

**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE**  
**(Beijing Office)**  
**ADMINISTRATIVE PANEL DECISION**  
**Case No. CN-0900315**

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**Complainant: Pierre Cardin**

**Respondent: Huang Weibang**

**Domain Name: pierrecardin-china.com**

**Registrar: MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE**

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### **1. Procedural History**

On June 25, 2009, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the "ADNNRC"), in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules") approved by ICANN, and Asian Domain Name Dispute Resolution Center Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "ADNDRC Supplemental Rules") .

On June 29, 2009, the Beijing Office of ADNDRC transmitted by email to MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue.

MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE, on November 26, 2009, transmitted by email to the Beijing Office of ADNDRC its verification response confirming that, the domain name at issue was registered under its domain registrar, and the Respondent is listed as the registrant.

The Beijing Office of ADNDRC verified that the Complaint satisfied the formal requirements of the Policy, the Rules, and the Supplemental Rules. In accordance with the Rules, paragraphs 2(a) and 4(a), the Beijing Office of ADNDRC transmitted the complaint to the Respondent on December 7, 2009.

On December 25, 2009, the Notifications of Commencement of proceedings were notified to the Parties, ICANN and the Registrar.

Till January 14, 2010, the last day of the fixed period of Response, no submission came from the Respondent. On January 18, 2010, the Beijing Office of ADNDRC noticed the Parties that, as there's no response from the respondent, the Beijing Office of ADNDRC would appointed the Panelist shortly, and the case would be decided by default.

Upon receiving the declaration of impartiality and independency and the statement of acceptance from the candidate Panelist, the Beijing Office of ADNDRC appointed Tang Guangliang, Gao Lulin and Yan Hao as panelists in this matter on January 26, 2010. Then the Beijing Office of ADNDRC transferred all the case materials to the panel on the day, and

asked the panel to submit a decision on or before February 9, 2010.

## **2. Factual Background**

For the Complainant

The Complainant Mr. Pierre Cardin is a French man lived in Paris, who owns a number of trademark registration for Pierre Cardin, 皮尔·卡丹 and P & Device. In this case, the Complainant authorized Huo Aimin and Zhang Lianjun of CCPIT Patent and Trademark Law Office as his agents.

For the Respondent

The Respondent is Huang Weibang, a citizen of China, who's address is 203 Floor 3, Yushili, Lucheng, Wenzhou, Zhejiang, China 325000. The Respondent registered the disputed domain name on March 20, 2006 through the Registrar. The Respondent made no response in the fixed period of time, and no agent or representative empowered thereof in this case.

## **3. Parties' Contentions**

The Complainant

According to the Complaint, the assertion of the Complainant includes:

(1) The complainant enjoys civil rights and the interests in the trademark "Pierre Cardin" already approved for registration in China. The identifying part "pierrecardin" in the disputed domain name "pierrecardin-china.com" is exactly identical with the trademark "Pierre Cardin" in which the Complainant enjoys prior interests and rights.

According to the Complaint and evidences thereof, the complainant, Mr. Pierre Cardin, has registered the following trademarks in China.

①The certificates of No. 137016, trademark (Pierre Cardin) and its renewal, International Class 25: caps, gloves, boots, shoes, slippers, socks, stocking, scarf, necktie, headscarf, bow, men's, women's and children's coat, suit, jacket, coat, trousers, shirt, underwear, jumper, raincoat, swimsuit, full dress, tights, bathrobe, leather suit, overcoat, windbreaker, chaparajos, jacket.

②The certificates of No. 137015, trademark (Pierre Cardin) and its renewal, International Class 18: leather articles, bag, leather bag, suitcase, cheque case, business card bag, mirror sheath, handbag, traveling bag, umbrella, and stick.

③The certificates of No. 1242632, trademark (Pierre Cardin) and its renewal, International Class 25: shoes and socks.

④The certificates of No. 211048, trademark (P & Device) and its assignment and renewal, International Class 25: clothing, footwear, caps, socks, stockings, scarf, and gloves.

⑤The certificates of No. 211047, trademark (P & Device) and its assignment and renewal,

International Class 18: fur, hide, skin, leather, imitation leather, traveling bag, briefcase, business case, card case, handbag, key case, purse, shopping bag, suitcase, traveling case.

⑥The certificates of No. 211682, trademark (皮尔·卡丹) and its assignment and renewal, International Class 25: clothing.

⑦The certificates of No. 209951, trademark (皮尔·卡丹) and its assignment and renewal, International Class 25: footwear, caps, socks, stocking, scarf, gloves.

⑧The certificates of No. 211681, trademark (皮尔·卡丹) and its assignment and renewal, International Class 18: fur, hide, skin, leather, imitation leather, traveling bag, briefcase, business case, card case, handbag, key case, purse, shopping bag, suitcase, traveling case, stick.

⑨The certificates of No. 209921, trademark (Pierre Cardin) and its assignment and renewal, International Class 24: drapery, wool fabric, linen, bed cover, jute cloth, cotton.

Therefore, the Complainant enjoys legitimate exclusive right in the registered trademark “Pierre Cardin”.

Furthermore, “Pierre Cardin” is also the name of Mr. Pierre Cardin and the **cooperation** name of the company.

While the disputed domain name is “pierrecardin-china.com”, in which “pierrecardin” is the identifying part, which is identical with the registered trademark and trade name Pierre Cardin.

