



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No:</b>	<b>HK-1500719</b>
<b>Complainant:</b>	<b>Chiu Tsen Hu</b>
<b>Respondent:</b>	<b>Andy Rose</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;608.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is Chiu Tsen Hu of Flat A, 8/F, Block 2, Sherwood CRT, Kingswood Villa, Tin Shui Wai, Hong Kong; represented in the proceeding by Mr. William LAW of ATL Law Offices at the address of A1502, Asia Orient Tower, Town Place, 33 Lockhart Road, Wanchai, Hong Kong.

The Respondent is Andy Rose of Flat X, 38/F, Block 21, Sherwood CRT, Kingswood Villa, Tin Shui Wai, Hong Kong as shown in the registration information;

The domain name at issue is 608.com obtained by the Respondent through the Registrar GODADDY.COM, LLC .

**2. Procedural History**

On March 16, 2015 , the Complainant made complaint in English to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “ADNDRC Hong Kong Office”) pursuant to the Uniform Policy for Domain Name Dispute Resolution (the "Policy") approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”)

and Asian Domain Name Dispute Resolution Centre Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “ADNDRC Supplemental Rules”).

The ADNDRC Hong Kong Office confirmed receipt of the complaint and asked the Registrar GODADDY.COM, LLC for the confirmation of the registration information with regard to the disputed domain name on March 17,2015

On March 18 , 2015, the ADNDRC Hong Kong Office received from the Registrar the registration confirmation in connection to the disputed domain name, which pointed out that the language used in the registration agreement was English.

On March 18, 2015, the ADNDRC Hong Kong Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced; and transmitted the notice of the Complaint to the Respondent informing that the Complainant had filed a Complaint against the current registration of the disputed domain name and the ADNDRC Hong Kong Office had sent the Complaint and its attachments through email according to the Rules and the ADNDRC Supplemental Rules. On the same day, the ADNDRC Hong Kong Office notified ICANN and Registrar of the commencement of the proceeding.

The ADNDRC Hong Kong Office received no Response by the Respondent until the ending of the prescribed term for the Respondent to make response against the Complainant’s request for the transfer of the disputed domain name, and notified the parties officially of the trial of the case by default on April 8, 2015.

Having received a Declaration of Independency and Impartiality and a Statement of Acceptance from Mr. Chi Shaojie, the ADNDRC Hong Kong Office informed the disputing parties of the Confirmation of the Appointment of the Sole Panelist on April 13, 2015, and emailed all the documents submitted by the Complainant to the Panel on the same day.

The sole panelist finds that the Panel is properly constituted in accordance with the Rules and the ADNDRC Supplemental Rules.

### **3. Factual background**

The Complainant submits that the disputed domain name was illegally gained by the Respondent and should be transferred back to the Complainant even by the standard set forth in the Policy. The Respondent, while being served with all the materials submitted by the Complainant, makes no argument against the Complainant's request of the domain name transfer and the underlying reasons for the transfer; thus, the Panel cannot but take it for granted that the Respondent has nothing to say in favor of its continuing possession of the disputed domain name.

#### **4. Parties' Contentions**

##### **A. Complainant**

The Complainant submits that

Chiu Tsen Hu, is a legitimate merchant and IT consultant who runs various trading business including domain names trading, and provides IT consulting services. The Complainant was the registered owner of the Disputed Domain since 2006 till immediately before 14 February 2015, which was the date the Disputed Domain that was illegally transferred to the Respondent ("Unauthorized Transfer Date") (See Annexure 1).

The Complainant acquired the Disputed Domain Name with a consideration of US\$6,009 back in 2006 via a domain names trading company named Sedo GmbH (See Annexure 2) and the Complainant recently renewed the Disputed Domain and its associated services with the payment of bi-annual fee (See Annexure 3).

