



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

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(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No. HKcc-0800007

Complainant: Cheung Kong (Holdings) Limited

Respondent: Punhoi Yeu

Domain Name: 长实集团.cc

Registrar: Web Commerce Communications Limited DBA

1. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on July 31, 2008. On August 16, 2008, the Center transmitted by email to Web Commerce Communications Limited DBA (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue. The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the Centre’s 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 attempted to formally notify the Respondent of the Complaint however no response was received, and the proceedings commenced on October 20, 2007. In accordance with the Rules, paragraph 5(a), the due date for Response was October 27, 2008. The Respondent did not submit any response.

The Center appointed Matthew Murphy as the sole panelist in this matter on March 17, 2009. 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.

2. Factual Background

For the Complainant

The Complainant is the holding company of a well known group of companies (the “Cheung Kong Group”). The Cheung Kong Group is well known group, especially in the Greater China region. It is listed on the Main Board of the Stock Exchange of Hong Kong. The combined market capitalisation of the Cheung Kong Group's Hong Kong listed companies amounted to HK\$510 billion as at 28 February, 2009. The Cheung Kong Group operates in 54 countries and employs about 260,000 staff worldwide. Cheung Kong Holdings is a property development and strategic investment company. It is one of the largest developers in Hong Kong of residential, commercial and industrial properties. About one in seven private residences in Hong Kong were developed by the entities within the Cheung Kong Group. It is also very active in Mainland China, with real estate development projects including the well known Oriental Plaza in Beijing. The company also has substantial interests and operations in life sciences and other businesses.

The Complainant is has been using the name 长实集团(as is, and in other combinations) for many years in Greater China, as evidenced by the evidence provided by the agents for the Complainant.

The Claimant discovered that the Respondent registered the domain name 长实集团.cc . The Claimant asserts that the Respondent’s registration of this domain name will confuse existing and future customers of Claimant. None of these claims have been refuted by the Respondent.

For the Respondent

The Respondent did not provide any submissions or evidence.

3. Parties' Contentions

The Complainant

The Claimant asserts that the Respondent's registration of this domain name will confuse existing and future customers of the Claimant, that the Respondent has no legitimate interests in respect of this domain name, and that the domain name has been registered and is being used in bad faith. The Claimant has stated that it does not have any actual trademark registrations in place covering the Chinese characters 长实集团, but it is relying on common law rights, in that it has used these characters and similar combinations, in simplified and complicated forms, for many years.

The Respondent

The Respondent has not asserted any claims, defenses or contentions.

4. Findings

Under paragraph 4 (a) of the Policy, the Panel should be satisfied that:

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

Identical or Confusing Similarity

The Panel finds that Complainant has established that it is the owner of the trademark “长实集团”, via lengthy and constant use of the trademark for many years. The validity and fame of this trademark are beyond dispute, despite the Claimant not providing any evidence to the effect that it has registered this trademark in a region or country. The Respondent’s domain name includes the Complainant’s trademark and a reference to group in the domain name (ie. “group”)– no evidence or submissions to refute this claim has been provided by the Respondent. Internet users may easily understand the domain name to refer to the Complainant’s products and services, since the Complainant is the holding company of a well known group of companies. Accordingly, the domain name is confusingly similar to the trademark “长实集团” owned by the Complainant.

Rights or Legitimate Interests of the Respondent

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the trademark “长实集团”, or that there was any association between the trademark 长实集团 and its activities, before registering the domain name. Given that the Respondent has not provided any evidence to support a right or legitimate interest in the domain name, the Panel finds that the Respondent has no rights or legitimate interests in respect of the domain name.

Bad Faith

The trademark 长实集团 is well-known enough that it is presumable that the Respondent knew about its existence when registering the domain name (see *Banca Sella S.p.A. v. Mr. Paolo Parente*, WIPO Case No. D2000-1157; *Expedia, Inc. v. European Travel Network*, WIPO Case No. D2000-0137). No argument has been submitted by the defaulting Respondent in order to counter these findings. The Panel concludes that the domain name has been registered in bad faith.

As far as use of the domain name in bad faith is concerned, the Panel concludes that the Respondent’s holding of the domain name in this particular case satisfies the requirement of

paragraph 4(a)(iii) of the Policy in that the domain name “is being used in bad faith” by the Respondent (see *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. D2000-0003; *Espirito Santo Financial Group S.A. v. Peter Colman*, WIPO Case No. D2001-1214) - the Complainant’s trademark has a strong reputation and is widely known, as evidenced by its substantial use in various countries throughout the world, and the Respondent has provided no evidence of any actual or contemplated good faith use by it of the domain name.

5. Decision

Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, this Panel orders that the domain name <长实集团.cc> be transferred to the Complainant.

Matthew Murphy
Sole Panelist

Dated: 31 March 2009