938 Chinese trademark ".

Accordingly, the Panel finds that the Complainant satisfies the first element under Paragraph 4(a) of the Policy.

B) Rights and Legitimate Interests

The Complainant has adduced sufficient *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name, then the burden of proof shifts to the Respondent. However, the Respondent has failed to adduce any evidence to demonstrate his rights or legitimate interests in the disputed domain name. Based on current evidence and claims submitted by the Complainant, the Panel arrives at that the Respondent has no rights or legitimate interests in the disputed

domain name.

Accordingly, the Panel finds that the Complainant satisfies the second element under Paragraph 4(a) of the Policy.

C) Registration and Use in Bad Faith

The Complainant claimed that the Respondent illegally stole the disputed domain name for selling it to the Complainant, and concluded that the bad faith as provided under Paragraph 4(b)(i) of the Policy has been established.

In order to prove the Complainant is the registrant of the disputed domain name "tjcx.com", the Complainant submitted Certification of Global Top Level Domain Name of "tjcx.com", Whois historic record of "tjcx.com" in 2012, the Value-added Telecommunications Business License, and the Registration of the website "www.tjcx.com" before the Ministry of Industry and Information Technology. Since the Respondent fails to submit any arguments against above evidence, the Panel accepts its authenticity.

As shown in the Certification of Global Top Level Domain Name of "tjcx.com" and in Whois historic record of "tjcx.com" on August 14, 2012, the disputed domain name "tjcx.com" was registered on December 21, 1998, would be expired on December 21, 2014, and the registrant is the Complainant – Chengdu Jiushi Agel Ecommerce Co., Ltd (成都九石电子商务有限公司). From the registration of the website "www.tjcx.com" before the Ministry of Industry and Information Technology, it is noted that the host unit is "成都九石电子商务有限公司", and the latest inspect was approved on July 2, 2014. In addition, the customer service of the registrar "XIN NET TECHNOLOGY CORPORATION" confirmed that "the disputed domain name 'tjcx.com' had been transferred out of XIN NET at 05:16:03 on Nov. 13th 2014". The Panel therefore finds that the Complainant is the registrant or holder of the disputed domain name "tjcx.com" before the domain name was transferred away on November 13, 2014.

As stated in above Section B), the Respondent has no rights or legitimate interests in the disputed domain name "tjcx.com". The Respondent fails to provide any justification for transferring away the disputed domain name from its legal registrant or holder without authorization of the legal registrant or holder and why the Respondent himself then becomes the registrant of the disputed domain name "tjcx.com" according to the Whois information. Furthermore, according to the Complaint, the Complainant once received email from the Respondent, in which the Respondent inquired whether the Complainant needs to buy the disputed domain name "tjcx.com". Obviously, the Respondent knows well about the Complainant who should be the legal registrant or holder of the domain name and the Respondent has illegally acquired the disputed domain name "tjcx.com" with the purpose of selling it to the Complainant.

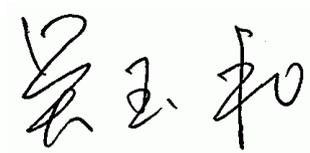
The Panel therefore arrives at that the Complainant has adduced sufficient evidence to demonstrate the Respondent's registration and use of the disputed domain name in bad faith and finds the bad faith of the Respondent in the registration and use of the disputed domain name as provided under Paragraph 4(b)(i) of the Policy.

Accordingly, the Panel finds that the Complainant satisfies the third element under Paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, the Panel finds that the Complainant satisfies all the three elements under Paragraph 4(a) of the Policy and Rules that the disputed domain name "tjcx.com" shall be transferred to the Complainant Chengdu Jiushi Agel Ecommerce Co., Ltd (成都九石电子商务有限公司).

The Sole Panelist: WU Yuhe

A handwritten signature in black ink, consisting of three characters: '吴玉和' (Wu Yuhe).

Dated: November 3, 2015