[Annexure 2:](#) Order confirmation and invoice issued from Sedo GmbH to the Complainant for acquisition of the Disputed Domain Name

[Annexure 3:](#) Renewal Reminder sent from the service provider to the Complainant and payment receipt

The Complainant commenced using the Disputed Domain for the purpose of trading and promoting domain names, which were owned by the Complainant since 2012 and has since been utilizing it as a major platform for actively promoting the Complainant's various IT business and generating advertising revenues for the Complainant (See Annexure 4). When one conducts Google and Baidu searches of the Disputed Domain, in particular before the Unauthorized Transfer Date, the returned results show that the Disputed Domain Name was

“a shopping district for domain names of 3-digits, alphabetical characters.” (See Annexure 5)

**Annexure 4:** Copies showing the outlook of the Disputed Domain before the Unauthorized Transfer Date

**Annexure 5:** Printout of Google and Baidu search results of the Disputed Domain Name

To promote his domain names trading business, the Complainant started a QQ group<sup>1</sup>, named “Domain Name World 608.com” (“域名天下 608.com” in the original language, Chinese) back in 25 August 2011. The Complainant regards the Disputed Domain as an important and major platform for promoting his business as it can be seen that the Complainant used the Disputed Domain (608.com) as the group name of the aforesaid QQ group (See Annexure 6). As of to-date, the Complainant has been continuously used the Disputed Domain as a trade and service name for distribution and circulation among about 200 QQ groups, which consists of about 100,000 members. Members of the said QQ groups, including famous mainland Domain Names trading entities, companies and/or agents such as 4.cn, 62.com, domain.cn, 88.cn and admin5.com etc., are well aware of the fact that the Complainant is the holder of the Disputed Domain and that the Disputed Domain has been used by the Complainant for domain names trading, in particular before the Unauthorized Transfer Date (See Annexure 7). As such, the Disputed Domain, especially the distinctive part of the Disputed Domain, namely “608” has generated substantial reputation and goodwill among the relevant industry through long-term uses, and such benefits are exclusively inured to the Complainant. Given the high volume of circulation among consumers in the loop of domain names trading and reputation of the Disputed Domain, it is estimated that the Disputed Domain is valued at about 3 million Hong Kong Dollars.

**Annexure 6:** Screen capture of the QQ Group established by the Complainant showing the the Disputed Domain as the group name.

**Annexure 7:** Email from famous domain names trading agents confirming the Complainant was known as owner of the Disputed Domain Name and the Disputed Domain Name as a domain name trading platform

Starting from August 2013, the Complainant further started using the Disputed Domain for trading advertising space. Advertisement from Google AdSense were placed on the Disputed Domain and the Complainant received payment from Google (Annexure 8). The Google AdSense shows that the Complainant's website has been visited 81,280 times in two years time during the period 2012-2014. It shows that even Google is willing to place advertisement with the Complainant's website.

**Annexure 8:** A summary of advertising income received from Google AdSense

The Complainant thinks all the three conditions set forth in the Policy for a ruling of transfer of the disputed domain name are fulfilled due to the following reasons.

- (1) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

The Disputed Domain, previously owned by the Complainant, contains the numbers "608" which is the distinctive part of the Disputed Domain. As stated above, "608" has been continuously used by the Complainant as a trade and service name as well as an important and major platform for promoting his domain names trading business in HK and China. Such use of "608.com" has been widely known by the members of QQ social media groups, and as such has generated goodwill and reputation among the relevant groups. Probably owing to the commercial value of the Disputed Domain generated via wide circulation, on 14 February 2015, 2014, the Disputed Domain Name was transferred out from [www.enomcentral.com](http://www.enomcentral.com) to [www.godaddy.com](http://www.godaddy.com) to the Respondent, Andy Rose by unknown hacker(s). On February 17, 2014, when the Complainant found out about the name server and IP address has been changed to a location in the United States 2 days later, he immediately reported to eNomCentral and the Hong Kong Police (See Annexure 9). It is undisputable that the Disputed Domain is identical to the unregistered rights of the trademark and trade name of the Complainant. In ADNDRC cases of similar background and nature, ie [HK-1400614](#) <6636.com>, [HK-1400577](#) <anipals.com> & 12 others domain names , [HK1400580](#) <angelove.com>, the panelists have no hesitation to condemn the illegal transfer behavior and recognized the domain names in dispute (some of them are not registered as trademark) are "generally known as the source of goods and services of the Complainant" [per The Hon Neil Brown QC at Page 7, HK-1400577]

Section 1.4 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0") recognized both registered rights and unregistered rights of the Complainant. The facts that the hacker chose to transfer away the Disputed Domain from the Complainant is a proof that the hacker and the Respondent is well aware of the goodwill and market value in these domain names.

