



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-1801129

Complainant A: Hangzhou Koukouxianchuan Network Technology Co., Ltd.

Complainant B: Koubei Holding Limited

Respondent: mao shubin

Domain Name: koubeinews.com

Registrar: GoDaddy.com, LLC

1. Procedural History

On 29 November, 2017, the Complainant submitted a Complaints in English to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (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 1 December, 2017, the ADNDRC Beijing Office sent to the Complainants 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 3 January, 2018, 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 13 March, 2018, the ADNDRC notified the Complainants 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 Operating Company, LLC, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. 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 Dr. Timothy Sze, the ADNDRC Beijing Office notified the parties on 10 April, 2018 that the Panel in this case had been selected, with Dr. Timothy Sze 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 11 April, 2018, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days.

On 24 April 2018, the ADNDRC Beijing Office informed the parties that the decision of the Panel on this matter will be issued by 2 May 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 Complainants

The Complainant A in this case is Hangzhou Koukouxiangchuan Network Technology Co., Ltd. The registered address is Room 503, Building 5, Tower 3, No.969 Wenyixi West Road, Wuchang Street, Yuhang District, Hangzhou City, Zhejiang Province.

The Complainant B in this case is Koubei Holding Limited. The registered address is Fourth Floor, One Capital Place, P.O.Box 847, George Town, Grand Cayman, Cayman Islands. The authorized representative for both complainants in this case is Hylands Law Firm.

B. The Respondent

The Respondent in this case is mao shubin. The registered address is anhuihefeiluyangqu.

The Respondent is the current registrant of the disputed domain name "koubeinews.com", which was registered on 23 February, 2017 according to the WHOIS information. The registrar of the disputed domain name is GoDaddy.com,

LLC.

3. Parties' Contentions

A. The Complainant

The Complainant A and B (hereinafter both referred to as "the Complainant" except for special indication) filed the complaint based on prior right for trademarks "Koubei" "Koubei 口碑" "口碑网" "口碑", etc. within mainland China.

The information on prior trademarks enjoyed by the Complainant is as follows:

Class 38:

The trademark "口碑网" under no. 5974122 currently owned by the Complainant B, was applied for registration on April 2, 2007 and approved for registration on February 7, 2011, which is designated on service items "News agencies, Television broadcasting, Telecommunication (information about -), Electronic bulletin board services [telecommunication services], Providing telecommunications connections to a global computer network, Transmission of messages and images (computer aided -), Providing telecommunication channels for teleshopping services / telecommunication channels (providing -) for teleshopping services / telecommunication services (providing telecommunication channels for -), Providing internet chatrooms, Rental of access time to global computer networks and Electronic mail" in class 38 and valid till February 6, 2021. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark "口碑网" under no. 4762916 currently owned by the Complainant B, was applied for registration on July 6, 2005 and approved for registration on February 21, 2009 which is designated on service items "Television broadcasting, News agencies, Message sending, Transmission of messages and images (computer aided -), Electronic mail, Electronic bulletin board services [telecommunication services], Providing telecommunications connections to a global computer network, Telecommunications routing and junction services, Providing user access to global computer networks (facilitator) and Teleconferencing services" in class 38 and valid till February 20, 2019. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark "口碑网" under no. 4762917 currently owned by the Complainant B, was applied for registration on July 6, 2005 and approved for registration on February 21, 2009 which is designated on service items "Television broadcasting, News agencies, Message sending, Transmission of messages and images (computer aided -), Electronic mail, Electronic bulletin board services [telecommunication services],

Providing telecommunications connections to a global computer network, Telecommunications routing and junction services, Providing user access to global computer networks(facilitator) and Teleconferencing services” in class 38 and valid till February 20, 2019. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

Class 35:

