



# ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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Case No.	HK-1200457
Complainant:	ANSER CODING INC. (TAIWAN)
Respondent :	STEPHEN CARROLL

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### 1. The parties and contested domain name

The Complainant is Anser Coding Inc. (Taiwan), of 9F-5, No.760, Sec. 4, Bade Road, Taipie, Taiwan, a company incorporated in Taiwan, and represented by Clarence Chen of 9F-5, No.760, Sec. 4, Bade Road, Taipie, Taiwan.

The Respondent is Stephen Carroll of 11786 Westview Parkway, Suite 96, San Diego, California, USA, 92126. The contested domain name is <anserusa.com>, registered with GoDaddy, 14455 N. Hayden Road, Ste 226, Scottsdale, AZ 85260, USA.

### 2. Procedural history

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre ("the Centre") on August 31, 2012. On September 6, 2012, the Centre notified GoDaddy by email that the new number of this proceeding was HK 1200457, that the proceeding related to a previous proceeding and that both proceedings related to the domain name, <anserusa.com>. The previous proceeding had been terminated as having been administratively deficient. In proceeding HK 1200452, the Centre on August 7, 2012 had transmitted by email to GoDaddy a request for registrar verification in connection with the disputed domain name. On August 10, 2011, GoDaddy transmitted by email to the Centre its verification response that the Respondent herein, Stephen Carroll, was the registrant of the disputed domain name as well as the administrative and technical contact. The Center verified that the Complaint filed with it on August 31, 2012 satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the ADNDRC 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 formally notified the Respondent of the Complaint, and the proceedings commenced on September 13, 2012. In accordance with the Rules, paragraph 5(a), the due date for Response was October 3, 2012. The Response was timely filed with the Centre. The Response was filed and served on behalf of the Respondent. It gave the name of the Respondent as Jerry Delisle, 532 Third Street, Lake Elsinore, CA 92530 and his email address as ceo@anserusa.com. The Response was signed Gerald R.Delisle, CEO, ANserUSA.

The Center appointed The Honourable Neil Anthony Brown QC as panelist in this matter on October 29, 2012. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### **3. Factual Background**

The Complainant is a company incorporated in Taiwan from where it conducts its business. Its website states that it has partners in many countries overseas, including the United States of America. The Complainant has stated that it manufactures and distributes inkjet printers for industrial applications and inks for use with printers under the ANSER trademark. It has been established and engaged in this industry for over 25 years. The Complainant registered the trademark ANSER, Registration No. 2562991, (“the ANSER trademark”) with the United States Patent and Trademark Office (“USPTO”) on April 23, 2002 and the trademark was renewed on December 11, 2011. The ANSER trademark is registered with respect to filled ink jet cartridges, industrial-grade ink jet printers, print heads, and other accessories.

The Respondent is the registrant of the <anserusa.com> domain name. The Response was filed on behalf of the Respondent, but it gave the name of the Respondent as Jerry Delisle, 532 Third Street, Lake Elsinore, CA 92530 and his email address as ceo@anserusa.com. The Response was signed Gerald R. Delisle, CEO, ANserUSA, an entity that is said in the Response to be “a legal US corporation” and the Panel therefore proceeds on the assumption that it is a company incorporated in the United States of America. Its website contains information about its activities and the first products mentioned are inkjet technology and inkjet printing processes, while its products are listed on the website as printing systems, inks, components and equipment leasing. The company’s website states that its corporate office is at 532 Third Street, Elsinore, CA, 92530, USA.

The disputed domain name was registered on January 4, 2010 and it resolves to the website of AnserUSA.

### **4. Parties' Contentions**

#### **(a) Complainant**

The Complainant makes the following contentions:

1. The disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights, namely the ANSER trademark, Registration No. 2562991, registered with USPTO on April 23, 2002. That is so because the disputed domain name incorporates the Complainant's ANSER trade mark in its entirety with the addition of the geographic indicator

“usa”, which stands for the United States of America and the domain name extension “.com” which should be disregarded. The domain name would generally be understood by internet users to indicate that it was an official domain name of the Complainant and that it would lead to an official website of the Complainant dealing with the activities of the Complainant in the USA.

2. (a) The Respondent has no rights or legitimate interests in respect of the disputed domain name. That is so because AnserUSA is making an illegitimate commercial or unfair use of the domain name, with intent for commercial gain to divert consumers misleadingly.

(b) The Complainant has never authorized nor licensed AnserUSA to use the ANSER trademark. Furthermore, Anser Coding Inc. has no business relationship with AnserUSA.