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

First of all, the Complainant has no relationship with the Respondent and thus the Complainant has never authorized or licensed the Respondent to register or use the Disputed Domain. The Disputed Domain was originally owned by the Complainant and used as a trademark and trade name for promoting his business. The Complainant is also not aware of any related uses of the Disputed Domain, in particular the distinctive part of the Disputed Domain, by the Respondent. In fact, the Complainant contends the Respondent never used "608" nor had he had any civil rights or legitimate interests in it in the past because the Respondent is likely a fictitious person (further details follow) who may have used illegal means to obtain the Disputed Domain. Further, the Respondent will not be able to demonstrate that his conduct satisfies any of the conditions in paragraph 4(c) of the Policy. Specifically,

(i) the Respondent is not using and has not demonstrated an intent to use the Disputed Domain Name or names corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services in the course of trade;

(ii) the Respondent, as an individual, has not been commonly known by the Disputed Domain Name, even if he has acquired no trademark or service mark rights; to the contrary, the Complainant is commonly known by the relevant public that he is the holder of the Disputed Domain.

(iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent to misleadingly divert consumers or to tarnish the Complainant's marks for commercial gain; and

(iv) by acquiring and/or re-registering the Disputed Domain from 14 February 2015, the Respondent is alleged to have breached, s.17 obtaining property by deception and/or s. 24 handling stolen goods of Theft Ordinance (Cap 210), Laws of Hong Kong<sup>2</sup>.

For the reasons stated above, the Respondent has no rights or legitimate interests in respect of the Disputed Domain.

(iii) The Respondent's domain name has been registered and is being used in bad faith.

Firstly, according to Section 3.7 of WIPO Overview 2.0<sup>3</sup>, the transfer of a domain name amounts to new registration. Therefore, the relevant period of time in determining whether the Registrant has registered in bad faith is when the transfer of Disputed Domain occurred, i.e. 14 February, 2015. The registration was clearly registered in bad faith because of the following circumstances:

- (1) The transfer was done without the consent of the original legitimate owner, i.e. the Complainant;
- (2) The transfer amounts to a breach of the Laws of Hong Kong as stated under head (ii);
- (3) The Respondent is likely to be a fictitious person whose profile has been created for the purpose of carrying out illegal acts like the present case and concealing true identity of the perpetrator. According to WHOIS information, the Respondent's particulars are shown below as comparing to those of the Complainant (with the emphasis indicated in Red):

**COMPLAINANT:**

(1) Name: Chiu Tsen Hu

**RESPONDENT:**

Name : Andy Rose

Address: Flat A, 8/F, Block 2,  
Sherwood CRT, Kingswood Villa,  
Tin Shui Wai, Hong Kong  
Tel No: +852 92173185  
Fax No: +852 35292557  
Email:  
chiu998@hgcbroadband.com

Address: Flat **X, 38**/F, Block 21,  
Sherwood CRT, Kingswood Villa,  
Tin Shui Wai, Hong Kong  
Tel No: +852 **8**2173185  
Fax No:  
Email: andywant2fly@gmail.com

It is evident that the Respondent's contact particulars are based on those of Complainant by merely changing "A" to "X" for the Flat, adding "3" to the "8/F" and "1" to "Block 2" in the address, and changing "9" to "8" of the 1<sup>st</sup> number of the telephone. Further, the Respondent's address does not exist at all. There is neither Flat X nor Block 21 in Sherwood Court. (See Annexure 10).

**Annexure 10:** Internet printout from Centadata Website, which is run by a well-known properties agents Centaline Property Agency Limited, showing property information and floor plan maps of Sherwood CRT, Kingswood Villa, Tin Shui Wai, Hong Kong

(4) There is no legitimate reason for the Respondent to register the Disputed Domain Names other than for the purpose of re-selling or disrupting the business of the Complainant;

(5) The Respondent has deliberately registered the Disputed Domain Name with an intention of disrupting the business of the Respondent by changing the DNS of the domain names. The sudden disruption has cost the Complainant severe loss of business opportunities and revenue from advertising. As a result of the hacking, the email servers could not receive any incoming email until this case is adjudicated.

Further, the Disputed Domain Names are now parked without active use (See Annexure 11). There are overwhelming WIPO cases stating that no active use or parking can be evidence of bad faith.

**Annexure 11:** The latest printout of the Disputed Domain



As set forth above, the Respondent's bad faith is established under paragraphs 4(b)(iii) and 4(b)(iv) of the Policy, as well as by the other circumstances surrounding the Respondent's registration and use of the Disputed Domain Name.