The trademark “口碑” under no. 12127731 currently owned by the Complainant B, was applied for registration on February 1, 2013 and approved for registration on July 28, 2014 which is designated on service items “Retail and wholesale services for pharmaceutical, veterinary and sanitary preparations, and medical supplies; wholesale and retail services relating to medicines; wholesale and retail services relating to pharmaceutical preparations; wholesale and retail services relating to sanitary preparations; wholesale and retail services relating to medical supplies and Retail and wholesale services for veterinary” in class 35 and valid till July 27, 2024. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark “Koubei” under no. 12127732 currently owned by the Complainant B, was applied for registration on February 1, 2013 and approved for registration on July 28, 2014 which is designated on service items “Retail and wholesale services for pharmaceutical, veterinary and sanitary preparations, and medical supplies; wholesale and retail services relating to medicines; wholesale and retail services relating to pharmaceutical preparations; wholesale and retail services relating to sanitary preparations; wholesale and retail services relating to medical supplies and Retail and wholesale services for veterinary” in class 35 and valid till July 27, 2024. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark “口碑” under no. 6163745 currently owned by the Complainant B, was applied for registration on July 16, 2007 and approved for registration on June 7, 2010 which is designated on service items “On-line advertising on a computer network, Business appraisals, Business information, Price comparison services, Sales promotion [for others], Computer databases (classification of information into -); Providing rebates at participating establishments of others through use of a membership card, Compilation of statistics / statistic (compilation of -), Commercial information and advice for consumers[consumer advice shop] and Opinion polling” in class 35 and valid till June 6, 2020. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China

Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark “口碑网” under no. 5974124 currently owned by the Complainant B, was applied for registration on April 2, 2007 and approved for registration on April 28, 2010 which is designated on service items “On-line advertising on a computer network, Price comparison services, Commercial information and advice for consumers[consumer advice shop], Sales promotion [for others], Personnel management consultancy, Relocation services for businesses(providing information), Computer databases (systemization of information into -), Accounting, Rental of vending machines and Organization of trade fairs for commercial or advertising purposes” in class 35 and valid till April 27, 2020. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

The trademark “口碑网”
Koubei.com under no. 4762919 currently owned by the Complainant B, was applied for registration on July 6, 2005 and approved for registration on February 28, 2009 which is designated on service items “Advertising, On-line advertising on a computer network, Business investigations, Business information; Organization of trade fairs for commercial or advertising purposes, Procurement services for others [purchasing goods and services for other businesses], Employment agency services, Relocation services for businesses, Computer databases (systemization of information into -) and Accounting” in class 35 and valid till February 27, 2019. On July 6, 2017, the Complainant B submitted the application for transferring this trademark to the Complainant A with China Trademark Office (CTMO) and it was accepted on August 29, 2017 and now is remaining under examination.

Class 36:

The trademark “口碑”
Koubei under no. 5258227 currently owned by the Complainant B, was applied for registration on April 3, 2006 and approved for registration on September 21, 2009 which is designated on service items “Insurance, Capital investments, Financing services, Electronic funds transfer, Art appraisal, Real estate agencies, Brokerage, Guarantees, Charitable fund raising, Fiduciary and Lending against security” in class 36 and valid till September 20, 2019.

Before arguing the disputed domain name which simultaneously satisfies the above three conditions, the Complainant firstly introduces the background, usage and reputation covering its brands such as “Koubei” “Koubei 口碑” “口碑网” “口碑” and provided the supporting evidence. The statement below contains factual basis specified in the Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Resolution Policy.

A brief introduction of “Koubei” and “口碑”:

The Complainant is affiliated to the Alibaba Group Holding Ltd. Alibaba Group was founded in Hangzhou in 1999 by 18 former English teachers led by Jack Ma. The Alibaba website operated by Alibaba Group is praised as the most popular website among international trades and e-commerce by Alexa.com, one of “the best B2B website worldwide” for consecutive 7 years by Forbes magazine, one in the most popular 6 websites for global entrepreneurs by the Enterprise Magazine of Fortune, always ranking No.1 market share on B2B e-commerce industry in China annually reported by iResearch.

On the evening of September 19, 2014, Alibaba was listed on the New York Stock Exchange under the stock code BABA with US \$ 68 per share, which was one of the largest IPO deals in the world.

In October 2014, Ant Financial Services Group, an affiliated entity of Alibaba Group, was formally established.

On June 23, 2015, Alibaba Group integrated resources together with Ant Financial Group to jointly establish an Internet platform for local life and service, namely platform “Koubei” and “口碑” .