(c) On AnserUSA’s website (under the About page), it has a section dedicated to describing the “Anser Distributorship”. This section not only uses the Complainant’s ANSER trademark without any authorization, but also demonstrates how AnserUSA attempts to use this confusion for commercial gain and business purposes to divert inkjet technology consumers. The sole purpose of “Anser Distributorship” section is purposely to make consumers believe that there is a business relationship between AnserUSA and the Complainant. Under its own “About” section, AnserUSA attempts to make the public believe that its website is one of the Complainant Anser Coding Inc.’s distributors and this is an attempt to disrupt Anser Coding Inc.’s business.

(d) Thus, AnserUSA does not have any rights with regards to the Complainant’s ANSER trademark which the Respondent is using as a domain name to bring people to the website that offers goods not authorized by Anser Coding Inc.

3. The disputed domain name has been registered and is being used by the Respondent in bad faith. That is so because:

(a) AnserUSA is using the disputed domain name to offer similar goods and services, such as inks specifically designed to replace those offered by Anser Coding Inc. It also offers similar inkjet printing systems used for industrial purposes. Accordingly, this conduct is evidence of bad faith as prescribed in paragraphs 4(b) (iii) and 4(b) (iv) of the Policy.

(b) For the foregoing reasons, the Complainant Anser Coding Inc. believes that paragraph 4(a) (iii) of the Policy has been satisfied. AnserUSA offers products that are similar to and compete with the products offered by Anser Coding Inc. AnserUSA uses the website at <anserusa.com> to promote these similar inkjet technological products. For example, AnserUSA offers a range of inks specifically designed to replace those offered by the Complainant. (see screen shot Product page at 2012-04-27 11:59:14.png).

(c) Undoubtedly, the <anserusa.com> domain name is of high similarity to that of Anser Coding Inc.'s. For example, Anser Coding Inc. has been established for over 25 years since 1986. On the anserusa.com website, the Respondent claims, "AnserUSA is comprised of a team of dedicated professionals with over 25 years of industry experience in inkjet technology", yet it does not state when the company was first established or any other background information about itself. The reference to "over 25 years of industry experience" is likely to confuse Internet users and mislead the public into believing that this disputed domain name is an official domain name leading to an official website of Anser Coding Inc. Given that Anser Coding Inc. has been established for over 25 years, the public can be easily manipulated into believing that anserusa.com is closely associated with Anser Coding Inc. by simply reading the first sentence in the About section at [www.anserusa.com](http://www.anserusa.com). All such information shows the Respondent has used and is using the domain name in bad faith and intends to mislead the public, in order to obtain an unfair benefit from the operation of such website, which has also damaged Anser Coding Inc.'s legitimate rights and interests.

(d) Today when online browsing and sales have become increasingly popular with the public, the disputed domain name is likely to mislead the public into believing that the website [www.anserusa.com](http://www.anserusa.com) must be an official website of Anser Coding Inc. distributing its inkjet printers and ink products, or is linked to Anser Coding Inc. Its use will inevitably harm the legitimate rights and interests of the Complainant Anser Coding Inc.

(e) The Complainant therefore contends that the <anserusa.com> website is being used primarily for the purpose of disrupting the business of Anser Coding Inc. The <anserusa.com> domain is being used to attract, for commercial gain, Internet users by creating the likelihood of confusion with Anser Coding Inc.'s mark as to the source, sponsorship, affiliation, or endorsement of the AnserUSA website bringing the case within the meaning of paragraph 4(b) (iv) of the Policy.

**(b) Respondent.**

The Respondent makes the following contentions.

1. The Respondent describes its response to the Complainant as "Total Denial."
2. The Respondent summarises the factual and legal grounds on which the Complaint is unfounded as follows:
  1. AnserUSA is legal US corporation.
  2. Anser.com is not owned by Anser Coding, Inc.
  3. Anser Coding identifies itself Anser-Printer.com Anser-u2.com.
  4. AnserUSA.com does not promote itself, nor does anser.com
3. The Respondent states that the remedies it seeks are as follows: "For Complaint to be withdrawn or vindicated of allegations."

### 3. Discussion and Findings

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

- (i) that 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
- (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 is being used in bad faith.

#### A. Identical or Confusingly Similar

The first issue that arises is whether the Complainant has a trademark or service mark on which it can rely. The Complainant has adduced evidence, that the Panel accepts, showing that it has trademark rights in the trademark ANSER, Registration No. 2562991, registered with the USPTO on April 23, 2002 (“the ANSER trademark.”) It is not the registered proprietor of the trademark, which is in the name of an individual at an address which the same as the current address of the Complainant. The Policy requires that the Complainant “has rights” in the trademark that it relies on, not that it is the registered proprietor. Having regard to the submissions of the Complainant and the evidence, the Panel finds that the Complainant has rights in the ANSER trademark.

