



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (BEIJING OFFICE)

— ADNDRC is a charitable institution limited by guarantee registered in Hong Kong

Decision Submission

English Print

| | |
|-----------------------|-------------------|
| Decision ID | DE-0700124 |
| Case ID | CN-0700155 |
| Disputed Domain Name | www.air-china.net |
| Case Administrator | Xinmin Cui |
| Submitted By | YUN ZHAO |
| Participated Panelist | |

| | |
|------------------|------------|
| Date of Decision | 14-09-2007 |
|------------------|------------|

The Parties Information

| | |
|-------------------|--------------------------------|
| Claimant | Air China Limited |
| Respondent | Caribbean Online International |

Procedural History

On 11 July 2007, the Complainant submitted a Complaint in the English language to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC) and elected this case to be dealt with by a single-member panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (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 the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules). On the same day, the ADNDRC sent to the complainant by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules. All correspondence to and from the ADNDRC described herein was in the English language.

On 18 July 2007, the Registrar transmitted by email to the ADNDRC its verification response, confirming that the Respondent is listed as the registrant and providing the contact details. On 9 August 2007, the ADNDRC sent the Transmittal of Claims to the Respondent. On 14 August 2007, the ADNDRC formally notified the Respondent of the commencement of the proceedings. On the same day, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent, and notified the Registrar of the commencement of the proceedings.

The Respondent did not file a Response before the ADNDRC. Accordingly, the ADNDRC notified the Respondent's default on 4 September 2007.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. ZHAO Yun, the ADNDRC notified the parties on 7 September 2007 that the Panel in this case had been selected.

On 7 September 2007, the Panel received the file from the ADNDRC and should render the Decision within 14 days, i.e., on or before 21 September 2007. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

The language of the proceeding is English, as being the language of the Domain Name Registration Agreement, pursuant to Paragraph 11(a) of the Rules, and also in consideration of the fact that there is no express agreement to the contrary by the Parties.

Factual Background

For Claimant

The Complainant in this case is Air China Limited, a corporation registered under the laws of the People's Republic of China, with its headquarters in Beijing. The Complainant is the owner of the trademark "AIR CHINA".

For Respondent

The Respondent, Caribbean Online International Ltd., is the current registrant of the disputed domain name <air-china.net> according to the Whois information.

Parties' Contentions

Claimant

The predecessor of the Complainant was established in 1988 and mainly conducted both international and domestic air transportation businesses. The Complainant has been reorganized from a limited liability company into a joint stock limited company in 2002, and all the businesses, logos, trademarks and other intangible assets were transferred into the latter.

From the date of its establishment, the Complainant has been using "AIR CHINA" as its English name in abbreviation, which is acknowledged by the IATA, General Administration of Civil Aviation of China and other airline companies and institutions worldwide and valid for permanent using. The Complainant applied for "AIR CHINA" solely or as a main part of its applications since 1996 in China and was approved with the trademark in 1998.

"AIR CHINA" is now very famous in and abroad as for its worldwide services with high quality and good reputation, which has given rise to strong social impression. In summary, "AIR CHINA" belongs to the Complainant as a trademark and name, and it is also a well-known trademark and name both within China and abroad.

The Complainant recently noted that the Respondent acquired "AIR CHINA" as a domain name, which mainly consists of "airchina" and is the same as the English name in abbreviation and trademark of the Complainant.

The Respondent has no any right to "AIR CHINA". The website in the domain name has no substantial contents, and there are only a few search links related to air tickets sales. It is apparent that the Respondent intentionally acquired this domain name not for its businesses, but for hostile purpose, since the Respondent has no any legal preferential right to "AIR CHINA". The Complainant has been suffering from the domain name that the Respondent has acquired and used to mislead customers.

The Complainant sought to have the disputed domain name transferred to the Complainant.

Respondent

The Respondent has not responded. It has therefore not contested the allegations of the Complaint and is in default.

Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4 (a) of the Policy requires that the Complainant should prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- 1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) the domain name has been registered and is being used in bad faith.

Identical / Confusingly Similar

The evidence submitted by the Complainant shows that the Complainant owns the trademark "AIR CHINA", which has been registered in the PRC. The evidence also shows that the complainant has been using this trademark since 1988, well before the year (2006) of the registration of the disputed domain name. Through continuous use, the trademark has become famous among people worldwide. The Panel finds that the Complainant has satisfied its burden of demonstrating

its rights in the trademark “AIR CHINA” .

The Panel has no problem finding that the domain name <air-china.net> is identical or confusingly similar to the registered trademark “AIR CHINA” , given that the “.net” suffix and the hyphen between “air” and “china” are to be ignored. The Panel therefore holds that the Complaint fulfills the condition provided in Paragraph 4 (a)(i) of the Policy.

Rights and Legitimate Interests

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant has not in any way authorized the Respondent to use the trademark or the disputed domain name. The Complainant’ s assertion is sufficient to establish a prima facie case under Policy 4 (a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests. Failing to file a Response, the Respondent did not dispute the submission of the Complainant and provided no information as to his legitimate interests in registering the disputed domain name.

Thus, in view of all the evidence submitted, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Complaint fulfills the condition provided in Paragraph 4(a)(ii) of the Policy.

Bad Faith

Evidence shows that the Complainant’ s trademark “AIR CHINA” has achieved a strong reputation throughout the world through a long history of use and the worldwide significance of the brand name. As such, the public has come to recognize and associate the Complainant’ s trademark “AIR CHINA” as originating from the Complainant and no other. This entitles the Panel to infer that the Respondent knew, or should have known, of the existence of the Complainant and its trademark. This inference can be substantiated by the fact that the Respondent established a website of the disputed domain name with search links related to air tickets sales, one important type of service offered by the Complainant. The Respondent’ s registration and use of the disputed domain name has the effect of preventing the Complainant from reflecting its trademark “AIR CHINA” in a domain name corresponding to its activities. The action of registering and use of the disputed domain name per se has constituted bad faith.

The fact that the website of the disputed domain name consists of search links related to air tickets sales has further led the Panel to the conclusion that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’ s website by creating a likelihood of confusion with the Complainant’ s trademark. This is the use of the domain name of the type contemplated by Paragraph 4 (b)(iv) of the Policy.

In conclusion, the Panel finds that the Respondent has registered and used the domain name in bad faith. Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4 (a) (iii) of the Policy.

Status

www.air-china.net

Domain Name Transfer

Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the <air-china.net> domain name should be TRANSFERRED from the Respondent to the Complainant.

[Back](#)

[Print](#)