



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

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Decision Submission

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Decision ID	DE-0700098
Case ID	CN-0600114
Disputed Domain Name	www.asics-3c.com
Case Administrator	xiechangqing
Submitted By	Guangliang Tang
Participated Panelist	
Date of Decision	22-01-2007

The Parties Information

Claimant	Asics Corporation
Respondent	Asics Chen

Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on October 25, 2006. Then, the Center transmitted by email to WEB COMMERCE COMMUNICATIONS LIMITED DBA WEBNIC.CC (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue. On November 28, 2006, the Registrar transmitted by email to the Center its verification response confirming that, the domain name at issue was registered under him as domain registrar, and the Respondent is listed as the registrant. 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 transmitted the Complaint to the Respondent on December 8, 2006, while the Notifications of Commencement of Proceedings were notified to the Parties, ICANN and the Registrar on the same date. Till December 28, 2006, the last day of the fixed period of Response, no submission came from the Respondent. On December 29, 2006, the Center informed the Parties that, as there’s no response from the Respondent, the Center would appoint the Panelist shortly, and the case would be decided by default.

The Center appointed Tang Guangliang as the sole panelist candidate in this matter on December 28, 2006. On January 5, 2007, the candidate panelist submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7. On the same day, the Center notified the Parties that Mr. Tang Guangliang had been appointed by the Center as the sole Panelist and the Panelist should render the Decision within 14 days on or before January 19, 2007. Then the Center transferred all the case materials to the panelist on January 5, 2007, and asked the panel to submit a decision before January 19, 2007.

Factual Background

For Claimant

According to the statements in the Complaint, The Complainant is a Japanese Corporation registered at 1-1 Minatojima-Nakamachi 7-chome, Chuo-ku, Kobe City, Hyogo Prefecture, Japan, who has around 1268 registrations for the trademark "asics" worldwide including 20 registrations for the trademarks containing the word "asics" in China (P.R.C.) since 1982 and 35 registrations for the trademarks containing the word "asics" in Taiwan since 1980. In this case, the Complainant empowered C.V. Chen and Ruey-Sen Tsai, lawyers of Lee and Li, Attorneys-at-law, as true and lawful agents.

For Respondent

The Respondent is a natural person by the name of Asics Chen, domiciled at 4F-1, No. 314, Taipei, TW 114, whose telephone number is 886-2-2658-6689, and the Email address is as follow: danny@ez.com.tw. As there has no response received, no further information about the Respondent known to the Panel.

Parties' Contentions

Claimant

The assertions of the Complainant includes—

(I) The Complainant enjoys the right to exclusively use "asics" as the Complainant's company name, trademark and domain name, and the Respondent's domain name is highly similar to "asics" to the extent of being likely to cause confusion.

1. "asics" is the Complainant's company name, trademark and domain name.

The Complainant, ASICS Corporation, has used "asics" as its company name, which has been granted company name registration in Japan. While in abroad, the Complainant has founded a series of branches or associates such as:

- ASICS Tiger Corporation was founded in 1981 in the U.S.
- ASICS Tiger Oceania Pty. Ltd. was founded in 1986 in Australia.
- ASICS France S.A. was founded in 1990 in Europe.
- ASICS Benelux B.V. was founded in 1991 in the Netherlands.
- Jiangsu ASICS Co., Ltd. was founded in 1994 in China (P.R.C.).
- ASICS Europe B.V. was founded in 1994 in the Netherlands as an overall controlling company for Europe.
- ASICS Hokkaido Sales Corporation and ASICS Chubu Sales Corporation were founded in 1997 in the Hokkaido and Chubu regions.
- ASICS Europe B.V. absorbed ASICS Benelux B.V. in 2003 in Europe.

As a result of the Complainant's continual efforts for years, global consumers have well understood and recognized the Complainant's company name, trademark and domain name "asics," and the Complainant has established a good reputation and public image for it.

2. The Complainant's "asics" trademark has been widely registered in China (P.R.C.), Taiwan and other countries or regions, and has become well known on account of long-term and extensive use.

According to the latest statistics, the Complainant has acquired the exclusive right to use 1,268 trademark registrations featuring "asics" as the main wording or device in/with different countries/organizations all over the world. For instance, the Complainant has successively acquired 20 registrations in China (P.R.C.) and 35 registrations in Taiwan since 15 October 1982, all of which feature "asics" as the main wording or device. Since the inception of the Complainant's "asics" sports shoes in 1977, these goods have been popular and recognized among international athletes. Along with the outstanding performance of athletes in the Olympic Game, "asics" has shown brilliance and won public praise. The "asics" goods were voted best sports equipment in the 1980 Olympic Game, the 1992 Olympic Game, and the 1996 Olympic Games in Atlanta. In the Olympic Game in Japan, players wearing "asics" sports articles won 47 medals, which became a favorable tale. In the 2000 Sydney Olympic Games, Naoko Takahashi, a celebrity representative of asics, won the gold medal in the women's marathon race (Please see Attachment 9). Currently, famous sportsmen sponsored by the Complainant include:

- Football players: International Milan of Italy, Juan Sebastian Veron and Alvaro Recoba (Veron is with another team now)
- Marathon athletes: Stefano Baldini, Naoko Takahashi, and Deena Kastor
- French national men's volleyball team
- Baseball player: Seattle Mariners, Ichiro
- High jumper: Stefan Holm
- Tennis player: Tommy Haas.