Alibaba Group’s major businesses and affiliates now include Taobao (www.taobao.com), TMALL (www.tmall.com), AliExpress (www.aliexpress.com), Alibaba international trading market (Alibaba.com), 1688 (www.1688.com, formerly known as “Alibaba Exchange Market in China”), Alimama (www.alimama.com), Alibaba Cloud Computing Co. Ltd. (www.aliyun.com), Ant Financial Services Group(including Alipay, Yue Bao, Zhao Cai Bao, ant fortune, Ant check later, Ant Financial Cloud, Sesame credit and MYbank, etc.), Cainiao Network Technology Co., Ltd, “Koubei”, “口碑” and so on.

The prior use and reputation of brands “Koubei” and “口碑” :

As early as December 2, 2003, the Complainant registered the domain name "koubei.com" which will be valid until December 2, 2018 and has always been being used.

The Koubei Website (www.koubei.com) is the largest life search engine in China, committed to building the first brand of e-commerce in the field of life service. It covers the offline scenes such as the catering, the supermarket, the store, the takeout, the business circle, the airport, the beauty salon, the cinema to provide consumers with comments to share and consumer guide, which is a platform for business’ promotional information, brand marketing and e-commerce.

In June 2004 the Koubei Website was officially launched; in October 2006 the world's best B2B platform Alibaba Group made officially strategic investment to the Koubei Website; early in 2007 the user number of the website has exceeded 3 million; in July 2008, it integrates with China Yahoo; in September 2009 Koubei website is incorporated into Taobao, Asia's largest online retailer; till early in 2010, the user number of the website has exceeded 50 million and it shared members with Taobao, China Yahoo as well as other subsidiaries of Alibaba, affecting 300 million members, most of whom are white-collar workers and people with high consumption power in urban areas.

As we can see, since the investment of Alibaba in 2006, great development has happened to the Koubei Website depending on the e-commerce giant Alibaba. In order to build a comprehensive business ecosystem in Alibaba and completely be involved in local communities of life and service, Alibaba decided to reintegrate the Koubei Website. In June 2015, therefore, Alibaba Group and Ant Financial Services Group, each sharing 50%, together invested 6 billion yuan to set up a platform for local life and service - new "Koubei", to assist in the transformation and upgrading of local living services. After re-integrated, it is managed mainly by KOUBEI HOLDING LIMITED (namely the Complainant B) and related company Koubei (Shanghai) Information Technology Co.,Ltd. and Hangzhou Koukouxianchuan Network Technology Co., Ltd. (namely the Complainant A and Jack Ma, owning the ICP of Koubei website, as one of its shareholders).

On January 28, 2016, the financial report of the fourth quarter from Alibaba Group shows that a total of 600,000 offline restaurants have registered in the Koubei Website, covering more than 200 cities across the country only in half a year. The average daily transactions in the Koubei platform have exceeded 5 million for the first half-year and the transaction amount of the fourth quarter in 2015 exceeded 15.8 billion yuan. On August 11, 2016, the 2017 financial report of the first quarter from Alibaba Group shows that the dealing amount of each quarter reached 31 billion yuan, up 48% than last quarter, and up to now, the registration of over 2.5 million stores has led to over 20 million of average daily transactions.

The Koubei Website mainly provides search applications, review applications, e-coupons, Koubei cards, wireless applications, etc.

The rapid development of the Koubei Website has attracted high attention and recognition from the industry and society and it has been comprehensively reported by some essential media such as Beijing Business Today, QianJiang Evening NEWS, Oriental Morning Post, People's network, xinhuanet, Netease, Sina, Tencent from 2015 to 2017 on its restarting and continuous market operation.

The Koubei platform has been the preferred life community among consumers depending on rich resources and mature market operation experience and investments offered by Alibaba, getting the honor of “top 100 commercial sites”, “the fastest growing commercial Web site”, “Top 10 National Innovation”, “Top 50 Most Commercial Value”, “the Best Web2.0 Website” and “the Most Worthy of Commerce Website, etc. ”.

In addition, the 2017 Industry Research Report of local life and service based on O2O (Online To Offline), apparently indicates that “Koubei” has covered more than 300 cities like Beijing, Shanghai, Guangzhou, deeply involving itself in first-tier cities and second-tier cities, with about 20 million daily orders of 2.5 million businesses through analyzing top three O2O industry giants Koubei, Meituan and Dianping, fully proving that the opponent’s brand “Koubei” has had wide access to the market and enjoyed high reputation and influence among the relevant public.