The second question that arises is whether the disputed domain name is identical or confusingly similar to the ANSER trademark. The domain name consists of the ANSER trademark in its entirety, to which has been added the letters “usa” and the generic top level domain “.com.” The generic top level domain “.com” is disregarded for this purpose. There is no doubt that the letters “usa” are understood to mean the United States of America. Accordingly, when they are added to a trademark as they have been in the present case, the objective internet user would take the entire domain name to refer to a domain name of the Complainant relating to its activities in the USA and that it would lead to a website dealing with the same subject.

That view has regularly been implemented by prior UDRP panels. See, for instance, *Lego Juris A/S v. Hao Domains Services*, WIPO Case No. D2011-2232, which concerned the domain name <lego-usa.com>, where the panel observed:

“The addition of a geographical term such as “usa” is merely descriptive and does not exclude the likelihood of confusion (see, among others: *Playboy Entreprises International, Inc. v. Zeynel Demirtas*, WIPO Case No. D2007-0768; *Inter-IKEA Systems B.V. v. Evezon Co. Ltd*, WIPO Case No. D2000-0437; *Dell Computer Corporation v. MTO C.A. and Diabetes Education Long Life*, WIPO Case No. D2002-0363). To the contrary, it rather strengthens the likelihood of confusion by making Internet users mistakenly believe that the website might be the Complainant’s official website in

the United States of America.”

Finally, on this area of the proceeding, the Panel has carefully considered the various points the Respondent has made, but nothing it has put in the Response avoids the conclusion just reached. With respect to each of those arguments in turn:

- (a) It is nothing to the point that “ANSERUSA is a legal US corporation”; it may be a US corporation and yet have registered a domain name that is confusingly similar to the Complainant’s trademark, which the Panel finds that it has.
- (b) As to the allegation that “Anser.com is not owned by Anser Coding Inc.”; the Complainant has not alleged that it owns Anser.com and even if it did, it would be entitled to obtain the domain name <anserusa.com> if it could make out a case under the Policy;
- (c) As to the allegation that “Anser Coding identifies itself anser-printer.com (,)anser-u2.com;” this may be true , but it does not resolve whether the Complainant is entitled to a transfer of the domain name <anserusa.com> which it can do if it makes out a case under the Policy; and
- (d) As to the allegation that “AnserUSA.Com does not promote itself, nor does Anser.com;” this issue is not relevant to the issue in the present case, which is essentially whether the Complainant can make out a case under the Policy to have the domain name <anserusa.com> transferred to it.

In the present case, the objective internet user would find the domain name confusingly similar to the ANSER mark and the Panel so finds.

The Complainant has therefore made out the first of the three elements that it must establish.

## **B. Rights or Legitimate Interests**

It is now well established that the onus is on the Complainant to make out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. If a *prima facie* case is made out, the onus then shifts to the Respondent to rebut that *prima facie* case: See *Hanna-Barbera Prods., Inc. v. Entm’t Commentaries*, FA 741828 (Nat. Arb. Forum Aug. 18, 2006) and *AOL LLC v. Gerberg*, FA 780200 (Nat. Arb. Forum Sept. 25, 2006).

The Panel finds that the Complainant has made out a *prima facie* case which arises from the following considerations:

- (a) Respondent has chosen to take Complainant’s ANSER trademark and to use it in its domain name, merely adding the letters “usa”, thereby creating a confusing similarity between the domain name and the trademark;

(b) Respondent has then used the domain name for a website to promote and sell goods that are the same in some cases and similar in others to those promoted and sold by the Complainant, which must give rise to the belief in some internet users that the website is the website of the Complainant and that it is promoting and selling the goods of the Complainant;

(c) The Respondent has engaged in these activities, including the adoption of the Complainant's trademark, without the consent or approval of the Complainant.

As a *prima facie* case has been made out, it is then necessary to inquire if the Respondent has rebutted the *prima facie* case. It is open to the Respondent to do this by showing that it comes within any of the criteria set out in paragraph 4 (c) of the Policy which are:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] 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.

However, the Respondent is also able to rely on other matters to establish its right or legitimate interest in the domain name even if they are not specifically listed in the criteria in paragraph 4 (c) of the Policy. The Panel will therefore examine the case put forward by the Respondent to see if it has rebutted the *prima facie* case.

