

**Asian Domain Name Dispute Resolution Center**  
**Beijing Office**  
**Administrative Panel Decision**  
**Case No. CN-1100491**

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**Complainant:** Zhejiang Supor Co., Ltd.

**Respondent:** Jocelyn Hall

**Domain Name:** supor.net

**Registrar:** KEY REGISTRAR, INC.

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## **1、 Procedural History**

On 30 August 2011, the Complainant submitted a Complaint in Chinese to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person 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 31 August 2011, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the complaint and transmitted by email to ICANN and the Registrar a request for registrar verification in connection with the disputed domain name.

On 1 September 2011, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

Since the Registration Agreement in this case is in English and the language of the proceeding shall be that of the Registration Agreement, the ADNDRC Beijing Office asked the Complainant on 7 September 2011 to re-submit the Complaint in English. The Complaint in English was submitted on 13 September 2011. On 21 September 2011, the ADNDRC Beijing Office transmitted the Complaint to the Respondent.

On 13 October 2011, the ADNDRC Beijing Office notified the Respondent of the commencement of the proceedings. On the same day, the ADNDRC Beijing Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent, and notified the ICANN and the Registrar of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 4 November 2011, the ADNDRC Beijing Office notified both parties that the ADNDRC Beijing Office would appoint a one-person panel to hear the case

and make the decision by default. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. ZHAO Yun, the ADNDRC Beijing Office notified the parties on 8 November 2011 that the Panel in this case had been selected, with Mr. ZHAO Yun acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 8 November 2011, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 22 November 2011.

On 10 November 2011, the Respondent sent in an email setting out some response to the Complaint. For a thorough and fair consideration of the case, the Panel decided to accept this late submission and requested the Complainant for submitting any further comments or opinion before 16 November 2011. The deadline for making the decision was extended to 29 November 2011. With the Complainant submitting a Response to the Respondent's submission on 14 November 2011, the Panel further requested the Respondent for submitting any further comments or opinion before 18 November 2011. No further submission was made by the date of 18 November 2011.

Two days after the third deadline, on 20 November 2011, the Respondent sent in another email to respond to the Complainant's Response on 14 November 2011. Since the Panel has extended the deadline twice and the Respondent failed to provide any plausible reasons for failing to comply with the deadlines, for the fairness and efficiency of this proceeding, the Panel decides that this late Response not be entertained. Nevertheless, the Panel takes the time to go through this late Response and notes that this late Response simply reiterates what has been stated in the Respondent's Response on 10 November 2011. The points raised will be mentioned in the section on Respondent's Contentions.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

## **2. Factual Background**

### **For the Complainant**

The Complainant in this case is Zhejiang Supor Co. Ltd. The registered address is 19F Supor Plaza, No. 1772, Jianghui Road, Hangzhou High-tech Industrial Zone, Zhejiang Province. The authorized representative in this case is Cheng Xing.

## **For the Respondent**

The Respondent in this case is Jocelyn Hall. The Respondent is the current registrant of the disputed domain names <supor.net> according to the Whois information.

### **3、 Parties' Contentions**

#### **Complainant**

The Complainant is the largest in China and third largest in the world researcher, developer and manufacturer of cookware. It was founded in 1994 and headquartered in Hangzhou China. Now it has five production bases at home and abroad and more than 9000 employees. Cookware and home appliances produced are sold to many countries in the world. The Complainant was listed on Shenzhen Stock Exchange on 17 August 2004, and became the first listed company in China's cookware industry.

The Complainant has marketed high-quality pressure cookers at the very beginning, and is the drafter and earlier enforcer of the industrial standard of pressure cookers. Based on high quality and technological innovation, the Complainant soon created the first brand of China's pressure cooker industry, and became the market leader after five technical reforms.

After more than ten years of hard work, the Complainant has successfully produced other branded products in the kitchen utensil field. The product line extends from pressure cooker to more than 800 categories covering cookware, small domestic appliances and large kitchen appliances. Cookware products include pressure cooker, wok, frypan, stewing pan, saucepan, milk pan, steamer, kettle and knives; small domestic appliances include electrical rice cooker, electrical pressure cooker, induction hob, juicer, electrical hot pot, electrical kettle, electrical stewing pan, and soymilk maker, etc.; large kitchen appliances include range hood, gas burner and sterilizer, etc. Pressure cooker, wok and stainless steel pot, as the main products, maintain the largest market shares in China. Electrical rice cooker, electrical pressure cooker and induction hob also take leading positions.

In 2002, "Supor" was conferred the title of "Famous Trademark in China". In 2004, the pressure cooker of "Supor" brand was reputed by the General Administration of Quality Supervision, Inspection and Quarantine as "Famous-brand product in China". In 2006, the Complainant was entitled "Most competitive enterprise in China" by the Ministry of Commerce. In 2007, the Complainant won the "China Standard Innovation Award". According to the 2010 Annual Report of the Complainant, the total assets of the Complainant was RMB3,930,307,944.10 by 3 December 2010; the gross sales for 2010 was RMB 5,622,064,477.69, increased by 36.60%.