The above facts and evidence could prove that the Complainant’s brands “Koubei” and “口碑” have been widely used by Complainant and enjoy high reputation and influence among Chinese consumers before the registration date (February 23, 2017) of the disputed domain name.

Based on circumstances in this case along with the above-mentioned facts and evidence, the Complainant holds that the disputed domain name presents these three elements stipulated in Article 4 (a) of the ICANN Uniform Domain Name Dispute Resolution Policy.

i) The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

Firstly, the disputed domain name “koubeinews.com” consists of the domain name body “koubeinews” and the domain name suffix “.com”, of which “.com” lacks distinctiveness with a technical requirement for domain name registration, thus the prominent part of the disputed domain name is “koubeinews” comprised of “koubei” and “news”, for which part “news” is a common English word referring to business and service scopes and enjoying weak distinctiveness to consumers comparing with “koubei” that would be called by consumers when noticing the disputed domain name.

Based on the above-mentioned, the Complainant now has right in trademarks “Koubei”, “Koubei.com” “口碑” “口碑网” “口碑网 Koubei.com” and “口碑 Koubei”.

Compare the disputed domain name with the prior trademarks of the Complainant as follows: the main distinguishing part “koubei” in the domain name is identical with the

Complainant's English trademarks "Koubei", "Koubei.com" (the Complainant has given up the exclusive right to the trademark ".com") in terms of comprised letters, is identical with the Complainant's Chinese trademark "口碑" in terms of calling and is confusingly similar with the Complainant's trademark "口碑网" in terms of calling. Since the disputed domain name has been applied to the website, consumers will call it "口碑网" or "口碑新闻网", which is identical with/confusingly similar to the Complainant's trademarks in Chinese characters in terms of calling, and therefore the disputed domain name is confusingly similar to the Complainant's Chinese-English combination trademarks.

Moreover, the information on the website with the disputed domain name is about news promotion, etc., which are similar to the service in class 38 approved by the prior trademark of the Complainant. Meanwhile, the website news regarding the insurance, investment and medical is related to the service in class 35 and 36 approved by the prior trademarks of the Complainant.

On condition that the disputed domain name and the Complainant's trademark co-exist, which is likely to cause confusion, the public would consider the disputed domain name is registered by the Complainant or there is certain connection between them, thus being confused.

Secondly, as above-mentioned, the Complainant's domain name "koubei.com" was registered as early as December 2, 2003 by the Complainant and has been being used on the website: www.koubei.com. Since the disputed domain name just differs from the Complainant's domain name only in the weak distinctiveness mark "news", the consumer will consider that the website using this disputed domain name is another website on the news opened by the Complainant, thus being confused.

Thirdly, it is malicious of the Respondent to have contents such as false "Koubei news website (being deleted after sending a C&D letter by the Complainant), "koubei news, participating koubei" on the website with the disputed domain name.

Therefore, the registration and use of the disputed domain names would cause inevitable confusion and misidentification among the public.

ii) The Respondent has no rights or legitimate interests in respect of the domain name(s);

The Complainant made a research on the China Trademark Office website with keywords "koubeinews" which, however, in connection with trademark information for registration or application has no clue, and then trademark registration right concerning the disputed domain name failed to be enjoyed by the Respondent. In

addition, the Respondent did not enjoy other legitimate right and interests and the Complainant never authorized the Respondent to use the disputed domain name either.

Therefore, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

iii) The disputed domain name(s) has/have been registered and is/are being used in bad faith:

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(b), that with respect to Article 4 (a) (iii), if members of the panel discovered the following circumstances (particularly including but not only limited), the Panel should allow it as evidence to maliciously register and use the domain name:

(ii) Make the registration of the domain name attempting to prevent the owner of the trademark or service mark from obtaining a domain name accordingly, in which the Respondent is involved; or

(iii) The Respondent has registered the domain name, mainly used to undermine the business of competitors; or

(iv) The domain name is used by the Respondent to intentionally attract Internet users accessing to the Respondent's website or other online websites for commercial gains by taking advantage of the similarity on its website or on origins, sponsors and affiliation of products or service of websites with the Complainant's mark and then confusion occurs accordingly.

The Complainant holds that circumstances above apply to the Respondent who shall be regarded as maliciously registering and using the domain name, as follows:



As above-mentioned, brands "koubei" and "口碑" have gained high reputation and influence through continuous development of the Complainant's Company, forming a corresponding relationship with the Complainant's Company.