The Panel believes that this is an appropriate point to note that it is unfortunate that the Respondent has been so sparing in setting out the facts of this case and its version of the issues as it understands them. The paucity of material has made the Panel's task more difficult. This problem applies to the issue of rights and legitimate interests and also, as will be seen, the issue of registration and use of the domain name in bad faith. Nevertheless, the Panel has to perform its task on the available material. Indeed, the Panel is specifically instructed in Rule 15 that:

“(a) A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

The verbatim statement of the Respondent's defence set out above under the parties'

contentions does not set out enough facts to make it clear to the Panel that the Respondent is relying on or could bring itself within either sub-paragraphs (ii) and (iii) of paragraph 4 (c) of the Policy. It is apparent, in any event, on the balance of probabilities, that the Respondent is not commonly known by the domain name and it is also apparent that the Respondent would not deny that it is using the domain name for a commercial purpose, putting itself outside sub-paragraph (iii). It is possible that the Respondent is relying on sub-paragraph (i), although this is far from clear and the Response neither refers to the sub-paragraph nor sets out facts that enables the Panel to say that it is relying on that sub-paragraph or to make a judgment on whether the facts bring the Respondent comes within that provision.

Rather than relying on the specific criteria of paragraph 4 (c), the Respondent's case seems to be that it has an entitlement to the domain name because of the relationship between AnserUSA, described as a "legal US corporation" and Anser.com, "the owner of the name Anser from which AnserUSA was created." This seems to imply that Anser .com gave the Respondent permission to register and use the disputed domain name.

If that is the argument being advanced, the Panel is unable to say that it rebuts the *prima facie* case against the Respondent. That is so for several reasons. First, there is simply not enough evidence to show on the balance of probabilities that this alleged entitlement of the Respondent has been proved. Secondly, it is impossible to say that the argument in fact gives a right to the Respondent to register a domain name that is registered in breach of the Policy, if that conclusion is reached. Thirdly, rights of the sort that the Respondent may be relying on are outside the ambit of the Policy and proceedings like the present one that are brought under it. Commercial disputes that go beyond the issue of abusive registration of domain names have to be resolved in the courts and the Policy is concerned only with limited issues that are within that ambit. Moreover, the Policy preserves the rights of parties to follow wider commercial issues in litigation in the courts.

None of the other issues raised in the Response give rise to a right or legitimate interest in the domain name.

The Panel therefore concludes that the *prima facie* case against the Respondent has not been rebutted.

The Complainant has thus made out the second of the three elements that it must establish.

### **C. Registered and Used in bad faith**

It is clear from the provisions of the Policy that the Complainant must establish that the disputed domain name was registered in bad faith and that it is being used in bad faith: *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. 02000-0003. It is also clear that that case must be established on the balance of probabilities.

Further guidance on how to implement this requirement is to be found in paragraph 4(b) of the Policy, which sets out four circumstances, any one of which is evidence of the registration and use of a domain name in bad faith. It is also clear that the criteria set out in paragraph 4 (b) of the Policy for establishing bad faith are not exclusive, but that Complainants in UDRP proceedings may also rely on conduct that is bad faith within the generally accepted meaning of that expression.

The four specified criteria are:

(i) circumstances indicating that [the respondent has] registered or [has] 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 [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent] has 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 [the respondent] has engaged in a pattern of such conduct;  
or

(iii) [the respondent] has registered the domain name primarily for the purpose of disrupting the business of a competitor;  
or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the] website or location.

The Complainant relies on the criteria set out in sub-paragraphs (iii) and (iv). The way in which the Complainant makes out its case is set out above and there is no need to repeat it here. Likewise, the Respondent's case has been set out, although again it suffers from a lack of detail.

The Panel finds that the Complainant has made out its case under each of the two sub-paragraphs. In particular, the Panel finds that the Respondent registered the domain name on January 4, 2010 and that at that time the Complainant had a trademark for ANSER, registered in the United States for "filled ink jet cartridges for industrial-grade ink jet printers." The trademark had been registered since April 23, 2002, almost 8 years earlier; it had been applied for on April 5, 2000 and had a claimed first use in commerce of October 10, 1997. It was not a new or a recent trademark and the record was available online in the United States, the place of the domicile of the Respondent. The Respondent chose as its domain name a name that

incorporated the trademark as a whole and the only change it made was to add the letters “usa’. As these letters are understood to mean the United States of America, the domain name thus gave rise to the false impression that the domain name related to activities of the trademark owner in the United States of America.

Moreover, there was an obligation on the Respondent before registering the domain name to ensure that it was not trespassing on the intellectual property rights of any other party. That obligation is contained in paragraph 2 of the Policy, which provides as follows:

**“2. Your Representations.** By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your Registration Agreement are complete and accurate; (b) *to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party*; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. *It is your responsibility to determine whether your domain name registration infringes or violates someone else’s rights.*” (emphasis added).

