



## ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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### Decision Submission

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Decision ID	DE-0500042
Case ID	CN-0500046
Disputed Domain Name	www.americanstandard-ap.com
Case Administrator	jinxi
Submitted By	Matthew A. Murphy
Participated Panelist	
Date of Decision	29-07-2005

### The Parties Information

<b>Claimant</b>	American Standard
<b>Respondent</b>	JPD

### Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on June 9, 2005. On June 9, 2005, the Center transmitted by email to Network Solutions, LLC a request for registrar verification in connection with the domain name at issue. On June 15, 2005, Network Solutions, LLC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details for the administrative, billing, and technical contact. The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the Centre’s Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 16, 2005. In accordance with the Rules, paragraph 5(a), the due date for Response was July 6, 2005. The Respondent did not submit any response. Accordingly, the Center notified the Respondent of its default on July 11, 2005.

The Center appointed Matthew Murphy as the sole panelist in this matter on July 13, 2005. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### Factual Background

#### For Claimant

The Complainant is a global manufacturer, supplier and seller of goods in the bath and kitchen industry. For over 45 years, the Claimant has expended extensive amounts of fiscal and temporal capital in preserving the value of its AMERICAN STANDARD trademarks, including registration of trademarks throughout North and South America, Europe and Asia. The Complainant claims that it is the world’s largest global manufacturer of bath and kitchen products, with over US\$3 billion in global sales in 2004 for its bath and kitchen products, thereby providing substantial evidence of a global association of the Applicant’s marks with its bath and kitchen products. The Complainant claims that its AMERICAN STANDARD mark, therefore, has attained the status of a strong mark through decades of use and consumer recognition. The Complainant claims that its trademark has attained the status as a famous mark in the People’s Republic of China, but has not provided any direct evidence to support this claim. None of these claims have been refuted by the Respondent.

The Claimant claims that in support of its goods and services marketed under the AMERICAN STANDARD brand in

the Asia Pacific region, the Claimant sought to register the domain name americanstandard-ap.com. When the Claimant applied for such domain name registration, the Claimant claims to have discovered that the Respondent had already registered the domain name and had not activated any website using this domain name. The Claimant asserts that Respondent's registration of this domain name will confuse existing and future customers of Claimant and dilute the inherent value in Claimant's mark for which Claimant has expended both financial and temporal resources. None of these claims have been refuted by the Respondent.

The Complainant owns numerous trademark registrations throughout the world for the trademark AMERICAN STANDARD – the Complainant has provided a list of registrations of the AMERICAN STANDARD trademark maintained in the People's Republic of China. The Complainant owns numerous domain name registrations in several countries in Asia. None of these claims have been refuted by the Respondent.

### **For Respondent**

The Respondent did not provide any submissions or evidence.

### **Parties' Contentions**

#### **Claimant**

The Claimant asserts that the Respondent's registration of this domain name will confuse existing and future customers of the Claimant and dilute the inherent value in the Claimant's mark for which the Claimant has expended both financial and temporal resources. In support of this statement, the Claimant submitted a copy of the search engine results showing that www.americanstandard-ap.com is unavailable and the website cannot be found through a conventional online search.

#### **Respondent**

The Respondent has not asserted any claims, defenses or contentions.

### **Findings**

#### **Identical / Confusingly Similar**

The Panel finds that Complainant has established that it is the owner of the trademark AMERICAN STANDARD for bath and kitchen products. The validity and fame of its trademarks are beyond dispute. The Respondent's domain name includes the Complainant's trademark and adds a reference to the Asia Pacific region by use of the characters "ap" in the domain name – no evidence or submissions to refute this claim has been provided by the Respondent. Internet users may easily understand the domain name to refer to the Asia Pacific branches of the Complainant's well-known multi-national company. Accordingly, the domain name is confusingly similar to the trademark AMERICAN STANDARD owned by the Complainant.

#### **Rights and Legitimate Interests**

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the well-known trademark AMERICAN STANDARD, or that there was any association between the trademark AMERICAN STANDARD and its activities, before registering the domain name. Given that the Respondent has not provided any evidence to support a right or legitimate interest in the domain name, the Panel finds that the Respondent has no rights or legitimate interests in respect of the domain name.

#### **Bad Faith**

The trademark AMERICAN STANDARD is well-known enough that it is presumable that the Respondent knew about its existence when registering the domain name (see Banca Sella S.p.A. v. Mr. Paolo Parente, WIPO Case No. D2000-1157; Expedia, Inc. v. European Travel Network, WIPO Case No. D2000-0137). No argument has been submitted by the defaulting Respondent in order to counter these findings. The Panel concludes that the domain name has been registered in bad faith.

As far as use of the domain name in bad faith is concerned, the Panel concludes that the Respondent's holding of the

domain name in this particular case satisfies the requirement of paragraph 4(a)(iii) of the Policy in that the domain name “is being used in bad faith” by the Respondent (see *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. D2000-0003; *Espirito Santo Financial Group S.A. v. Peter Colman*, WIPO Case No. D2001-1214) - the Complainant’s trademark has a strong reputation and is widely known, as evidenced by its substantial use in various countries throughout the world including the Asia Pacific region, and the Respondent has provided no evidence of any actual or contemplated good faith use by it of the domain name.

### Status

www.americanstandard-ap.com    Domain Name Transfer

### Decision

Pursuant to Paragraph 4(i) of the Policy and Rule 15 of the Rules, this Panel orders that the domain name < americanstandard-ap.com> be transferred to the Complainant.

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