



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-1701098

Complainant: ASSA ABLOY AB
Respondent: CST TECHNOLOGY CO., LTD
Domain Name: fargosc.com
Registrar: ENOM, INC.

1. Procedural History

On 16 August 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 18 August 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, ENOM, INC., a request for registrar verification in connection with the disputed domain name.

On 18 August 2017, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant, the proceeding language is English and providing the contact details.

On 5 September 2017, the Complainant revised and submitted a Complaint in English to the ADNDRC Beijing Office.

On 12 September 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 and via express mail 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. The ADNDRC Beijing Office notified the Respondent's default on 13 October 2017. 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 Ms. Xue Hong, the ADNDRC Beijing Office notified the parties on 20 October 2017 that the Panel in this case had been selected, with Ms. Xue Hong 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 20 October 2017, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 3 November 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. Given that the language of the current disputed domain name Registration Agreement is English, the Panel determines English the language of the proceedings.

2. Factual Background

A. The Complainant

The Complainant in this case is ASSA ABLOY AB. The registered address is BOX 70340 107 23 Stockholm Sweden. The authorized representative in this case is Beijing Tee & Howe Law Office.

B. The Respondent

The Respondent in this case is CST TECHNOLOGY CO., LTD. The registered address is Shenzhen Days of Digital City Tianxiang Building, Room 9B06 Shenzhen Guangdong.

The Respondent is the current registrant of the disputed domain name "fargosc.com",

which was registered on 4 September 2002 according to the WHOIS information. The registrar of the disputed domain name is ENOM, INC.

3. Parties’ Contentions

A. The Complainant

(a) The disputed domain name is confusingly similar to the FARGO trademark registrations of the Complainant.

(1) A brief introduction to the Complainant, its subsidiary and the FARGO card solutions.

Incorporated in 1994, the Complainant is the world’s largest supplier of door opening solutions. The Complainant has extended business presence in over 70 countries and regions and had more than 150 subsidiaries in 50 countries and regions. In 2000 the Complainant acquired HID Global Corporation in USA, the trusted global leader in solutions related to secure identities serving a variety of markets that include physical access control; IT security, including strong authentication/credential management; card personalization; visitor management; government ID; and identification technologies for a range of applications.

Dating back to the years 1994-1996, the subsidiary of the Complainant FARGO Electronics, Inc. obtained trademark registrations for FARGO in Australia, Germany, Singapore, Hong Kong and other countries and regions. In China, FARGO Electronics, Inc. was granted the trademark registration for FARGO Reg. No. 954648 in Class 9 as early as in 1997. To consolidate trademark portfolios, this trademark registration has been transferred to the Complainant through multiple assignments. Currently, the Complainant owns the following FARGO trademark registrations in mainland China:

Trademark	Reg. No.	Class	Reg. Date	Designated Goods
FARGO	954648	9	1997-02-28	Color computer printers, ID card printers
FARGO	11475404	16	2014-05-07	Cards, inking ribbons for computer printers, etc.
FARGO	11714073	9	2014-05-07	Color printers, smart cards, etc.
FARGO	15309143	9	2016-01-07	Punched card machines for offices, etc.
FARGO	15309127	9	2016-01-07	Punched card machines for offices, etc.

(2) FARGO trademark of the Complainant enjoys high reputation in China.

The Complainant’s FARGO card solution simplifies the management and delivery of credentials by removing the most resource consuming tasks. This evolution in technology seamlessly works with popular one-card and physical access control software, databases and card technologies. FARGO card solutions give

administrators full system visibility and control while meeting or exceeding the strictest regulatory security requirements.

In view of the above, it is safe to conclude that the Complainant as the global leader of secure identities shall have prior trademark rights to FARGO which have become much known to the public in the industry.

(3) The disputed domain name is confusingly similar to the FARGO trademark registrations of the Complainant.

With respect to the disputed domain name, “.com” is a generic Top-Level Domain and does not play any distinctive role. Among the distinctive part of the disputed domain name “fargosc”, “fargo” is utterly identical with the prior FARGO trademark registrations of the Complainant while “sc” should be interpreted as initials of “service center” in view that the Respondent misrepresented itself as “FARGO Service Center in China” in business. As such, “fargosc” should be interpreted as “FARGO Service Center”. The disputed domain name is likely to mislead the public that the Respondent is a service center authorized or sponsored by the Complainant in China or that the Respondent is commercially or legally related to the Complainant, consequently causing confusion among the public. Therefore, the disputed domain name shall be considered confusingly similar to the FARGO trademark registrations of the Complainant.

(b) The Respondent has no rights or legitimate interests to the disputed domain name.

The Complainant has never authorized or licensed the Respondent to use FARGO trademark, so the Respondent has no rights or interests to the disputed domain name.

(c) The Respondent had obvious bad faith in registering and using the disputed domain name.

The on-site investigation on the Respondent disclosed that the Respondent had been extensively and prominently using FARGO trademarks in its business cards, leaflets and misleadingly advertising itself as “FARGO Service Center in China”. In addition, the Respondent even offered the public fake certificates of authorized service center to deceive the consumers.

