



Asian Domain Name Dispute Resolution Centre

ADMINISTRATIVE PANEL DECISION

Case No. CN-1701087

Complainant: CHINA NATIONAL HEAVY DUTY TRUCK GROUP CO., LTD.

Respondent: Alexander Grigoriev

Domain Name: cnhtc.info

Registrar: Internet Domain Service BS Corp

1. Procedural History

On May 24, 2017, the Complainant submitted a Complaint in Chinese 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) approved by the ADNDRC.

On May 24, 2017, 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, Internet Domain Service BS Corp, a request for registrar verification in connection with the disputed domain name.

On May 25, 2017, 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 June 5, 2017, the Complainant submitted the revised Complaint in English to the ADNDRC Beijing Office.

On June 16, 2017, 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 through email and via express mail, 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, Internet Domain Service BS Corp, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On July 13, 2017, the ADNDRC Beijing Office notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office 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. Matthew Murphy, the ADNDRC Beijing Office notified the parties on July 13, 2017 that the Panel in this case had been selected, with Mr. Matthew Murphy acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On July 13, 2017, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before July 27, 2017.

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

A. The Complainant

The Complainant in this case is CHINA NATIONAL HEAVY DUTY TRUCK GROUP CO., LTD. The registered address is SINOTRUK TECHNOLOGY BUILDING, NO. 777, HUA AO ROAD, HIGH-TECH INDUSTRIAL DEVELOPMENT ZONE, JINAN, SHANDONG PROVINCE, CHINA. The authorized representative in this case is Liam Zhu, Liu & Partners LLC.

B. The Respondent

The Respondent in this case is Alexander Grigoriev. The registered address is P. O. Box 1840, Tyumen, 625048, Russia.

The Respondent is the current registrant of the disputed domain name "cnhtc.info",

which was registered on March 19, 2008 according to the WHOIS information. The registrar of the disputed domain name is Internet Domain Service BS Corp.

3. Parties' Contentions

A. The Complainant

The Complainant claims that it was originally founded in 1956 and was the manufacturer of the first heavy duty vehicle in China in 1960. It also claims that, as the cradle of the heavy duty truck industry in China, it was the first domestic enterprise which brought in the foreign manufacturing technology of whole heavy duty vehicle into China by introducing the Steyr Heavy Duty Vehicle Project from Austria. The Complainant claims that it is the largest production base of heavy duty vehicle in China and has made extraordinary contribution to the development of the Chinese heavy duty vehicle industry as well as the construction of state economy.

The Complainant claims that it possesses remarkable technological and market leading advantages within the heavy duty vehicle industry, and its products are popular in more than 90 countries and has been ranking top among the industry for 11 consecutive years. The Complainant further claims that It has been designated as the state whole vehicle export base by the NDRC and has been successively honored with the diverse titles, including but not limited to National Advanced Elementary Level Party Organization, National Civilized Company, China Famous Brand Product, China Excellent Innovative Firm and so on.

The Complainant claims that it has registered a series of "CNHTC" "CNHTC and design" related trademarks in China, which the "CNHTC" therein derives from the initials of its English name, CHINA NATIONAL HEAVY DUTY TRUCK GROUP CO., LTD, and has set up a corresponding relation thereto. The Complainant claims that its registered trademarks in China cover various fields in multiple classes, including but not limited to No. 1697887 registered on January 14, 2002 in class 12, No. 3562195 registered on December 21, 2004 in class 12, and so on.

The Complainant also claims that it has registered a series of "CNHTC" related domain names, such as "cnhtc.cn" "cnhtc.net" "cnhtc.org" "cnhtc.com.cn" and "cnhtc.org.cn"; and its official website "cnhtc.com.cn" could be dated back to as early as 2004.

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

The Complainant claims that "CNHTC" is its trademark which derives from the initials of the English name thereof, CHINA NATIONAL HEAVY DUTY TRUCK GROUP CO., LTD, and has been publicized and promoted for many years. The Complainant claims that it possesses the prior right of the trademark "CNHTC and design" in multiple

classes in China, most of which are registered and widely used before the registration of the domain name in dispute (March 19, 2008). The Complainant further claims that the main body with recognition function of the domain name in dispute is completely identical with prior trademark “CNHTC” registered by the Complainant, and such identical thereof is not a coincidence, but a malicious plagiarism of the trademark owned by the Complainant exactly.

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

The Complainant claims that, to the knowledge thereof, the Respondent does not own any trademark right or any other rightful legal right related to “CNHTC”. The Complainant also points out that on the disputed domain name website, the Respondent directly displayed “中国重汽” (CNHTC in Chinese characters), “SINOTRUK” “CNHTC and design” and “HOWO” and other famous trademarks owned by the Complainant, as well as the truck’s picture made by the Complainant. The Complainant further claims that its trademark “CNHTC and design” has been widely used on the goods in class 12, and therefore, its trademark “CNHTC and design” and the Complainant have greatly connected by the consumers not only in China, but also around the world.

iii. The disputed domain name has been registered and is being used in bad faith:

The Complainant claims that it owns two important domain names, “cnhtc.cn” and “sinotruc.com”, which was registered as early as in 2003, and they have been well known to all and is one of the important channels for consumers around the world to know and purchase the products of the Complainant; whereas the domain name in dispute is identical with the distinctive element of the said two important domain names mentioned above. The Complainant claims that the content on the website of the Respondent displays the information of the Complainant (e.g. its trademarks), which may mislead the public and show bad faith. The Complainant also mentions that the Respondent’s address is in Russia where the Complainant’s trademark “CNHTC and design” has also been registered, and the use of the trademark “CNHTC and design” by the Respondent has infringed trademark rights thereof. Thus, the Complainant believes that the Respondent knew its trademarks and registered the domain name in dispute in bad faith with the intention of illegally gaining unlawful interests by misleading the consumers.

