

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE
(Beijing Office)
ADMINISTRATIVE PANEL DECISION
Case No. CN-1100516

Complainant: SEIKO EPSON CORPORATION

Respondent: guoping ma

Domain Name: epson-drivers-download.info

Registrar: GODADDY.COM, INC.

1. Procedural History

On November 17, 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 November 17, 2011, the 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 November 18, 2011, the ADNDRC Beijing Office received the Registrar's confirmation of registration information of the domain name in dispute.

On December 8, 2011, the ADNDRC Beijing Office sent the Transmittal of Complaint to the Respondent.

On December 13, 2011, the ADNDRC Beijing Office notified the Complainant that the Complaint had been confirmed and forwarded, and the ADNDRC Beijing Office notified the Respondent, the Registrar and the ICANN of the commencement of the case proceeding.

On January 5, 2012, the ADNDRC Beijing Office sent the Notification of No Response Received and Hearing by Default.

On January 5, 2012, the ADNDRC Beijing Office gave notice to the potential candidate of the Panelist Mr. Lian Yunze, requesting him to confirm whether he would accept the appointment as a Panelist for this case, and if so, whether he could maintain impartiality and independence between the parties in this case.

On January 9, 2012, the ADNDRC Beijing Office received a declaration of impartiality and independence and a statement of acceptance from Mr. Lian Yunze.

On January 9, 2012, the ADNDRC Beijing Office informed by email the Parties that Mr. Lian Yunze would be the sole Panelist of this case and transferred the files of this case to the Panel formally on the same day. The Panel should render the Decision within 14 days, i.e. on or before On January 23, 2012.

On January 20, 2012, due to the Spring Festival, the ADNDRC Beijing Office decided to extend the deadline for the Panel to forward the Decision to February 6, 2012.

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 SEIKO EPSON CORPORATION. Its address is Head Office 3-5 Owa 3-chome, Suwa-shi, Nagano-ken, 392-8502 JAPAN. The authorized representative of the Complainant is Linda Liu & Partners.

For the Respondent

According to the record in the Whois database, the Respondent is guoping ma. Its address is zhifuguangchang 25 hao changchun, ji lin 130021 China. The disputed domain name "epson-drivers-download.info" was registered on October 10, 2011 through the registrar,

GODADDY.COM, INC.

3. Parties' Contentions

The Complainant

The Complainant claims that:

The Complainant is a well-known global company which was established in 1942 in Japan. Its main products include information products such as printers, projectors, consuming materials and so on; electronic equipment products such as semi-conduct, LCD, Quartz Crystal Oscillator and so on; high precision products such as watch and so on. In 2003, the Complainant had 84,889 employees and the sale reached 14, 132 billion JP ¥.

The Complainant began to invest in China since 1984 and has established several sole or joint subsidiary companies. It has 18 enterprises and research institutions with 32,897 employees in China. Its investment in China amounts to RMB 5.76 billion. The Complainant owns the world biggest factory producing printer and Quartz Crystal Oscillator in China. In 2003, its total output value is RMB27.4 billion and the sales value is RMB 7.67 billion in China. In addition, the Complainant is the main supplier of printer products in Chinese market, Epson Printer owns a high reputation among the consumers and gains numerous awards and honors by authoritative professional Medias.

(1)“EPSON” is the trademark created by the Complainant.

In Japan, the trademark “EPSON” was registered in 1975 at first and has been registered in all 1 ~ 45 classes. It has been recognized as the well-known trademark in Japan for many years. In China, the trademark “EPSON” was registered in 1989 at first and has been registered in class 7, class 9, class 10, class 11, class 14, class 16, class 17, class 21, class 26, class 38, class 40 and class 42. It is still in the term of validity. Furthermore, the Complainant also has registered the trademark “EPSON” in different classes in different countries, such as America, Germany, etc. In all, the Complainant has registered “EPSON” trademark for 1,157 times (in various classes) in most of countries in the world. In these countries, the “EPSON” trademark is registered in Class 9. This

class of commodity is: LINE PRINTERS, PRINTERS, MAGNETIC DRUMS, MARKED CARD READERS, PAPER TAPE PUNCHERS, PAPER TAPE READERS, CASH REGISTERS AND PARTS THEREOF.