The Respondent intentionally highlighted FARGO trademark and misrepresented itself as “FARGO China Sales Integration/Technical Service Center” (FARGO 中国销售集控 / 技术服务中心) in its official website www.fargosc.com. The deceiving misrepresentations of its kind can also be seen in Taobao and Alibaba platforms which were linked by the Respondent to the website www.fargosc.com. The misrepresentations alone shall suffice to prove bad faith of the Respondent in registering and using the disputed domain name.

Apart from the aforementioned misrepresentations, the Respondent launched

deceiving advertisement in Baidu, the largest Chinese search engine. The searches on such key words as “HID FARGO” “FARGO 打印机” “证卡打印机” and the likes at www.baidu.com revealed at the front advertising end the official website of the Respondent www.fargosc.com and “FARGO China Sales Integration/Technical Service Center”, which will certainly deceive the public into believing that the Respondent is the authorized service center of the Complainant.

Evidently the Respondent had sheer bad faith in registering and using the disputed domain name. The Respondent maliciously takes free ride of the reputation of FARGO brand to attract more internet visits to its website so as to illegally snatch more business opportunities and gain unfair competition edges over other distributors or agents of the Complainant. In addition, the disputed domain name shall undoubtedly prevent the Complainant or its authorized distributors from registering and using the disputed domain name incorporating its FARGO trademark. As such, the acts of the Respondent have fully met the bad faith requirements under the Policy and relevant rules.

In view of the above facts and evidences, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. The Respondent

The Respondent does not submit the Response.

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. Identity or Confusing Similarity

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark right.

The Panel notes that Complainant has acquired from its subsidiary company, FARGO Electronics, Inc., all five registrations for the mark "FARGO" granted by the State Trademark Office of China, including Number 954648 registered on 28 February 1997. The Complainant's subsidiary company, FARGO Electronics, Inc., is the holder the trademark registrations for the mark "FARGO" in Australia, Germany, Singapore, Hong Kong and other countries and regions. The Panel finds that the Complainant successfully proves its legal rights in the mark "FARGO".

In order to answer the question of identity or confusing similarity, the Panel may simply compare the character string of the disputed domain name with that of the Complainant's proved trademark, as demonstrated in the prior decisions such as Disney Enterprises, Inc. v. John Zuccarini, Cupcake City and Cupcake Patrol, WIPO Case No. D2001-0489 or IKB Deutsche Industriebank AG v. Bob Larkin, WIPO Case No. D2002-0420.

The disputed domain name "fargosc.com", apart from the non-distinctive generic Top-Level Domain ".com", consists of "fargosc". The Complainant contends that "fargosc" refers to "fargo+sc" and thus confusingly similar with the Complainant's mark "FARGO".

The Panel finds that the character string "fargo" that is identical with the Complainant's registered trademark constitutes the main part of the disputed domain name. Given than the Complainant's mark "FARGO" is included in the disputed domain name in an entirety, the suffixation of the non-distinctive letters "cs" cannot diminish the likelihood of confusing similarity between the disputed domain name and the Complainant's "FARGO" mark. Besides, the Respondent's silence on the Complainant's contention and the fact that no alternative interpretation to the composition of the disputed domain name is provided also enable the Panel to reach such a conclusion.

Since the Complainant establishes that the disputed domain name “fargosc.com” is, as a whole, confusingly similar to the Complainant’s registered “FARGO” trademark, the Panel finds that the Complaint has proven the first element under the paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. Meanwhile, the Respondent does not provide any information to the Panel asserting any rights or legitimate interests it may have in the disputed domain name “fargosc.com”.

It is apparent from the Complaint that there is no connection between the Respondent and the Complainant or its business. Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent’s rights or legitimate interests in a domain name. However, there is no evidence before the Panel that any of the situations described in paragraph 4(c) of the Policy apply here. To the contrary, the lack of any Response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name “fargosc.com”. Accordingly, the Complaint has proven the second element under the paragraph 4(a) of the Policy.

C. Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Respondent did not respond to these contentions.

According to the notarized evidence provided by the Complainant, the Respondent’s website www.fargosc.com deceitfully states that the Respondent is the “FARGO Service Center of China” “FARGO 中国服务中心” and “FARGO 中国技术服务中心” and offers to sell a variety of unauthorized FARGO products. On the disputed domain name website, the Complainant’s registered mark FARGO is being repeatedly and prominently showed on both the products and the web page contents. The Complainant also provides the fake certificate of so-called “Fargo Authorized Smart Center” used by the Respondent in its business.

The evidence provided by the Complainant sufficiently proves that the Respondent registered the disputed domain name “fargosc.com” with the clear knowledge of the Complainant’s mark FARGO and the related business and is using the disputed domain name to offer to sell the unauthorized FARGO products on the Internet. The Panel finds that the Respondent’s act of intentionally matching the disputed domain name “fargosc.com” with its so-called “Fargo Service Center” or “Fargo Smart Center” so as to attract the Internet users to the unauthorized Complainant’s products offered to sell on the disputed domain name website is highly likely to arouse confusion with

the Complainant's marks as to the source, sponsorship, affiliation or endorsement of the Respondent's website or of the products offered to sell on the Respondent's website.

The Panel rules that it is adequate to conclude that the Respondent has registered and is using the disputed domain name "fargosc.com" in bad faith under the Policy, paragraph 4(b)(iv). Therefore, the Complaint has successfully proven the third element under the paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name "fargosc.com" be transferred to the Complainant ASSA ABLOY AB.

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Dated: 2 November 2017