

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE
(Beijing Office)
ADMINISTRATIVE PANEL DECISION
Case No. CN-1200524

Complainant: Parfums Christian Dior

Respondent: Li Hui

Domain Name: diorchina.com

Registrar: GoDaddy.com, Inc.

1. Procedural History

On 9 December 2011, the Complainant submitted its Complaint to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the “ADNDRC Beijing Office”), in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the “Rules”), and ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the “ADNDRC Supplemental Rules”).

On 10 December 2011, ADNDRC Beijing Office confirmed the receipt of the Complaint and forwarded a request for verification of registration information to ICANN and the Registrar of the domain name in dispute, GoDaddy.com Inc.

On 10 December 2011, ADNDRC Beijing Office received the Registrar’s confirmation of registration information of the domain name in dispute.

On 23 December 2011, ADNDRC Beijing Office sent the Transmittal of Complaint to the Respondent.

On 30 December 2011, ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded, and the Centre notified the Respondent, the Registrar and ICANN of the commencement of the case proceeding.

On 6 February 2012, ADNDRC Beijing Office sent the Notification of No

Response Received and Hearing by Default.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Xue Hong, on 20 February 2012, ADNDRC Beijing Office informed the Complainant and the Respondent of the appointment of the Panelist, and transferred the case file to the Panelist on the same day.

The Panel finds that it was properly constituted and appointed in accordance with the Rules and the ADNDRC Supplemental Rules.

The language of the proceeding is English, as being the language of the Domain Name Registration and Service 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.

2. Factual Background

For the Complainant

The Complainant is Parfums Christian Dior. Its address is 30 Avenue Hoche 75008 Paris France. The authorized representative of the Complainant is Xiang An and Xiaonan Zhang from China Sinda Intellectual Property Limited.

The Complainant that is primarily in the business of cosmetics and perfume registered the trademark “DIOR” in many countries. The Complainant’s trademark “DIOR” has been on registration in China since 2001.

For the Respondent

According to the record in the Whois database, the Respondent is Li Hui and the disputed domain name “diorchina.com” was registered on 6 March 2008 through the registrar, GoDaddy.com Inc.

3. Parties’ Contentions

The Complainant

(1) Background of the Complainant and its trademark “Dior”

Parfums Christian Dior (hereinafter referred to as the Complainant) is a famous cosmetics and perfume company which was established in 1947 and now part of

the luxury conglomerate LVMH. “DIOR” is its registered trademark which enjoys great reputation around the world including in China. Since introduction of its first perfume by the name of “Miss Dior” in 1947, the Complainant has released many cosmetic and perfume products using the trademark DIOR and series marks consisting of or including the mark DIOR, which are all well received in the market. With points of sales around the world, the Complainant’s DIOR products (including fragrances, make-up and skincare) has amounted to a global turnover in excess of €1400 million in 2009 and in excess of €1600 million in 2010.

DIOR is registered as trademark by the Complainant in France at the latest in 1966, which is still valid now. The Complainant also owns more than a hundred registered trademarks around the world that consisted of or involved the mark DIOR. In China, the Complainant has registered dozens of trademarks consisting of or including DIOR in various classes, the earliest of which dated back to January 30, 1983 (“CHRISTIAN DIOR” No. 170762). The Complainant’s registration of DIOR in China and the other parts of the world cover a large range of products and services, specifically covering “soaps; perfumery; essential oil; cosmetics; shampoo; dentifrice”, etc. in Class 3.

Class	Registration No.	Registration Date (y-m-d)	Trademark	Goods
3	1632320	2001-9-14	DIOR	Soaps; perfumery; essential oil; cosmetics; shampoo; dentifrice
3	G831279	2004-6-10		Soaps, perfumes, perfumery goods, essential oils, cosmetics, hair lotions.
3	G853280	2005-4-4	DIOR★	Soaps, perfumes, perfumery products, cosmetics, make-up products, essential oils, hair lotions.

“DIOR” was introduced into China in 1990s at the latest and since then, the Complainant has set up points of sales nationwide including in Beijing, Shanghai, Hang Zhou, Xi’an, Cheng Du, etc.

The Complainant invested a lot of money in publicity for its trademark “DIOR” in China and the other parts of the world. In 2008~2010, more than 10% of its global turnover were spent on advertising its trademark “DIOR” throughout the world each year. As far as China is concerned, according to statistics of A.C. Nielson, the Complainant has invested the following in advertising its trademark “DIOR” during 2004~April 2009.

2004	2005	2006	2007	2008	January-April 2009
115,258,000	150,722,000	203,847,000	215,060,000	275,871,000	185,548,000

Meanwhile, according to A.C. Nielson, DIOR ranked the 2nd in Total Media Investments in China among major beauty brands.

To be specific, the Complainant has advertised its trademark DIOR in China in various forms including TV commercials, outdoor billboards, advertisements on print media, sponsorship of fashion and other events, publication of products brochures and etc.