Despite the fact that the distinguishing part of the disputed domain name is identical or very similar to brands "koubei" and "口碑" both owned by the Complainant's company, also considering the reputation of the Complainant's Company and brands "koubei" and "口碑", it is unlikely for the Respondent uninformed of the Complainant's

Company and brands “koubei” and “口碑” to originally create this disputed domain name. What’s more, the domain name “koubei.com” has already been registered as early as 2003 and has been being used by the Complainant till now. No wonder the Respondent knows that. There might be a more reasonable explanation that having already known the Complainant’s Company and brands “koubei” and “口碑” the Respondent plagiarized, imitated, deliberately registered the disputed domain name relying on the reputation of the Complainant and apparently demonstrating itself in bad faith.

The Respondent has used the disputed domain name in bad faith as well. The malicious acts are including but not limited to the followings:

(1) The website(www.koubeinews.com) opened by the Respondent with the disputed domain name made a publicity through “Koubei news website”, getting people mistakenly considering it as the Complainant’s website or in connection with the Complainant’s websites. After the Complainant sent a C&D letter to the owner of the website on September 8, 2017, the website name was changed from “Koubei news website” to “Life review website”.

(2) The website (www.koubeinews.com) opened by the Respondent applies device “” that is identical with the trademark “” No. 17381167 entitling the Complainant to its exclusive right. The Respondent violates the Complainant’s right to this trademark. After the Complainant sent a C&D letter to the owner of the website on September 8, 2017, the website deleted this device.

At present, the Complainant is the registrant of the trademark under no.17381167. The trademark, applied on July 8, 2015, approved for registration on August 14, 2016 and valid till August 13, 2026, covers service items “Presentation of goods on communication media, for retail purpose / communication media (presentation of goods on -), for retail purpose; advertising; Providing business information through website; Organization of trade fairs for commercial or advertising purposes; Commercial information and advice for consumers; Price comparison services; Business appraisals; Business investigations; Business information; Opinion polling; Marketing studies; Commercial intermediary services; Sales promotion [for others]; Providing online market for the buyer and seller of goods or services; Auctioneering; Website traffic optimization; Computer databases (systemization of information into -); Sponsorship search and Retail and wholesale services for pharmaceutical, veterinary and sanitary preparations, and medical supplies ” in class 35.

(3) The Respondent applies the contents such as “koubei news, participating koubei, koubei exposure, koubei life, koubei hot topics, medical treatment in koubei, etc.” to its website (www.koubeinews.com), which infringes the Complainant’s right to this trademark “口碑”.

(4) Large numbers of negative social reports regarding “cheater, evil mind, deception, shark, defrauding money, trap, etc.” are published on the website (www.koubeinews.com) opened by the Respondent and their authenticity could not be verified. If the relevant consumer mistakenly believes that the website is associated to the Complainant’s website, it would damage the Complainant’s reputation seriously.

In light of the above-mentioned facts, the Complainant holds that:

Firstly, the Respondent registered the disputed domain name to prevent the Complainant from obtaining this domain name related to the mark accordingly.


As indicated above, since brands “koubei” and “口碑” have already formed one-to-one relationship with the Complainant through its usage, the Complainant shall be entitled to their trademark right, whereas on condition that the Respondent neither have right of civil rights and interests in the mark that is not authorized by the Complainant as domain name, nor have reasonable basis of registering and using this domain name, registration of the domain name by the Respondent shall be of malic.

Certainly, the registration of the disputed domain names makes it impossible for the Complainant entitled to civil rights, to enjoy legitimate right and interests to the trademark of the domain name also used by the Respondent under the network environment. The Respondent neither has any civil right or authority on the disputed domain name, and its registration of the disputed domain name was to prevent the Complainant from obtaining this domain name related to the mark accordingly.

The registration of disputed domain name shall be in line with the malicious condition as specified at Paragraph 4(b)(ii) of the Policy.

Secondly, the Respondent registered the disputed domain name to undermine its competitor’ normal business.

The disputed domain name has been applied by the Complainant to the website (www.koubeinews.com) where the information shows the business area of the Respondent is involved in life news. While it can be seen that the main business of the Complainant covers life and service news, so life information, life news, etc. would also be published via websites. Thus, the Respondent and the Complainant are competitors in the same service scope.