The Complainant is the register and owner of the trademark “EPSON” and has used “EPSON” as trademark in business field for over 36 years. Owing to excellent management and extensive promotion, products and services, the “EPSON” brand is in the front rank around the globe. Moreover, in 2007, the trademark “爱普生 EPSON” owned by the Complainant was granted the well-known trademark in China.

(2) The Complainant has registered plenty of domain names including “EPSON” in China and the world.

Using “EPSON” as the etyma, the Complainant sets up plenty of websites in different countries and regions, such as: www.epson.co.jp (Japan); www.epson.com (America); www.epson.com.hk (Hong Kong); www.epson.com.tw (Taiwan); www.epson.fr (France); www.epson.de (Germany) , etc. The Complainant has registered over 70 domain names containing “EPSON”.

To sum up, “EPSON” is the registered trademark of the Complainant, the Complainant thus has undisputed prior right on “EPSON”.

(3) The disputed domain name is confusingly similar to the trademark “EPSON” the of Complainant.

It is well-known that “EPSON” is a worldwide famous trademark which is owned by the Complainant. The validity and fame of its trademarks are beyond dispute.

The disputed domain name “epson-drivers-download.info” consists of “epson”, “drivers” and “download”. “EPSON” is the well-known trademark and trade name of the Complainant; and for the perspective of the word meaning of the disputed domain name, it refers to downloading the drivers of Epson products. Thus, it’s obvious that the use of the disputed domain name will mislead the relevant consumers to believe that the services of the registrant are related to EPSON’s products and services. Accordingly, the domain name “epson-drivers-download.info” is confusingly similar to the trademark “EPSON” owned by the Complainant and infringes the Complainant’s legal rights.

(4) The Respondent has no rights or legitimate interests in respect of the domain name.

“EPSON” is a trademark and trade name originally created by Complainant. The Complainant has registered the trademark “EPSON” in a lot of countries. And its corporation name includes “EPSON”. It is beyond question that the Complainant has the prior right on “EPSON”.

The Respondent has nothing to do with the Complainant, and there was no association between the trademark and his activities before registering the domain name. The Complainant has never authorized the registrant to use “EPSON” by any means. Besides these, the registrant registered the disputed domain name on Oct. 10, 2011, much later than the date when the Complainant registered the trademark or its style.

Therefore, the Respondent should be considered as having no rights or legitimate interests in respect of the domain name.

(5) The domain name has been registered in bad faith.

Since the trademark “EPSON” is so well-known in the world, and was granted the well-known trademark in September 2007 in China. And the disputed domain name was registered on Oct. 10, 2011, later than the recognition of well-known trademark.

The trademark “EPSON” owned by the Complainant has a high reputation in China, thus the registrant knew clearly or should know the existence of this famous trademark. Moreover, after noticing this domain name was preemptively registered by the registrant, the Complainant sent a C&D letter via email in respect of the infringement of Complainant’s trademark right and trade name right on Oct. 19, 2011. However, after receiving the C&D letter from the Complainant, the registrant has not given any reply to the Complainant.

In addition, we also found that there is a website (<http://epson-drivers-download.info/>) which is linked to the disputed domain name. On this website, there are a lot of drivers by the name of EPSON for users to download. Thus it’s obvious that the registrant has intentionally attempted to attract Internet users to the website for commercial gain by using the disputed domain name.

Accordingly, the disputed domain name “epson-drivers-download.info”

should be considered as having been registered in bad faith.

According to the Policy and Rules, and based on the reasons above-mentioned, the Complainant requests the Panel to make a decision that the disputed domain name “epson-drivers-download.info” should be transferred to Complainant.