For the above-mentioned reasons, the Complainant requests that the Disputed Domain Name be transferred to the Complainant.

## **B. Respondent**

The Respondent makes no response against to the Complainant's submissions, esp. against the request, by the Complainant for the transfer of the disputed domain name.

## **5. Findings**

It is meaningful for the parties to understand the legal nature of the current proceeding that is totally different from that of commercial arbitration or litigation. Though the proceeding is known as administrative proceeding, it is really NOT the proceeding by a government agency. The jurisdiction by the Panel over the current dispute on the domain name gained by the Respondent comes from the authorization by the organization for the administration of domain name registration and maintenance. Anyone intends to register a domain name needs to sign a registration agreement with the administrative authority which makes no substantive examination on the registration application, but asks the Registrar to stipulate in the registration agreement that whenever a claim against the registration is submitted, the registrant is obliged to be a procedural party which has rights to make arguments against the claim, but subject to a decision made by a Panel constituted in conformity with the stipulated procedural rules. As it is, the current proceeding should be regarded as part of the whole proceeding for the registration and maintenance of domain names. As such, the fundamental feature of the Panel's making a judgment on the entitlement to the disputed domain name is to decide on a core issue of which party should be the proper holder of the disputed domain name, so as to be in conformity with the basic requirements set forth under the Policy and to help keep the good operative order for the running of the internet, and to be beneficial for the protection of common interests of the web-users.

One of the dispensable prerequisites for the Panel to make an appropriate decision on the entitlement to the disputed domain name is to know what is the opinion of the Respondent as the current holder of the domain name on the request of transfer by the Complainant, i.e.

if he agrees or disagrees to the Complainant's request. Furthermore, as to the finding of the facts, the Complainant provides evidence he thinks enough to support his fact allegations and the request of transfer; while the Respondent says nothing against the Complainant's submissions and the supporting exhibits. As it is, the Panel cannot but take the Complainant's exhibits as they are to find the legal facts in the current dispute, unless the logical thinking by the Panel points to the other direction of conclusion.

Obviously, the current domain name dispute is different from the normal cases in that the Complainant alleges and proves to be the original registrant of the dispute domain name which was illegally transferred to the Respondent without the original owner's acknowledgement and consent. As pointed out in the above paragraph of the nature of the current proceeding, the Complainant's fundamental statement seems to relate to the potential legal liability by the Respondent in terms of the alleged hi-jacking of the disputed domain name. Thus, the Panel faces two basic choices to make the decision on the dispute. One is to reject the Complainant's request and tell him to turn to other sources of legal remedy; while alternatively, make a decision based upon the Policy standard. The Panel decides to go the second way due to the following considerations:

- (1) While stating the background of the dispute, the Complainant clearly indicates that his complaint is based upon what the Policy requires for the transfer of the disputed domain name, Therefore, what the Panel needs to do is to make comments on the Complainant's complaint strictly in accordance with the Policy standard.
- (2) Though the Complainant may resort to other remedies for the gaining back of the disputed domain name, the Panel makes a decision on the current dispute in the framework of domain name dispute resolution mechanism and regulations may solve immediately the dispute between the parties, thus saving other's limited and valued dispute resolution sources,
- (3) Last but far from the least, since the Respondent gave up his right to make a defense against the Complainant's transfer request, the Panel is hardly in a position to say no to the Complainant unless he fails to meet the Policy standard.

As proved by the Complainant, the Respondent is now named as the Registrant of the disputed domain name; and it is a must that there is a Registration Agreement between the Registrant and the Registrar. One of the prerequisites for the Respondent to be the Registrant of the disputed domain name through the Registrar is to accept the Policy as the binding regulations as generally shown in the Registration Agreement. As mentioned, the Policy applies to this dispute as the substantive criteria for making by the Panel the judgment of whether the Complainant's request is to be sustained or rejected. As stipulated

in the Paragraph 4(a) of the Policy, when claiming back a domain name possessed by the Respondent, the Complainant must prove each and all of the following:

- i. Respondent's domain name must be 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.

Based itself upon the stipulations under the Policy, what the Panel needs to do is to find out whether each AND all of the three basic facts can be attested by the Complainant. If the answer is yes, the Panel makes a decision in the Complainant's favor in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If not, the claim by the Complainant shall be rejected. Obviously what the Panel needs to expound for its final decision is no more than whether the three basic facts can be established by the Complainant in the frame of the held facts between himself and the Respondent.