Besides, the Complainant has spent a large sum of advertising expenses on printing fine catalogues, and has sponsored international sports events all over the world. For example, the Complainant spends several million RMB as advertising expenses every year in China (P.R.C.). The advertising expenses in 2002 and 2004 rendered by the Complainant in China (P.R.C.) are listed below:

- 2002 RMB 1,019,522.53
- 2003 RMB 3,764,730.87
- 2004 RMB 4,559,959.95

Now, the Complainant operates at least 92 stores that exclusively sell the "asics" goods in 35 cities in China (P.R.C.) including Beijing and Shanghai. The annual sales revenues generated thereby in China (P.R.C.) amounted to tens of millions of RMB. The Complainant's annual sales in 2003 and 2004 are given below:

--2003 RMB 28,089,799.41

--2004 RMB 29,466,569.38

Owing to the Complainant's spirit of continually exceeding itself and researching products of high performance, the Complainant's "asics" products have become popular among global athletes and general consumers across the world. Over 2,500,000 pairs of "asics" sports shoes are sold every year. The Complainant has become the world's fifth-largest sports brand. In Taiwan, the Complainant's trademark has been officially recognized as a well-known trademark. All the above sufficiently proves that the Claimant's "asics" trademark, after long-term and extensive use, has become a well-known trademark with a good reputation in the world including China (P.R.C.) and Taiwan.

3. The Complainant has extensively registered the "asics" domain name series around the world.

To publicize its "asics" brand and enterprise, the Complainant has widely registered the "asics" domain name series, including asics.com, asics.co.jp, asics.jp, asics-almos.co.jp, asics-trading.co.jp, asics.co.kr, asics.hk, asics.com.au, asicseurope.com, asicseu.com, asics.be, asics.co.uk, asics.de, asics.dk, asics.es, asics.fr, asics.it, asics.nl, asics.no, asics.se, asics.at, asics.cz, asics.fi, asics.pl, asics.com.pl, asics.sk, asicsireland.com, asicsamerica.com, asicstiger.com, and asics.bom.br.

4. The Respondent's domain name is confusingly similar to "asics," thus being likely to cause confusion.

The Respondent's disputed registered domain name "asics-3c.com" is made up of two elements, the top level ".com" and the identification "asics-3c." The disputed domain name "asics-3c" and the Complainant's trademark/trade name "asics" are almost the same. "3c" is an abbreviation of "computer, communication and consumer electronics," and is less distinctive. Thus, the use of "asics-3c.com" as a domain name is very likely to mislead the public into believing that it is a website selling the Complainant's "3c" products. Hence, the disputed domain name registered by the Respondent would cause confusion to consumers who are browsing websites, and further cause them to consider the Respondent as having a connection with the Complainant.

(II) The Respondent does not enjoy the legal right to and interests in the main element of the disputed domain name.

As noted, "asics" is the Complainant's company name, trademark and domain name, and has been voluminously used during the process of promotion and become a well-known trademark, without doubt. The main element contained in the disputed domain name, namely "asics-3c," is almost identical with the well-known trademark "asics," and the only difference, "3c," is an abbreviation of "computer, communication and consumer electronics"; thus, "asics-3c" is likely to confuse the public into believing that the products sold on that website should be the Complainant's "3c" products, and cause confusion to the consumer regarding the origin of the goods. Thus, the Respondent does not enjoy any legal right to or interests in the disputed domain name or any main element thereof.

(III) The Respondent's registration and use of the disputed domain name is in bad faith.

The Complainant's extensive promotion and use of the trademark "asics" around the world has made the trademark highly distinctive. Due to a successful opposition against the Respondent's registration of "asics" in Taiwan filed by the Complainant, the Respondent knew that "asics" has been the Complainant's company name, trademark and domain name. Contrary to the opposition decision ruled by Taiwan Intellectual Property Office which held that the Respondent should stop the use of "asics," the Respondent still continues the use of "asics" on its electronic products and its website, as well as the registration and use of the disputed domain name "asics-3c.com." It is obvious that the Respondent intentionally attempted to attract, for illegal commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website.

The Complainant submitted 13 attachments as evidence to support the above assertions.

According to the provisions of the Rules for Uniform Domain Name Dispute Resolution Policy and in view of the above reasons, the Complainant requests the Panel to rule that, the disputed domain name be transferred to the Complainant.

Respondent

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

Findings

Identical / Confusingly Similar

The Panel finds that the Complainant has established ownership of the trademark ASICS, as well as trade name and domain name incorporating the same word. The validity and fame of this trademark are beyond dispute. While the identification part of the disputed domain name asics-3c is composed of two parts connected with “-” . The Panel agrees with the Complainant that, in electronic and Internet fields, “3c” is commonly understood as the abbreviation of "computer, communication and consumer electronics". As the result, “asics-3c” will be considered the mark of asics’ 3c products, especially when there is a “-” between “asics” and “3c” . For these reasons, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

Rights and Legitimate Interests

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the trademark ASICS, or there was any association between the trademark ASICS 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 ASICS is generally known to the world, especially in the field of sportswear. As the trademark had been promoted widely through kinds of sports activities, including Olympic Games, 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 Respondent in order to counter these findings. The Panel concludes that the domain name has been registered in bad faith.

Status

www.asics-3c.com

Domain Name Transfer

Decision

Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, this Panel orders that the domain name “asics-3c.com” be transferred to the Complainant.

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