



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1400639
Complainant:	CHARLES SCHWAB & CO., INC.
Respondents:	“wang yanrong” and “wang”
Disputed Domain Name(s):	<jiaxinlicaihk.com>

1. The Parties and Contested Domain Name

The Complainant is CHARLES SCHWAB & CO., INC., of 211 Main Street, SF211MN-06-133, San Francisco, CA 94105, USA.

The Respondents are wang yanrong and wang, of xianggangzhonghuanhuayuandao3hao.

The domain name at issue is jiaxinlicaihk.com, registered by Respondents with GODADDY.COM, LLC, of Scottsdale, Arizona, USA.

2. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on August 25, 2014. On August 26, 2014, the Center transmitted by email to Godaddy.com, LLC (the Registrar of the Disputed Domain Name) a request for registrar verification. The Registrar replied on August 27, 2014.

The Center formally notified the Respondents of the Complaint, and the proceedings commenced on September 5, 2014. In accordance with Paragraph 5(a) of the Rules, the due date for the filing of a Response by the Respondents was September 25, 2014. The Respondents did not submit any response by this deadline date. Accordingly, the Center notified the Complainant of the Respondent default on September 26, 2014.

The Center appointed Kwan Sit Kin as the sole panelist in this matter on September 26, 2014.

3. Factual background

Introduction of Complainant

CHARLES SCHWAB & CO., INC. (“Schwab”) was established on April 1, 1971, and has developed into a world famous company specialized in providing multiple financial

services. Headquartered in San Francisco, Schwab maintains offices in Austin, Cleveland, Denver, Indianapolis, Jersey City, Phoenix, and Orlando. Schwab also operates more than 325 branches in 45 U.S. states plus one branch in Puerto Rico and one branch in London. Schwab owns a subsidiary in Hong Kong to serve the clients from Hong Kong and mainland China.

Schwab has been a leader in financial services for nearly four decades with 9.3 million client brokerage accounts, 1.4 million retirement plan participants, 956,000 banking accounts, and \$2.38 trillion in client assets (as of July 13, 2014). In 2013, Schwab reported annual net revenues of \$5.4 billion.

As a publicly listed company, the stock of Schwab has been included in Standard & Poor's 500 Index since 2005. Schwab ranked 453 in The World's 500 Most Influential Brands of 2010, published by WORLD EXECUTIVE and The Wall Street Journal; ranked 626 in the 2011 list of The World's 2000 Largest Companies, published by Forbes; ranked 83 in the 2011 list of America's 100 Largest Companies, published by Forbes; ranked 465 and 491, respectively, for the 2010 and 2011 list of America's 500 Largest Companies, published by Fortune, and received top ranking in its Securities industry category in Fortune Magazine's 2011 list of the World's Most Admired Companies, and was recognized across industries, landing at fifth for innovation.

In Hong Kong, Schwab has the affiliation Charles Schwab, Hong Kong, Ltd. 嘉信理財香港有限公司 to serve its Hong Kong clients. Charles Schwab, Hong Kong, Ltd. was registered on December 16, 1996 and is currently located at Suites 1607-1611, ICBC Tower, No.3 Garden Road, Central, Hong Kong.

Trade Name Right

Both China and U.S. are members of Paris Convention, the CHARLES SCHWAB and 嘉信理財 should be protected under trade name rights.

In China, the Complainant uses 嘉信 (jiaxin in Chinese pinyin) or 嘉信理財 (jiaxinlicai in Chinese pinyin) to refer to itself. In fact, the consumers has associated such names with the Complainant exclusively.

Trademark Rights

The Complainant has registered the following trademarks in China and in Hong Kong:

China

Mark	Reg. No.	App. Date	Class	Validation Date
	1377264	1998-9-29	36	2000-3-21 to 2020-3-20
嘉信理財	1377263	2000-3-21	36	2010-3-19 to 2020-3-20

嘉信	3545044	2005-8-14	36	2005-8-14 to 2015-8-13
嘉信	3545041	2005-5-14	42	2005-5-14 to 2015-5-13
嘉信理財 CHARLES SCHWAB	6068601	2010-8-21	41	2010-8-21 to 2020-8-20
嘉信	3545043	2005-3-7	38	2005-3-7 to 2015-3-6

Hong Kong

Mark	Reg. No.	App. Date	Class	Expiry Date
嘉信理財	200013761	1998-9-14	36	2015-9-14
嘉信理財 charles SCHWAB	300423846	2005-5-20	9, 16, 36, 38, 41, 42	2015-5-19
嘉信理財	301268389	2009-1-7	9, 16, 38, 41, 42	2019-1-6
嘉信 私人專業理財	300697500	2006-8-8	35, 36, 41,	2016-8-7
嘉信	301783882	2010-12-08	9, 16, 35, 36, 38, 41, 42	2020-12-7

For the Respondents

The Respondents did not provide any submissions or evidence to be considered.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

The Disputed Domain Name is confusingly similar to the trade names and trademarks of the Complainant

- a) The registration date of the disputed domain name is later than the registration date of the trade names and trademarks of the Complainant;

- b) The main part of the Disputed Domain Name is “jiaxinlicai”. “hk” is a common abbreviation for the geographic name HONG KONG. “jiaxinlicai” has no English meaning but only could be deemed as the Chinese equivalent Pinyin of “嘉信理財”. Therefore, according to the Chinese reading habit, “jiaxinlicaihk” is easily understood by the Chinese consumers as “嘉信理財香港”, which is the exact trade name of the Complainant’s affiliation in Hong Kong. Also, the “jiaxinlicai” reflects “嘉信理財”, which is in fact the trade name, trademark, and domain name of the Complainant. This similarity will cause confusion very easily.
- c) The extension “.com” of the disputed domain name is launched by ICCAN and should not be included in the identification process of whether the disputed domain name is identical with the Complainant’s registered trademarks and trade name. (*Pomellato S.p.A. v. Richard Tonetti*, WIPO Case No. D2000-0493: The panel held that the extension “.com” is irrelevant to the identification of sameness or confusing similarity).