The Respondent

The Respondent was duly notified by the ADNDRC Beijing Office of the Claim lodged by the Complainant and asked to submit the Response in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplementary Rules, but failed to give any sort of defense in any form against the Claim by the Complainant.

4. Findings

The Policy, at paragraph 4(a), that the Complainant must prove that each of the following three elements are present in order for the Complainant to prevail:

- i. Respondent’s domain name must be 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. Respondent’s domain name has been registered and is being used in bad faith.

Based on the above stipulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements are present. If all the three elements are present, the Panel will make a decision in favor of the Complainant in accordance with the fact-finding and the relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If the three elements are not present, the claims by the Complainant shall be rejected.

The Respondent failed to submit the Response of any argument against what the Complainant claimed and to show his intention to retain the disputed domain names as required by the Policy, the Rules and the ADNDRC Supplementary Rules. As stipulated in Paragraph 5(e) in 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 view of the situation, the Panel cannot but make the decision based primarily upon the contentions and the accompanying exhibits by the Complainant, except otherwise there is an exhibit proving to the contrary.

Pursuant to Paragraph 4(a) (i) of the Policy, 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.

According to the evidence filed by the Complainant and the information revealed in the database of the China Trademark Office, the Panel notes that the trademark “EPSON” has been registered (Registration Number 1201728) by the Complainant in class 9 in respect of ink cartridges (filled) for computer printers, word processor and copy machines, toner cartridges (filled) for computer printers, word processors and copy machines, digital cameras, CD-ROMS, and etc. in China on August 21, 1998. After renewal, it is still in the term of validity. The Complainant therefore enjoys the exclusive trademark right to “EPSON” therein.

Identity or Confusing Similarity

The disputed domain name is “epson-drivers-download.info”. Apart from the generic top-level domain suffix “.info”, the disputed domain name consists of “epson-drivers-download”, which can obviously be read as “epson”+“drivers”+“download” due to the dashes between the three words. The first word “epson” is completely identical with the Complainant’s prior registered trademark “EPSON”. Both the second word “drivers” and third word “download” are related to the Complainant’s main products. Given that the disputed domain name begins with “epson” that is completely identical with the Complainant’s registered trademark “EPSON” and follows with “drivers” and “download” that are related to the products the Complainant’s trademark is primarily used, the Panel finds that the disputed domain name, as a whole, is confusingly similar to the Complainant’s registered trademark “EPSON”. Accordingly, the Complainant has proven that the first element is present under 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, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has proven the second element required by paragraph 4(a) of the Policy.

Bad Faith

The Complainant contends that the Respondent had bad faith. The Respondent made no response on this issue. Paragraph 4b(iv) mentions that the following circumstances shall be evidence of the registration and use of a domain name in bad faith:

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.

Through examining the evidence submitted, the Panel finds that there is a website "<http://epson-drivers-download.info>" which is linked to the disputed domain name. On this website, there exists sales information regarding EPSON drivers for consumers to download. "epson-drivers-download" refers to downloading the drivers of Epson's products. The use of the disputed domain name will mislead the relevant consumers to believe that the services of the registrant are related to Epson's products and services. The Panel holds that the use of the

disputed domain name is the circumstance mentioned in Paragraph 4b(iv).

Furthermore, the Complainant's trademark "EPSON" is a distinctive word without any meaning other than the trademark and has acquired considerable reputation and recognition in the market through registration and use in China. Therefore, the Respondent's holding of the disputed domain name that is confusingly similar to the Complainant's trademark is a serious threat to the rights and legitimate interests of the Complainant.

In view of the above, the Panel holds that the disputed domain name should be considered as having been registered and used in 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(a) of the Policy and 15 of the Rules, the Panel has decided that the domain name "epson-drivers-download.info" be transferred to the Complainant SEIKO EPSON CORPORATION.

Panelist:



Dated: February 6, 2012