With large spending on publicity, the DIOR products are well received in Chinese market and it has achieved a market share of over 10%, ranking the 2nd in the relevant industry. Statistics of sales and market share of DIOR products in China are as follows:

**DIOR
Turnover & units sold in China (2007 – 2010)**

	2007		2008		2009		2010	
	Invoiced turnover €	Invoiced quantities units €						

Perfume	10 895 037	285 57 5	13 762 903	313 13 0	16 080 795	320 35 0	15 593 579 <i>(as of October 2010)</i>	271 245 <i>(as of October 2010)</i>
Make-up	15 014 494	720 71 6	18 787 396	818 14 7	23 491 477	953 07 8	24 573 823 <i>(as of October 2010)</i>	939 708 <i>(as of October 2010)</i>
Skincare	29 091 782	690 36 6	40 193 038	839 34 0	48 913 701	973 19 9	53 450 615 <i>(as of October 2010)</i>	961 894 <i>(as of October 2010)</i>
Total*	54 972 830	1 696 69 1	72 469 217	1 970 81 2	88 471 713	2 246 63 2	111 996 6 30 <i>(as of December 2010)</i>	2 566 545 <i>(as of December 2010)</i>

Many products under the trademark DIOR are awarded by major beauty magazines in China, which illustrates its popularity in the consumers, including but not limited to: “Luxurious & Trendy” in 2006-2007 by Fashion Weekly magazine, “Trendiest Lip Product”, “Best Skincare Products for Eye” and “Most Influential PR Event” by Cosmopolitan China in 2007, “10 Years of Appreciation” by SH Times in 2007, “Cosmopolitan Beauty Awards” in 2008, etc.

(2) The disputed domain name is confusingly similar to the registered trademark “DIOR” of the Complainant

The disputed domain name consists of “Dior”, “China” and “.com”, among which “DIOR” is the Complainant’s registered trademark, while “.com” is a GTLD postfix and “China” is a country name. The addition of “.com” and

“China” do not suffice to distinguish the disputed domain name from the Complainant’s registered trademark. As a whole, the disputed name conveys the meaning of “Chinese version of Dior website” and “DIOR” is undoubtedly the distinctive and identifying part of the disputed domain name. The disputed domain name will mislead the relevant consumers to believe that the registrant is distributor of the Complainant in China or that the registrant is associated with the Complainant. Accordingly, the disputed domain name is confusingly similar to the trademark “DIOR” owned by the Complainant and infringes the Complainant’s legal rights.

(3) The Respondent has no rights or legitimate interests in respect of the domain name “diorchina.com”

According to the Complainant’s search, the registrant does not own any trademark right over the trademark “DIOR”. Further, Complainant has never authorized the Respondent to use its trademark “DIOR” by any means, nor is the Respondent in any way associated with the Complainant or authorized to register the disputed domain name.

(4) The domain name has been registered in bad faith

It is noted that the disputed domain name was registered in 2008 which is posterior to the registration of the Complainant’s trademark DIOR in China. As stated above and proved by the Exhibits, the Complainant’s trademark DIOR has been in extensive use and promotion in China before 2008 and enjoyed great reputation around the world including in China. In view of the scope of the Complainant’s publicity for its trademark DIOR in China, the Respondent was clearly aware of the Complainant’s trademark before its registration of the disputed domain name. Moreover, the Respondent’s registration of the disputed domain name undoubtedly prevents the Complainant, who is owner of the trademark DIOR, from reflecting the same in a corresponding domain name.

Meanwhile, the Respondent had been advertising DIOR products and DIOR-related news on its website www.diorchina.com when the Complainant first noticed the disputed domain name. The Respondent included a link to the Complainant's global website www.dior.com by remarking 迪奥全球 (Dior Global in Chinese) while claiming its website www.diorchina.com to be constructed by the Complainant Parfums Christian Dior and using contact information of LVMH Shanghai (Chinese subsidiary of the Complainant's parent company LVMH) as its contact information. Meanwhile, the Respondent used the email address of diorofchina@yahoo.com as its contact information. Though currently the foresaid infringing information and pictures have been deleted from the Respondent's website www.diorchina.com, we can still access its historical web pages through many internet archive websites such as www.54zz.com. By visiting the archives in 2009~2011 of the website www.diorchina.com, it is noted that the Respondent had been selling a full range of DIOR products (source of which are unknown) and posting DIOR news on his website, though he is not an authorized distributor or dealer of the DIOR products, nor is his use of the DIOR trademark licensed by the Complainant. Meanwhile, it can be noted from the Notarial Deed that the Respondent had used “迪奥中国网站” (meaning “website of DIOR China”) to name its website, wherein 迪奥 is the Complainant's Chinese trademark which also enjoys great reputation in China. All the foresaid tend to cause consumers to consider the registrant as Chinese division of the Complainant or as associated with the Complainant and cause them to buy from the Respondent based on their trust in the Complainant and its DIOR products. Therefore, the disputed domain name and the related website have created a likelihood of confusion with the Complainant and its trademark DIOR.