Respondents have no rights upon “嘉信理財” and its equivalent Chinese Pinyin

- a) There is no evidence to prove that the Respondents have any **prior** rights relating to 嘉信理財 or similar marks, nor did the Respondents claimed any civil rights to them, nor did the Respondents obtain authorization from the Complainant to register the disputed domain name. The Respondents are not affiliated in any way with the Complainant.
- b) The burden of proof shifts to the Respondents once the Complainant provides a prima facie evidence showing that the Respondent lacks legitimate right or interest. (*Neusiedler Aktiengesellschaft v. Kulkarni*, WIPO Case No. D2000-1769)

Respondents register and use the disputed domain name in bad faith

- a) To determine whether the Respondents have bad faith, various situations should be considered under the principal of a preponderance of evidence, which provided that the existing evidence indicates the possibility that the Respondents have bad faith outweighed the possibility that they have not. (*Telstra Corporation Limited v. Nuclear Marshmallows* WIPO Case No. D2000-0003);
- b) The Complainant enjoys high fame to “嘉信理財” wordings in mainland China and Hong Kong, either as their trade name and their trademarks.

“嘉信理財” is a coined mark, when it obtains fame in advance, there is no doubt that the Disputed Domain Name is registered with prior knowledge of “嘉信理財”.

- c) Disputed Domain Name has been used to set up phishing websites passing off as the Complainant. This domain once was linked to a live website www.jiaxinlicaihk.com, which is a phishing website pretending to be Complainant's authorized website: all the contents of this website are about the Complainant and its trademark “嘉信理財” (JIA XIN LI CAI) is very prominently used on this website. The contact information of Charles Schwab, Hong Kong, Ltd. 嘉信理財香港有限公司, such as address, telephone number and fax number have been displayed on the website. The only purpose of this website is phishing--when real clients of Complainant mistaken this website as authorized by Complainant, they may put in their account numbers and passwords, this website collects such data and makes use of such data (suspect for illegal purpose).

B. Respondents

The Respondents have not asserted any claims, defenses or contentions.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

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

Identical / Confusingly Similar

The evidence provided shows that the Complainant is the owner of various trademarks bearing the “嘉信理財” (Jia Xin Li Cai in Chinese characters) wordings.

The prominent part of the Disputed Domain Name is “jiaxinlicaihk” which includes the Hanyu Pinyin of the Complainant's “嘉信理財” trademark, with the addition of “hk”. “hk” is commonly understood as the abbreviation of Hong Kong. The addition of “hk” at the end of the pinyin of the Complainant's trademark does not make this prominent part of the Disputed Domain Name more distinguishable with the Complainant and its trademark. To the contrary, it may mislead others, thinking that “jiaxinlicaihk” refers to the Hong Kong affiliate of the Complainant since the Complainant is known by many Chinese people as “嘉信理財”.

Moreover, “嘉信理財” is the trade name of the Hong Kong affiliate of the Complainant.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the “嘉信理財” trademarks registered and owned by the Complainant.

Rights and Legitimate Interests

The Complainant is the legitimate owner of the “嘉信理財” trademarks and it asserts that there is no evidence proving the Respondents have any prior rights in relation to “嘉信理財” or similar marks. The Respondents have neither obtained any authorization from the Complainant to register the Disputed Domain Name, nor are they affiliated with the Complainant in any way. The Complainant’s assertion constituted prima facie evidence provided by the Complainant (see *Conforama Holding v. Ying Liu*, WIPO Case No. D2010-0094). The burden of proof shifts to the Respondents once the Complainant provides a prima facie evidence showing that the Respondents lack legitimate right or interests.

Given that the Respondents have not provided any evidence to support a right or legitimate interest in the Disputed Domain Name, the Panel finds that the Respondents have no rights or legitimate interests in relation to the Disputed Domain Name.

Bad Faith

In view of the strong reputation and high popularity of the Complainant’s “嘉信理財” trademark, the Respondents should know or should have been aware of the existence of the Complainant and its mark when registering the Disputed Domain Name.

Moreover, the Respondents have already directed the Disputed Domain Name to a phishing website just 12 days after the registration of the domain name.

The Panel concludes that the Disputed Domain Name has been registered in bad faith.

The Disputed Domain Name had once been linked to a website which pretending to be the website of the Complainant’s Hong Kong affiliate. The Complainant’s “嘉信理財” trademark was prominently used in the website. The address, telephone number and fax number of Charles Schwab, Hong Kong, Ltd. 嘉信理財香港有限公司 (the Complainant’s Hong Kong affiliate) have been used. Internet users may be deceived into believing that the website was established, operated and managed by the Complainant’s affiliate in Hong Kong and may make use of the services provided by the website. The Respondents have intentionally attempted to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the website or of a product or service on the website.

The website that the Disputed Domain Name directed to is also a phishing website. The personal information of the Internet users may be unlawfully collected and used for illegal purposes.

The Panel concludes that the Disputed Domain Name has been used in bad faith.

6. Decision

Pursuant to Paragraph 4(a) of the Policy and Paragraph 15 of the Rules, this Panel orders that the domain name <jiaxinlicaihk.com> be transferred to the Complainant.

Kwan Sit Kin
Sole Panelist

Dated: October 10, 2014