#### **A) Identical / Confusingly Similar**

Pursuant to Paragraph 4(a) (i) of the Policy, the Complainant must prove that the domain name at issue is identical OR confusingly similar to a trademark or service mark to which it is entitled. As stipulated in the Policy, the Complainant needs to prove either the IDENTITY or the CONFUSING SIMILARITY. To meet the requirement, the Complainant needs to prove at least two facts, i.e. firstly, it does have a trademark or service mark which may be used for the comparison of the disputed domain name; and secondly, the disputed domain name is identical to or in confusing similarity with the trademark or service mark.

The Complainant claims and hands over exhibits to prove that well before the Respondent being the owner of the disputed domain name, he bought from a domain name trading company the name and has been the legitimate Registrant of the name until the time of finding out that the name was hi-jacked by the Respondent; as well as that the domain name has been used by the Complaint as the trade name and unregistered trademark until today or even to future business activities by the Complainant. As such, what the Panel needs find out and makes comment on is whether the Complainant does have a trademark or service mark, i.e. whether the Complainant has been using 608.com as a trademark or service in his business activities. The Panel gives YES answer to the question based upon the following considerations.

- (1) First of all, it needs to make it clear that what the Policy requires for the first condition is the concept of “trademark or service mark” instead of “REGISTERED trademark or service mark”. From global perspective, there are generally two systems for the protection of marks, i.e. first to-use and first-to-file. In the countries adopting the former principle, the entitlement of exclusivity of using a mark comes from the first use of the mark; while in those nations adopting the first-to-file principle, only the registered mark has the exclusive force against others than the owner and those by the owner’s authority. Nevertheless, whether the Complainant alleged mark 608.com has the legal force of exclusivity is irrelevant to the Panel’s decision on whether the Complainant meets the first requirement under the Policy. What the Panel focuses on is how the Complainant has been utilizing the mark in his activities by the commercial nature.
- (2) Even in the countries taking the first-to-file doctrine, using an unregistered mark is not prohibited by law, unless the mark itself violates the law. For an instance, under China’s Trademark Law, a mark needs to be registered if the owner claims to be the exclusive user of the mark; but the Law does not say those unregistered marks shall not be used as trademark or service mark. Under the Law, only those violating mandatory requirement cannot be a trademark or service mark. There is no sign to show that the Complainant claimed mark “608.com” violates the regulations under PRC Trademark Law or laws in jurisdictions outside China, thus should not be regarded as a trademark or service mark.
- (3) Based upon the above, the Panel holds that the Complainant claims the sign 608.com to be a mark that could be used as a trademark or service mark shall not be prohibited by any law and regulations, at least the Respondent fails to claim anything not in the Complainant’s favor. Subsequently, what the Panel does is to find out whether the sign 608.com has been used by the Complainant as a trademark or service mark. The Complainant submits exhibits to prove that he used and has been using the mark to set up a platform on the web to run his business of domain name trading and other sort of business; the web is easily approached by the web-users. Since there is no uniformed terming of the concept of service mark, the Panel rules that when a mark is used to lead consumers to finding out the service provider and to make consumers to easily differentiate the service provided by the mark-user from that by others, the mark plays the function of service mark.
- (4) The Complainant submits and proves that the mark 608.com is known to certain extent to the QQ users of certain consuming group. What the Panel pays attention to the factual allegation by the Complainant is, firstly, the Complainant does intend to offer certain business in QQ communication, e.g. offering to sell certain domain names; and secondly, the relevant consuming group in QQ community can comfortably tell the Complainant as a service provider from other providers of similar businesses.

- (5) One of the factors the Panel must consider is should the Complainant's request be rejected, there could be a potentiality of confusion among the relevant consuming group, thus may do harm to the common interest of the consuming group and create to certain extent disorder to the running of the web.

In view of the above-mentioned reasons, the Panel holds that the Complainant has an unregistered service mark which may be used to compare to the disputed domain name in terms of identity or confusing similarity.

The disputed domain name is "608.com" which is totally identical to the Complainant's service mark. As it is, the Panel holds that the Complainant meets the first requirement for the transfer of the disputed domain name.