After noticing the disputed domain name, the Complainant sent a C&D letter to the Respondent on October 11, 2011, requesting close of the website

www.diorchina.com and transfer of the disputed domain name to the Complainant for free. On October 14, 2011, the Complainant got the Respondent's response that the pertinent website had been closed and that the disputed domain name could be transferred to the Complainant with compensation. However, the Complainant noted that though the infringing information involving DIOR on the Registrant's website www.diorchina.com was deleted, the said website was not closed. Further, it is noted that the said website was never updated since October 14, 2011 when the registrant replied to the Complainant's C&D letter. During the consequent correspondences, the Respondent stated to the Complainant's representative that he would transfer the disputed domain name to the Complainant with a compensation of CNY150,000, which obviously exceeds the normal spending to register and maintain a domain name. The Respondent also asserted that if the Complainant approached him for transfer of the disputed domain after losing the Complaint, he will raise the transfer fee to over CNY 2 million. In view of the above, the Complainant deems it obvious that the disputed domain name is registered in bad faith, as it is for selling or otherwise transfer for valuable consideration in excess of the Respondent's costs directly related to the domain name.

The Complainant requests the disputed domain name "diorchina.com" be transferred to the Complainant.

The Respondent

The Respondent did not submit the Response.

4. Findings

Identity or Confusing Similarity

Pursuant to the Policy, paragraph 4(a)(i), a complainant must prove that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. In line with such requirement, a

complainant must prove its trademark rights and the similarity between the disputed domain name and its trademark.

The Panel notes that the Complainant's trademark "DIOR" has been registered (Registration Number 1632320) on soaps, perfumery, essential oil, cosmetics and many other products in China since 14 September 2001. The Complainant's legitimate trademark right is protected under the Chinese law.

The disputed domain name is "diorchina.com". Apart from the generic top-level domain suffix ".com", the disputed domain name is "diorchina", which consists of "dior" and "china". The former part "dior" is identical with the Complainant's trademark, and the latter part "china" is a country name. Since the addition of the country name to a mark is a common method for specifying the location of mark that is being used, the addition of a country name generally does not make the domain name distinct from the underlying mark to which it is added.

The Panel therefore finds that the disputed domain name "diorchina.com" is confusingly similar to the Complainant's registered trademark "DIOR". Accordingly, the Complainant has proven the first element required by paragraph 4(a) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name and, as stated above, the Respondent did not provide any information to the Panel asserting any right or legitimate interest it may have in the disputed domain name.

It is apparent from the Complaint that there is no connection between the Respondent and the Complainant or its business. Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent's rights or legitimate interests in a domain name. However, there is

no evidence before the Panel that any of the situations described in paragraph 4(c) of the Policy apply here. To the contrary, the lack of a Response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name "diorchina.com". Accordingly, the Complainant has proven the second element required by paragraph 4(a) of the Policy.

Bad Faith

The Complainant contends that the Respondent registered and used the disputed domain name in bad faith. The Respondent did not respond.

Through examining the evidence submitted, the Panel notes the fact that the Complainant acquired the Chinese trademark registration over the "DIOR" on 14 September 2001 while the disputed domain name was not registered until 6 March 2008. The Complainant's trademark was registered long before the registration of the disputed domain name. The website at the disputed domain name www.diorchina.com is not accessible at the point of decision. But a Notary Deed submitted by the Complainant shows that the website at the disputed domain name www.diorchina.com had been named as "Dior 迪奥中国网站", offered to sell a variety of perfumery products and used the marks "迪奥中国 DiorChina". The Respondent did not contend the truthfulness of the above submissions.

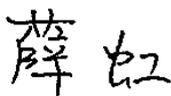
Since the Respondent used the Complainant's trademarks "DIOR" and "迪奥" on the disputed domain name's website and named the website "Dior 迪奥中国网站", the Respondent apparently knows the Complainant's business and trademarks. Therefore, the Respondent's registration and use of the disputed domain name that is confusingly similar to the Complainant's trademark are not coincident, but intentional. Given that the Respondent had offered to sell on the

website of the disputed domain name the perfumery products that is the same as the products sold by the Complainant and marked under “DIOR”, the use of the disputed domain name intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or of a product on that website. Although the Respondent’s website is not accessible at the moment, the Respondent may resume all the previously available contents as far as the disputed domain name is still in its control. Considering the Respondent’s previous use of the disputed domain name documented by the Notary Deed, the Respondent’s holding of the disputed domain name poses an imminent threat to the legitimate interest of the Complainant.

The Panel therefore rules that this is adequate to conclude that the Respondent has bad faith under the Policy, paragraph 4(b). Therefore, the Complainant has successfully proven the third element required by paragraph 4(a) of the Policy.

5. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name “diorchina.com” be transferred to the Complainant Parfums Christian Dior.

Sole Panelist: 

Dated: 5 March 2012