(1) The domain name in dispute is the same as the Complainant's registered trademark, or constitutes the confusing similarity.

The core part of the domain name in dispute (the identification part) is “supor”. The Complainant has the registered trademarks of No. 945720 and No. 945721. On 21 March 2002, the Trademark Office of the State Administration for Industry and Commerce recognized these two trademarks as “Famous Trademarks”, in which the principal part of No. 945721 registered trademark is “supor”, with the duration of the exclusive use right from 14 February 2007 to 13 February 2017. Since 14 March 2005, the Complainant was granted the exclusive right to use No. 3317883 registered trademark, which is in Category No. 21. This registered trademark is comprised of Chinese characters “苏泊尔” and English letters “supor”. Since 12 April 2007, the Complainant was granted the exclusive right to use No. 3327882 registered trademark, which is in Category No. 11. This registered trademark is comprised of Chinese characters “苏泊尔” and English letters “supor”. Since 14 October 2010, the Complainant was granted the exclusive right to use No. 7081378 registered trademark, which is in Category No. 11. This registered trademark is comprised of English letters “supor”. Since 7 October 2010, the Complainant was granted the exclusive right to use No. 7081472 registered trademark, which is in Category No. 21. This registered trademark is comprised of English letters “supor”.

It is evident that the core part of the domain name in dispute—English letters “supor” is identical to the principal part of the English letters of the famous trademark and two other registered trademarks owned by the Complainant. They constitute similarity and will easily cause confusion. The website “supor.net” will easily be mistaken as the official website of the Complainant, and the domain name in dispute as the international English domain name registered and used by the Complainant.

(2) The Respondent owns no rights or legitimate interests in the domain name in dispute.

The Respondent is a natural person with no business relation with the Complainant. The Complainant has never authorized or granted the Respondent to register or use “supor”. The Respondent is not entitled to any “supor”-related registered trademark right. The registered trademark “supor” owned by the Complainant is used for cookware, small domestic appliances, large kitchen appliances and such household goods, and is a famous brand in China. The use of the trademark covers the maximum extent of consumers in China. Therefore, it is impossible for the Respondent to be unaware of the Complainant’s famous trademark when registering the domain name in dispute. Besides, “supor” is not an English word, but some English letters created by the Complainant. Therefore it is impossible for the Defendant to have any justified reasons for using the English letters identical to the Complainant’s famous trademark.

(3) Registration of the domain name in dispute by the Respondent is malicious.

The Complainant registered the domain name on 14 April 2004, and renewed

it to 1 January 2011. Due to the negligence of the Complainant, the domain name was maliciously cybersquatted by the Respondent on 19 March 2011. The registration of domain name in dispute by the Respondent prevents the Complainant's registration of corresponding English domain name to reflect the registered trademark it owns, damages the regular business operation of the Complainant, and violates Article 4.b(ii) and (iii) of Uniform Domain Name Dispute Resolution Policy. For the reasons stated below:

- ① The Respondent could not have been unaware of the fact that the Complainant owns the famous trademark "supor". The Complainant is registered in Yuhuan County, Zhejiang Province, and the principal place of business is in Hangzhou, Zhejiang Province. The famous trademark "supor" owned by the Complainant is used for cookware, small domestic appliances, large kitchen appliances and such household goods, and is a famous brand in China. The use of this trademark covers the maximum extent of consumers in China.
- ② "supor" is not an English word, but some English letters created by the Complainant.
- ③ The Respondent has never actually used the domain name "supor.cn".
- ④ The Respondent's registration of "supor.cn" prevents the Complainant from using its own trademark in the field of the widely applied international English domain names.
- ⑤ If the Respondent uses the domain name in dispute, it will definitely induce consumers to mistakenly believe that this website belongs to the Complainant, cause confusion or misunderstandings among them, and thus inflict damage to the Complainant's image and regular business operation.

In accordance with Paragraph 4(b)(i) of the Policy, the Complainant requests the Panel to issue a decision to transfer the Disputed Domain Names to the Complainant.

In response to the Respondent's late submission, the Complainant contends as follows: 1) the Complainant has already sent domain name complaint with relevant evidence in English to the ADNDRC and the ADNDRC has sent to the Respondent. 2) the Complainant registered the domain name in 2004, which was expired on 1 January 2011, and due to the Complainant's negligence, the Respondent was cybersquatting the domain name in March 2011, after which the Complainant continues to use this domain name. Therefore, it's obviously not true that the Respondent said he did not know the Complainant. 3) "supor" is not a usual word, it is a word created by the Complainant.

## **Respondent**

The Respondent does not speak Chinese so she cannot read most of the documents. The Respondent is in the US and has never heard of this company. The Respondent does speak Portuguese and in her language "supor" means "suppose, guess, imagine" so "supor.net" would be a good website to use for crafts and creation ideas. The Respondent has not put up a website yet but will use it for crafts. The links on the site right now are not from the Respondent but

from the domain registrar.