(2) The Respondent, Huang Weibang, does not enjoy any right or interest in the disputed domain name “pierrecardin-china.com”.

The Complainant enjoys prior rights in the trademark “Pierre Cardin”. He has never authorized or licensed the Respondent to use the trademarks “Pierre Cardin”, “皮尔·卡丹” and “P & Device” or to register any domain name identical with or similar to “pierrecardin”. Therefore, the Respondent does not enjoy any legitimate right and interest in the disputed domain name “pierrecardin-china.com”.

(3) The Respondent registered the disputed domain name in bad faith.

The domain name “pierrecardin-china.com” is now inaccessible. The Respondent’s registration of the domain name “pierrecardin-china.com” is aimed at prohibiting the owner of the trademark to use the relevant domain name to promote its goods or services. Such an act shall be prohibited in accordance with UDRP 4 a (iii).

On the basis of the facts and grounds mentioned above, the Complainant hereby requests the Panel to decide that the disputed domain name shall be transferred to the Complainant.

The Respondent

There’s no Response came from the Respondent.

#### **4. Findings**

As stipulated in the Paragraph 4(a) of the Policy, when claiming dispute to a domain name registered by another, the Complainant must prove each of the following:

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

Based on the relevant stipulations under the Policy, the Rules and ADNDRC Supplemental Rules, to make the Claim to be supported by the Panel, the Complainant needs to satisfy each of the afore-said prerequisites.

With regard to the current dispute, a fundamental fact is that the Respondent failed to submit a defense or a response of any sort. Particularly, the Respondent did not exhibit any intention to RETAIN the disputed domain name. As stipulated in Paragraph 5(e) of the Rules, "If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint". In light of this stipulation, the Panel has no choice but to make the decision based primarily on the Complainant's contentions and the accompanying exhibits unless proven otherwise or that the Panel, based upon its professional experiences, thinks that the Complainant's allegations are not logical or obviously contradictory to a prior judgment or any other enforceable decisions.

#### **Identical or Confusing Similarity**

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove that the domain name in dispute is identical or confusingly similar to a trademark or service mark in which the Complainant has right.

When making a judgment on the issue of identity or confusing similarity, the Panel often compares the identifying part of the disputed domain name with that of the registered trademark. In this case, the disputed domain name is "pierrecardin-china.com", where the identifying part is "pierrecardin-china", which is composed of two words, "pierrecardin" and "china", connected with "-".

As many panelists pointed out in respective decisions, put the name of a country as the suffix of a domain name will not give the domain name any additional distinctiveness. To the users of the Internet, a business name plus a country name means "the business in the country". In this case, the identifying part "pierrecardin-china" means nothing but pierrecardin in china, or chinese pierrecardin. As "pierrecardin" is similar to the trademark " Pierre Cardin ", with only differences in capital letters and a blank space in the middle, the Panel, although does not agree with the Complainant's assertion as to the identification, holds that the identifying part of the disputed domain name is confusingly similar to the registered trademark belongs to the Complainant. Therefore, the Complainant satisfies the first prerequisite as set forth in the Policy.

## **Rights or Legitimate Interests of the Respondent**

Paragraph 4(c) of the Policy stipulates how a Respondent can effectively demonstrate its rights or legitimate interests with regard to the disputed domain name, as an argument against the Complainant's claim. As the Complainant claimed that the Respondent Huang Weibang has no relationship and business contact with the Complainant, and the Complainant has never authorized or licensed the Respondent to use the trademarks "Pierre Cardin", "皮尔·卡丹" and "P & Device" or to register any domain name identical or similar to "pierrecardin", while the Respondent didn't reply formally, the Panel holds that the Complainant satisfies the second prerequisite as set forth in the Policy.

## **Bad Faith**

The Complainant also needs to establish the Respondent's bad faith as set forth in the Paragraph 4(a)(iii) of the Policy. Under Paragraph 4(b) of the Policy, the following circumstances in particular shall be considered as evidence of the registration and use of a domain name in bad faith:

"(i) Circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) You have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) You have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

The Complainant alleged and proved that, the disputed domain name is inaccessible currently, which means the Respondent's registration is an abnormal action, aims at prohibiting the Complainant to use the relevant trademark as a domain name to promote its goods or services.

The Respondent did not deny the allegation of the Complainant.

The Panel finds that the acts of Respondent fall under the circumstances in Paragraph 4(b)(ii) and shall be considered as evidence of the registration and use of the disputed domain name in bad faith and thus the Complainant satisfies the third prerequisite under the relevant articles of the Policy.

Based on all the above findings and comments, the Panel rules that the Complainant satisfies all the conditions provided in Paragraph 4(a)(i)(ii) (iii) of the Policy, hence his claims shall be supported.

## 5. 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 identifying part of the disputed domain name “pierrecardin-china.com” is confusingly similar to the Complainant's registered trademark “Pierre Cardin”; and
- b) That the Respondent has no right or legitimate interest with regard to the identifying part of the disputed domain name; and
- c) That the domain name was registered and subsequently used in bad faith.

As the final decision, the Panel requires the domain name “pierrecardin-china.com” be transferred to the Complainant.

Panelist: Tang Guangliang

Panelist: Gao Lulin

Panelist: Yan Hao

February 9, 2010