The disputed domain name which is actual used on internet is associated to the prior brand “口碑” enjoyed by the Complainant. And this website has ever used the mark “

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concluded that the Respondent is very familiar with the Complainant and his brands, and registered and used the disputed domain name on condition of knowing “koubei” and “口碑” belonging to the Complainant to cause confusion with the Complainant’s service and websites, then causing mistaken determination among the public to relationship between the Complainant and the Respondent that service provided by the Respondent belongs to the Complainant, users visit its website and consumers are deceived.

Therefore, the registration of disputed domain name shall be in line with the malicious condition as specified at Paragraph 4(b) (iii) of the Policy.

Thirdly, the domain name used on website: www.koubeinews.com by the Respondent is to intentionally attract internet users accessing to the Respondent’s website, making its website or information on the website confused with the Complainant.

As indicated above, the Respondent applies the contents such as “koubei news, participating koubei, koubei exposure, koubei life, koubei hot topics, medical treatment in koubei, etc.” to its website (www.koubeinews.com), which would cause confusion and misunderstanding to internet users.

It is obviously malicious of the Respondent to intentionally attract Internet users to visit the website with this method.

Therefore, the registration of disputed domain name shall be in line with the malicious condition as specified at Paragraph 4(b)(iv) of the Policy.

The Respondent applied for registration of the disputed domain name on condition of knowing the Complainant’s company and its brands “koubei” and “口碑” so as to cause confusion among internet users and then undermine the Complainant’s normal business. It is obviously malicious of the Respondent to register the disputed domain name, the use of which would heavily damage the relevant public and the Complainant’s interests.

In summary, the Complainant is the real obligee of the brand “koubei” and “口碑”, in which the Respondent has no right or legitimate interests. The right is infringed to the prior trademark on the disputed domain name which is registered and used by the Respondent in bad faith. The Complainant claims that the Asian Domain Name Dispute Resolution Centre (ADNDRC) support its request on the disputed domain name pursuant to the Uniform Policy for Domain Name Dispute Resolution, the Rules for Uniform Domain Name Dispute Resolution Policy and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy.

B. The Respondent

Respondent has failed to file a response in this matter.

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.

Respondent in Default

The Policy and the Rules provides that “[i]f a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.” The Panel finds that no exceptional circumstances exist. Accordingly the Panel will decide the dispute based upon the Complaint and the evidence submitted therewith.

A. Identity or Confusing Similarity

In the present case, the preliminary issue is whether the Complainants has protectable rights in the mark to which it contends Respondent's domain name are confusingly similar.

The Complainant A & B owns numerous trade mark registrations for or incorporating "koubei" and/or “口碑” (in pinyin “kou bei”) in a wide range of categories, in the People's Republic of China ("PRC"). The Panel finds that the Complainant has rights in the “koubei” mark acquired through registration. The Complainant is affiliated to the Alibaba Group Holding Ltd. Alibaba Group was founded in Hangzhou in 1999 by Jack Ma, listed on the New York Stock Exchange under the stock code BABA on 19 September, 2014.

The disputed domain name <koubeinews.com> reproduces entirely the Complainant's “koubei” trademark with the addition of the components "news" and the gTLD suffix “.com”. The generic word “news” does not avoid a confusing similarity to the Complainant's “koubei” trademarks. Also, the gTLD “.com” is without legal significance in the present case since the use of a TLD is technically required to operate a domain name.

Therefore, the addition of the term "news" and the gTLD suffix “.com” does not have the capacity to distinguish the disputed domain name from the Complainant's “koubei” registered trademarks and is disregarded when comparing the disputed domain names with the Complaint's trademarks. See *Volkswagen AG v. Todd Garber*, WIPO Case No. D2015-2175; *Dassault (Groupe Industriel Marcel Dassault) v. Ma Xiaojuan*, WIPO Case No. D2015-1733; *Lego Juris A/S v. Chen Yong*, WIPO Case No. D2009-1611; *Dr. Ing. H.c. F. Porsche AG v. zhanglei*, WIPO Case No. D2014-0080; *Cummins Inc. v. DG Lanshan Mechanical Electrical Equipment Co., Ltd.*, ADNDRC Case No. HK-1000286.

