



Asian Domain Name Dispute Resolution Centre

beijing

## **ADMINISTRATIVE PANEL DECISION**

**Case No. CN-1701123**

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**Complainant: Li Ning Sports (Shanghai) Co., Ltd.**

**Respondent: li-ning**

**Domain Name: shop-lining.com**

**Registrar: GoDaddy.com.LLC**

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### **1. Procedural History**

On 14 November 2017, 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) approved by the ADNDRC.

On 30 November 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, GoDaddy.com.LLC, a request for registrar verification in connection with the disputed domain name.

On 1 December 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 28 December 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, 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, GoDaddy.com.LLC, of the commencement of the proceedings.

The Respondent submitted a Response to the ADNDRC Beijing Office on 14 January 2018. The ADNDRC Beijing Office transmitted the Response to the Complainant on 25 January 2018. 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. ZHAO Yun on 27 January 2018, the ADNDRC Beijing Office notified the parties on 29 January 2018 that the Panel in this case had been selected, with Mr. ZHAO Yun 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 29 January 2018, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 12 February 2018.

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 Li Ning Sports (Shanghai) Co., Ltd. The registered address is Room 3201, No. 161 Lujiazui East Road, China (Shanghai) Pilot Free Trade Zone, Shanghai, China.

### **B. The Respondent**

The Respondent in this case is li-ning. The registered address is No. 21 minzhu east street, Shanghai.

The Respondent is the current registrant of the disputed domain name “shop-lining.com”, which was registered on 10 August 2011 according to the WHOIS information. The registrar of the disputed domain name is GoDaddy.com.LLC.

## **3. Parties' Contentions**

## **A. The Complainant**

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

The Complainant's "Li Ning" series trademarks had applied for registration as early as 1989 in China, and had been identified as well-known trademarks by the trademark office as early as in 2008. Obviously, before the disputed domain name's registration on 10 August 2011, the Complainant enjoyed prior trademark rights; the disputed domain name "shop-lining.com" constitutes approximation confused with the Complainant's trademark.

As early as 1989, the Complainant applied for registering "LI NING" series trademark in the categories 18, 24, 25, 26, 28. Thereafter, the Complainant has applied for registration in multiple categories, in 2002 the Complainant "LI NING" series of trademark has applied for registration in almost all categories.

The Complainant has individually created "LI NING" series trademarks, has applied and registered multiple "LI NING" series trademarks, and through the Complainant's use, "LI NING" trademark has become a well-known trademark among the consumers, the Complainant has priority rights on the "LI NING" trademark right.

Since its creation, "LI NING" trademark has been widely used in its field on sports clothing, sports equipment by the Complainant and its associated companies, the Complainant's rapid development, high quality products and services, make the Complainant's "LI NING" brand enjoy a high reputation in the market at home and abroad.

With the enlargement of the Complainant's enterprise scale and social influence, "LI NING" has a special meaning and become an important symbol closely connected with the Complainant. Anyone who saw the words will naturally associate with the Complainant. The trademark and the Complainant has established a sole corresponding relationship. The Complainant and the "LI NING" series trademark enjoy high visibility and reputation in the market and among the consumers. Before the disputed domain name delivering application, the Complainant's trademark has been identified as a well-known trademark on goods of "clothing; shoes" and have high visibility and influence.

The disputed domain name is "shop-lining.com", in which the domain name's suffix "com" does not have recognition, "shop" means "mall or store", a generic name. The main part of the disputed domain name is "lining". While the Complainant is the company using "LI NING" as its business logo (trademark, trade name, etc.) in the field of sports apparel, sports equipment, the disputed domain name has inevitable confusion with the Complainant's "LI NING" trademark, trade name. The disputed domain name is exactly the same with the trademark "LI NING" which has been

continuously used by the Complainant and will lead to mistakes among the relevant public.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name.

First of all, the Respondent is a natural person, the Complainant has never authorized the Respondent to use the trademark or any similar brand or business logo with the above mark, nor has any business communication, so the Respondent does not have any trademark rights or copyright in any form for the above mark; second, the Respondent's information such as name and address has nothing to do with "LI NING"; again, through further query, the Complainant deems that the Respondent does not have any right for "LI NING" logo.

3. the disputed domain name has been registered and is being used in bad faith.

The Complainant is a well-known enterprise in sportswear, sports equipment industry, "LI NING" brand is the core brand of the Complainant, has been identified as well-known trademark by the trademark bureau in China before the disputed domain name's registration date, has established a high reputation and influence among consumers in China.

"LI NING" is a vocabulary originated and prior used by the Complainant, used to signify the Complainant. Before the registration date of the disputed domain name, the Complainant has been using "LI NING" as its website name and commodity service marks for using and advertisement. In consumers' minds, "LI NING" is on behalf of the Complainant.

When the Respondent applied for registration of the disputed domain name on 10 August 2011, the Complainant's "LI NING" trademark has become a well-known trademark in China, the Respondent could not be blind to the condition of the Complainant and the trademark, in this premise, the Respondent registered the domain name, which is obviously in bad faith.