The Complainant requests the disputed domain name to be transferred to the Complainant.

B. The Respondent

The Respondent, Alexander Grigoriev, is listed as being located at P. O. Box 1840, Tyumen, 625048, Russia. The Respondent did not file any Reply or other materials with the ADNDRC Beijing Office.

4. Discussions and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The registrant has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) Circumstances indicating that the respondent has registered or 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 documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent 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 the respondent has engaged in a pattern of such conduct; or
- (iii) The respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

A. Identical or Confusing Similarity

The Complainant, by submitting its trademark registration information regarding Mainland China as well as Russia, has proved that it is entitled to the ownership of the "CNHTC" trademark. Obviously, the Disputed Domain Name "cnhtc.info" completely incorporates the Complainant's "CNHTC" mark. The first and immediately striking element in the Domain Name is the Complainant's name (Note, in the current case, it is also the Complainant's trademark). Adoption of it in the Domain Name is inherently likely to lead people to believe that the Complainant is connected with it. See: *Dixons Group Plc v. Mr. Abu Abdullaah*, WIPO Case No. D2000-0146. As to the gTLD ".info" in the Disputed Domain Name, it should be ignored when it comes to decide

confusingly similarity. See: Rohde & Schwarz GmbH & Co. HG v. Pertshire Marketing, Ltd., WIPO Case No. D2006-0762. Thus, the Disputed Domain Name and the Complainant's "CNHTC" trademark possess the similarity that is sufficient to cause confusion.

Accordingly, the Panel concludes that the Domain Name is confusingly similar to the Complainant's mark and that the Complainant has established the first element of Paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests of the Respondent

Upon comprehensively considering the circumstances of the case, the Panel considers that the Respondent does not have legal right and interest to the Disputed Domain Name on the grounds that:

(1) Without submitting any evidence to prove that the Respondent has any legal right and interest to the Disputed Domain Name, the Respondent could not sufficiently prove that it "owns legal rights and interest thereof" by the mere registration of the Disputed Domain Name. See: Adobe Systems Incorporated v. Domain OZ, WIPO Case No.: D2000-0057.

(2) The Respondent failed to prove and there is no evidence indicating that he has any trademark right or any other prior right in respect of "CNHTC".

(3) Instead, the Complainant has provided evidence to show that the Respondent has been using the Disputed Domain Name to mislead the consumers in bad faith, other than providing bona fide goods or services, which does not only fail to fulfill circumstances of having legal right and interest provided in the Policy 4(c), but also in the suspicious of violating relevant laws and regulations.

Accordingly, the Panel concludes that Complainant has established the second element of Paragraph 4(a) of the Policy.

C. Bad Faith

Although the Respondent did not submit any response with respect to the said claim, upon comprehensively considering following circumstances, it is reasonable for the Panel to infer, based on the following, that the Respondent had known of the existence of the Complainant and the CNHTC trademark thereof, when registering the Disputed Domain Name, and such registration was therefore in bad faith: (1) the fame of the Complainant and its CNHTC trademark in the relevant field; (2) similarity between the Disputed Domain Name and the Complainant's trademark; (3) similarity between the Disputed Domain Name and domain names ("cnhtc.com" "cnhtc.org" and "cnhtc.com.cn" and the like) owned by the Complainant; (4) there is no any legal or factual relation or connection between the Respondent and the Disputed Domain Name and/or the CNHTC trademark, nor any other justification for the registration or use of the Disputed Domain Name by the Respondent; (5) the content of the Disputed

Domain Name Website, which indicates that the Respondent had acknowledged the Complainant as well as its brand/product.

With respect to the use of the Disputed Domain Name, the Panelist has noticed that (1) the Respondent has been using the Complainant's "CNHTC" trademarks at a prominent location in the Disputed Domain Name Website without authorization; and (2) the Website displays itself as a CNHTC related website which contains the Complainant's "CNHTC" series trademarks, product photos and the like. "Using the disputed domain name with intention of creating a likelihood of confusion with that of the Complainant's mark as to source, sponsorship, affiliation or endorsement of the Respondent's services by using an identical name or a close approximation for commercial gain from the goodwill and fame associated with the Complainant's mark indicates that the Respondent is deliberately trying to free ride on the Complainant's mark."- see WIPO Case Info Edge (India) Limited v. Abs, Abs IT Solution, D2014-1688. Obviously, due to the confusingly similarity between the Disputed Domain Name and the Complainant's trademarks as well as the content in the Disputed Domain Name Website, the Respondent intends to create a false impression that its website is a website of the Complainant in Russia, in order to attract the Internet users who intend to visit the Complainant's website. When such users are visiting the Respondent's website due to the false impression mentioned above, they may click the links contained therein which results in profit gaining by the Respondent. Thus, the use of the Disputed Domain Name Website by the Respondent does not only constitute free-ride of the Complainant's trademarks, but also in the suspicious of infringing of the Complainant's trademark right as well as unfair competition, which means that the use of the Disputed Domain Name by the Respondent is in bad faith.

Accordingly, the Panel concludes that the Disputed Domain Name was registered, and is being used, in bad faith, and that Complainant has established the third element of Paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, in accordance with Paragraph 4(a) of the Policy and Article 15 of the Rules, the Panelist orders that the disputed domain name "cnhtc.info" be transferred to the Complainant CHINA NATIONAL HEAVY DUTY TRUCK GROUP CO., LTD.

Sole Panelist: *Matthew Murphy*

Dated: 27 July 2017