Furthermore, the mark “koubei” is inherently distinctive mark which will attract Internet users' attention. The evidence provided by the Complainant also shows that the “koubei” mark has accumulated a considerable reputation by 2017 when the Respondent registered the disputed domain name. Reproduction of the Complainant's “koubei” trademark in its entirety in the Domain Name in itself establishes that the Domain Name is confusingly similar to the Complainant's trademarks. See *EAuto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. D2000-0047,

The Panel therefore finds that the disputed domain name <koubeinews.com> is confusingly similar to the Complainant's registered marks. Accordingly, the Complainant has proven the element required by the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests of the Respondent

The Panel accepts that the Complainants has amply demonstrated that Respondent

lacks any rights or legitimate interests, and by virtue of its default, the Respondent has failed to come forward with any evidence to rebut that finding (including the examples listed in paragraph 4(c) of the Policy).

The Respondent has not used or made preparations to use the disputed domain name in connection with a *bona fide* offering of goods and services.

The Respondent was never commonly known as “koubei.” A Google search turns up no results relating to the Respondent. On the other hand, Google results turn up many hits related to the Complainant, who owns the trademark in “koubei”.

There is similarly no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied the second condition under paragraph 4(a)(ii) of the Policy.

C. Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

I. circumstances indicating that the Respondent has registered or the Respondent has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain names 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 the Respondent’s documented out-of-pocket costs directly related to the domain names; or

II. the Respondent has registered the domain names 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 names primarily for the purpose of disrupting the business of a competitor; or

IV. by using the domain names, 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 the Respondent’s website or location or of a product or service on its website or location.

The Complainants own several trademark registrations for “koubei” and “口碑” in Mainland China, where the Respondent is domiciled.

The website to which the disputed domain name resolved emulates the look and feel of the websites of the Complainants. This site displayed the trademarks “koubei” and “口碑”, feature products and services covered by the Complainant’s registrations, and

according to the Complainant's arguments, which have not been rebutted by the Respondent. According to the Complainants, this conduct has taken place without the knowledge, or authorization of the Complainants (see *AB Gustaf Kähr v. Prasanth sp, inet*, WIPO Case No. D2011-1455).

Previous decisions rendered under the Policy state that there is bad faith where a Respondent has created a website that is nearly identical to the website of the Complainant (see, *inter alia*, *The Dow Chemical Company v. dowaychemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. D2008-1078; and *Ctrader Limited v. Niko Wibisono*, WIPO Case No. D2013-1906) or that creates 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 your website or location.

The evidence contained in this case file leads the Panel to conclude that the Respondent was fully aware of the Complainants and had the Complainant's trademarks "koubei" and "口碑" in mind at the moment of registering the disputed domain name, a requisite for a finding of registration of a domain name in bad faith (see WIPO Case No. D2011-1455 *supra*; *Real Madrid Club De Futbol v. Michele Dinoia*, WIPO Case No. D2010-0261; and *Advance Magazine Publishers Inc. v. Pablo Palermao*, WIPO Case No. D2008-0026).

The Respondent has attempted to create the impression amongst Internet users that the website to which the disputed domain name resolves is related to the Complainants and its trademarks, presumably with the purpose of generating income for the Respondent through illicit means (see *LeSportsac, Inc. v. Yang Zhi*, WIPO Case No. D2013-0482; and *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. D2014 0365). This is proof of a bad faith registration and use of the disputed domain names under the Policy.

Internet users looking for the Complainant A could be misled as to the origin of the disputed domain name and its content, as well as its possible association to the Complainants' parent office.

The third element of the Policy is fulfilled. The Panel therefore holds that this is sufficient to establish bad faith under paragraph 4(a) (iii) of the Policy.

5. Decision

Based on the above analysis, the Panel decides that:

The disputed domain name are identical or confusingly similar to a trademark or service mark in which the Complainants has rights; and the Respondent has no rights or legitimate interests in respect of the domain name; and the domain name has been registered and is being used in bad faith.

Accordingly, pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel decides that the Disputed Domain Name “koubeinews.com” should be transferred to the Complainant A Hangzhou Koukouxiangchuan Network Technology Co., Ltd..

A handwritten signature in black ink, appearing to be the Chinese characters '蘇志強' (Su Zhiqiang), which is the name of Timothy SZE.

(Timothy SZE)

Dated: 2 May, 2018