The main part of the disputed domain name "lining" is the same with the Complainant's trademark, trade name "lining", is obviously to copy and replicate the Complainant's enterprise trade name and trademark, which has enjoyed a great recognition and reputation among relevant public. The Respondent registered the disputed domain name simply because of the high brand value of the Complainant's trademark, trade name and intention is for profit. The Respondent's behavior damaged the reputation of the Complainant, destroyed the normal business activities of the Complainant, it is worth mentioning that the Complainant by browsing the

domain page of the Respondent, the page renders all the Complainant's information. The Complainant hereby states that without the Complainant's authorization, the Respondent sells "LI NING" goods in the name of the Complainant, according to the provisions of the Policy, the Respondent has registered and is using the disputed domain name in bad faith. This shows that the main purpose for the Respondent to register the disputed domain name is to make improper profits through selling goods in the name of the Complainant, which is the malicious activity.

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

## **B. The Respondent**

The Respondent has removed li ning logo on the website logo area. The Respondent would not use the disputed domain name anymore and turn to pelsports.com. The Respondent has declared on <https://www.pelsports.com/about-us>. Pelsports is a dealer of Li-Ning and other sports brand. The Respondent will try their best to offer procurement service for the latest Li Ning and other sports brand product from China. The website also includes products of other brands: DHS DIKACO and YONEX.

## **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.

### **A. Identity or Confusing Similarity**

The Complainant is a Chinese company in the field of sportswear and sports equipment. The evidence shows that the Complainant has registered "LI NING" as its trademark as early as of 1990 in China. This trademark is still within the protection period. The Panel has no problem in finding that the Complainant enjoys the

trademark right over “LI NING”. The Panel further finds that the registration date of the above trademark is much earlier than the registration date of the disputed domain name (10 August 2011). The Complainant enjoys the prior rights in the trademark “LI NING”.

The disputed domain name “shop-lining.com” ends with “.com”, this suffix only indicates that the domain name is registered under this gTLD and “.com” is not distinctive. Thus, we will only need to examine the main part of the disputed domain name.

The main part (“shop-lining”) of the disputed domain name consists of two sub-parts, “shop” and “lining”. Obviously, the first sub-part (“shop”) is a generic English word, meaning “store or mall”, which is not distinctive. The second sub-part (“lining”) is identical to the Complainant’s trademark “LI NING”. The addition of “shop” to the Complainant’s trademark “LI NING” does not differentiate the main part of the disputed domain name from the Complainant’s trademark. Therefore, the disputed domain name is confusingly similar to the Complainant’s trademark “LI NING”.

Accordingly, the Panel holds that the Complaint fulfills the condition provided in Paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests of the Respondent**

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant has never authorized the Respondent to use the trademark or the disputed domain name. The Complainant’s assertion is sufficient to establish a *prima facie* case under Policy 4(a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests.

The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name. No evidence has shown that the Respondent is using or plans to use the disputed domain name for a *bona fide* offering of goods or services. The Respondent is not commonly known by the disputed domain name. The evidence submitted by the Complainant further shows that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The act of registering the disputed domain name does not automatically endow any legal rights or interests with the Respondent. The fact that the Respondent’s registered name in whois database is “li-ning” does not justify Respondent’s legitimate interest under Article 4(1)(ii) of the Policy, because to register a domain name does not require substantive scrutiny and no evidence showed Respondent’s name is actually “li-ning”.

The Panel therefore finds that the Complaint fulfills the condition provided in Paragraph 4(a)(ii) of the Policy.

## **C. Bad Faith**

Under Paragraph 4(b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use 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 website 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 website or location or of a product or service on your website or location.

The Complainant is a Chinese company in the field of sportswear and sport equipment. The Complainant has established extensive business networks in China. The evidence submitted by the Complainant sufficiently established its fame in relevant market.

The evidence further shows that the Complainant registered the trademark "LI NING" as early as of 1990 and that the trademark is still in the protection period. This registration date is much earlier than the registration date of the disputed domain name, i.e. 10 August 2011. Since its registration, the Complainant has put in a lot of money and efforts in promoting its products and services trademarked with "LI NING". The Complainant sponsored many sports games and activities in China since 1990. Through extensive use, advertisement and promotion, the trademark has achieved wide recognition in the relevant market. The trademark "LI NING", winning a lot of awards since 1990, has been recognized as a well-known trademark in China by the Trademark Bureau of the State Administration of Industry and Commerce (2008) and Beijing No. 1 Intermediate People's Court (2013). As such, the public has come to recognize and associate the Complainant's trademark as originating from the Complainant and no other. The evidence submitted by the Complainant, which this Panel will not repeat here, leads to the solid conclusion that the trademark "LI NING" has achieved substantial reputation and influence in relevant market.

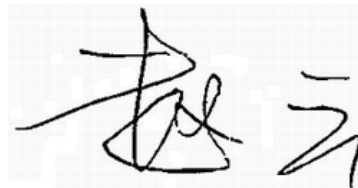
The evidence further shows that the website of the disputed domain name offers the same products and services as the Complainant. The website also includes the Complainant's famous trademark. This is exactly the type of bad faith use of disputed domain name as identified in the Policy, i.e. the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Accordingly, the Panel finds that the Complaint satisfies the condition provided in

Paragraph 4(a)(iii) of the Policy.

## **5. Decision**

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name <shop-lining.com> should be TRANSFERRED from the Respondent to the Complainant Li Ning Sports (Shanghai) Co., Ltd.



Dated: 12 February 2018