In the late Response on 20 November 2011, the Respondent again reiterates the following three points: 1) the Respondent received only exhibits in Chinese; 2) the Respondent does not know the Complainant since she does not live in Beijing; 3) “supor” is a very common word in all Portuguese dictionaries.

#### **4. 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.

The Respondent claims that she does not speak Chinese and cannot read most of the documents. The Complainant responds that relevant documents in English version have been submitted to the ADNDRC and the ADNDRC has forwarded to the Respondent. Pursuant to Paragraph 11(b) of the Rules, the Panel may order that any documents submitted in languages other than the language of the administrative proceeding be accompanied by a translation in whole or in part into the language of the administrative proceedings. The Panel notes that the Complainant has submitted the English version of the Complaint in accordance with the Policy and the Rules. Some exhibits are in Chinese. These exhibits touch on basic information, operation, awards, and trademark registration of the Complainant. All these exhibits are used as evidence to testify what has elaborated in the Complaint. The Respondent can get all the information from the English version of the Complaint. Furthermore, the Respondent could have raised the objection much earlier during the Responding period, but failed to do so. In view of all these circumstances, the Panel decides that the Respondent’s claim concerning the language does not stand.

#### **Identity/Confusingly Similarity**

The Complainant is a well-known cookware developer and producer in China. The evidence shows that the Complainant has registered the trademark “supor” in mainland China as early as 1997, much earlier than the registration date of the disputed domain name (i.e. 19 March 2011). The trademark is still

within the protection period. The Panel has no problem in finding that the Complainant enjoys the prior rights in the trademark “supor”.

The disputed domain name is “supor.net”. As the suffixes “.net” only indicate that the domain name are registered under the gTLD and is not distinctive, the main part of the disputed domain name is “supor”. Obviously, the main part of the disputed domain name is identical to the Complainant’s trademark “supor”.

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’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.

Under Paragraph 4 (c) of the Policy, the following are relevant examples a Panel may take as evidence of the Respondent’s rights or legitimate interests to the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Obviously, the above circumstances do not exist in the current case. The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name. The act of registering the disputed domain name and the Respondent’s choice of “5-letter combinations” do not automatically endow any legal rights or interests with the Respondent.

Furthermore, the Panel is not convinced by the contentions raised by the Respondent. The Respondent states that she registers the domain name to develop a website for crafts and creation ideas. She has failed to produce any evidence to substantiate her statement. The mere allegation of possible future use without any evidence of demonstrable preparations is not sufficient under the Policy. The Respondent is not commonly known by the domain name. Neither is she making a legitimate noncommercial use or fair use of the domain name.

The Panel therefore finds that the Complaint fulfills the condition provided in

Paragraph 4(a)(ii) of the Policy.

### **Bad Faith**

Under Paragraph 4 (b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use 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 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 website 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 website or location or of a product or service on your website or location.

The Complainant, set up in 1994, is the largest cookware producer in China and the third largest in the world. The Complainant registered the trademark in 1997 and has since then promoting its products with this trademark. The trademark "supor" itself is not a normal English word, it was created by the Complainant to represent its products. Evidence shows that the Complainant's trademark "supor" has achieved a strong reputation through extensive use, promotion, advertisement. As such, the public has come to recognize and associate the Complainant's trademark as originating from the Complainant and no other. The Complainant's trademark, recognized as a "Well-known Mark" in China in 2002 and winning several other awards, has been well known by the consumers.

The Respondent contends that she does not know the Complainant. Evidence further shows that the Complainant registered the disputed domain name on 14 April 2004 and renewed it till 1 January 2011. The Complainant further submits that the Complainant continued to use this domain name after 1 January 2011. The Respondent did not repute this submission. The evidence shows that within only a little more than two months after the expiry date, the Respondent registered the disputed domain name.

The Respondent contends that she does not know the Complainant since she does not live in Beijing. The location of a Respondent does not prevent him/her from knowing a company and/or a mark. It depends on whether a Respondent has the chance to know a company and/or a mark. It is further noted that since its establishment, the Complainant has successful businesses within and beyond China. The cookware products, which are close to people's daily life, are sold to consumers in many countries in the world. The Panel is not

convinced by the mere statement that the Respondent is not aware of the trademark “supor” before the Complaint. There are plenty of terms for the Respondent to register a domain name for crafts and creation ideas. The trademark “supor” is not a common term in China and in the US (the claimed residential country of the Respondent); the Respondent’s conduct of registering the term as the main part of the disputed domain name cannot be reasonably explained by coincidence or inadvertence. The above fact serves to prove that the Respondent should have been aware of the existence of the Complainant and its trademark. The action of registering the disputed domain name *per se* has thus constituted bad faith.

Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4 (a) (iii) of the Policy.

## 5、 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 <supor.net> domain name should be TRANSFERRED to the Complainant.

The Sole Panelist:



DATED: 29 November 2011