That requirement was a provision of the registrar agreement between the Respondent and the registrar it was using to acquire the domain name and the Respondent was bound by it.

Clearly, the domain name infringes the rights of the Complainant, as the whole of its trademark ANSER is included in the domain name and the addition of the letters “usa” exacerbates that infringement as it is as clear a statement as it is possible to contemplate that internet users will think that it relates to the activities of the Complainant in the United States of America.

That is especially so when the trademark is for “filled ink jet cartridges for industrial-grade ink jet printers” and the Respondent used the domain name to promote and sell printing systems, inks and components.

The Respondent is silent on why, of all possible names, it registered the domain name that it did and then used it in the same or a similar field as the Complainant’s trademark.

The Panel is therefore left with the conclusion that either the Respondent did not conduct a trademark search or, if it did, it ignored the results. Either way, the Panel finds that registering the domain name as it did was done in disregard and in breach of the Respondent’s obligations under paragraph 2 of the Policy both with respect to its statement that the domain name would not infringe on the rights of others and also with respect to its positive obligation to take steps to ensure that the registration would not infringe or violate the rights of others.

The Panel therefore finds that the registration of the domain name was, within the meaning of sub-paragraph (iii) effected primarily to disrupt the business of a competitor, namely the

Complainant and that the registration of the domain name, effected as it was, also comes within the generally accepted meaning of registration in bad faith.

That is a view often taken by UDRP panels on similar fact situations. Thus, as I had occasion to note recently in *Chan Luu Inc. v. Keith Wallace*, NAF Case, Claim Number: FA1209001463029, “As to Policy ¶ 4(b) (iii), the Panel notes that prior UDRP panels have held that a respondent’s use of a disputed domain name to offer directly competitive products disrupts a complainant’s business and is evidence of bad faith. See *DatingDirect.com Ltd. v. Aston*, FA 593977 (Nat. Arb. Forum Dec. 28, 2005) (“Respondent is appropriating Complainant’s mark to divert Complainant’s customers to Respondent’s competing business. The Panel finds this diversion is evidence of bad faith registration and use pursuant to Policy ¶ 4(b) (iii).”). The Panel agrees and finds that Respondent’s intentional diversion of Internet users who may be looking to purchase Complainant’s goods to Respondent’s website is evidence of bad faith registration and use under Policy ¶ 4(b) (iii). “

The Panel also finds that the use of the domain name has been a use within the meaning of paragraph 4 (b) (iv) of the Policy, namely that, within the meaning of that provision, the Respondent 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 as to the source, sponsorship, affiliation, or endorsement of that website or of the product or service it displayed. It did this by creating and using the domain name in a manner calculated to mislead internet users into thinking that it related to the trademark owner’s activities in the USA and that consequently the goods promoted and advertised at [www.anserusa.com](http://www.anserusa.com) that were the same as and similar to those of the Complainant were being promoted by the Complainant or with its sponsorship or endorsement. Indeed it is difficult to imagine how the Respondent could think that internet users could interpret its domain name and website in any other way.

That the present fact situation comes clearly within paragraph 4(b) (iv) can be seen by an itemized examination of each of the criteria set out in that provision. Thus:

- (a) The Respondent used the disputed domain name for commercial gain as it was clearly being used in the Respondent’s business;
- (b) the Respondent was attempting to attract internet users to his website, namely [www.anserusa.com](http://www.anserusa.com);
- (c) it did this by creating a likelihood of confusion with the Complainant’s ANSER trademark;
- (d) the potential confusion was whether the source of the Respondent’s products was the Complainant or whether those products were sponsored, affiliated with or endorsed by the Complainant.

Moreover, as the Complainant points out, the reference on the web site to the 25 years experience of the Respondent's team is an interesting echo of the fact that the Complainant itself has been in business for 25 years and that this fact is prominently stated on its own website. There is also no disclaimer on the Respondent's website to warn users that it is not related to the Complainant.

Accordingly, the Complainant has made out its case under paragraph 4 (b) (iii) and (iv) that the domain name was registered and used in bad faith.

Finally, in addition and having regard to the totality of the evidence, the Panel finds that, in view of Respondent's registration of the disputed domain name using the ANSER trademark mark and in view of the conduct that Respondent engaged in when using it, the Respondent registered and used the disputed domain name in bad faith within the generally accepted meaning of that expression.

Complainant has thus made out the third of the three elements that it must establish.

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 <anserusa.com> be transferred to the Complainant, Anser Coding Inc.

Panelist : The Honourable Neil Anthony Brown QC

DATED: November 8, 2012