### **B) Rights and Legitimate Interests**

Pursuant to Paragraph 4(a)(ii) of the Policy, the second requirement for the Complainant to meet in terms of the request for the transfer of the disputed domain name is to prove that the Respondent does not have rights to or legitimate interests in the domain name at issue. Reading the expression of the stipulation, it seems to be the Complainant who shall take the burden of proof to establish the fact that the Respondent does NOT have rights or legitimate interests in connection to the disputed domain name. Since the Complainant claims that it is entitled to the disputed domain name and the Respondent has nothing to do with it except illegally being the Registrant of the name in bad faith, he can hardly submit any evidence to prove something he does not think existing. Probably for this reason, the Policy lists special excuses for the Respondent in making defense against the Complainant's allegation; thus, the Panel pays more attention to whatever the Respondent argues with regard to the rights or legitimate interests in respect to the disputed domain name. Unfortunately, the Respondent makes no argument within the frame of the Policy. It is simple that how the Panel holds the issue of "Rights and Legitimate Interests" in the Respondent's favor, since he never claims to have such "Rights and Legitimate Interests".

The Complainant submitted exhibits to certify that he paid for the obtaining of the disputed domain name, and became the legitimate owner of the name ever since the trading. Exhibits show that the Complainant has been the Registrant of the disputed domain name ever since he bought the name until the change of the name of the Registrant. Based upon comprehensive analyses of all the relevant evidences by the Complainant, the Panel has sound reason to ascertain that it is the Complainant who has rights and legitimate interests

in connection to the disputed domain name; and further holds that the Complainant meets the second requirement set forth under Paragraph 4(a)(ii).

### **C) Bad Faith**

The Complainant has yet to establish the fact of bad faith on the part of the Respondent as set forth in the Paragraph 4(a)(iii) of the Policy. The Complainant submits that the Respondent obtained the disputed domain name by illegal means, revealing his evil purpose of doing so. The Panel holds what the Complainant alleges based upon the following considerations.

- (1) The Respondent has not said that he obtained the disputed domain name in good faith; and even says nothing in relation to the normal process of registration of the name. As certified by the Complainant, the registered address of the Respondent's is fictitious based on the exact address of the Complainant's, which sufficiently reveal the illness of the Respondent to make the registration straightforward against the Complainant.
- (2) The Complainant claims that the Respondent never uses the disputed domain name ever since his hi-jacking of the name. The Panel takes this kind of register-but-not use action as sort of ill-use of the disputed domain name in. This is because domain name should be allocated to those who have the intention to use the name in good faith, and the act of register-but-not-use may prevent others from making use of the same name on the web, thus causing waste of internet sources, and consequently causing harm to the legitimate interests of others and the web-users.
- (3) The logical thinking of the Panel is when a party registers a domain name which is NOT created by the party with its distinctive feature known in the real world, but identical or confusingly similar to a mark or logo or sign to which the other party has rights and legitimate interests, the intention of the registration is clear, namely taking illegal gains by causing confusion to the relevant consumers. On the other hand, if the registrant is NOT intentionally to take others' advantage, it should create a distinctive domain name to make web-users easily tell the name from others. What is more, if someone registers a domain name in bad faith, it is hard for him to make use of the registered subject matter in good faith, otherwise the ill-intention of the registrant would not be realized. This fundamental logic further supports the holding of bad-faith fact in the foregoing paragraph. In view of this, the Panel holds that the Complainant meets the third requirement set forth under Paragraph 4(a)(iii) of the Policy.

Based upon all the above findings, the Panel comes to final conclusion that the Complaint fulfills each AND all of the conditions provided in Paragraph 4(a)(i)(ii) (iii) of the Policy.

## **6. Decision**

In light of all the foregoing findings and in accordance with Paragraphs 4(a), 8(a) of the Policy and 5(e) of the Rules, the Panel holds:

- a) That the disputed domain name “608.com” is identical to the service mark “608.com” used by the Complainant in his business activities; and
- b) That the Respondent has no rights or legitimate interests in relation to the disputed domain name; and
- c) That the domain name was registered and used in bad faith.

As such, the Panel rules that the disputed domain name <608.com> shall be transferred to the Complainant Chiu Tsen Hu.

The Sole Panelist:

A handwritten signature in black ink, appearing to be 'R. J. Hu', written in a cursive style.

Dated: April 16, 2015