



(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-1400587</b>
<b>Complainant:</b>	<b>The Institute of Electrical and Electronics Engineers, Incorporated ("IEEE")</b>
<b>Respondent:</b>	<b>CHRISTIAN Grear / Shun Yuen Co., Ltd.</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;ieee-eee.org&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is **The Institute of Electrical and Electronics Engineers, Incorporated ("IEEE")**, of 445 Hoes Lane, Piscataway, NJ, 08855, U.S.A.

The Respondent is **CHRISTIAN Grear / Shun Yuen Co., Ltd.**, of 590 Eisenhower Dr, De Soto, IA, 50069, UM.

The domain name at issue is **<ieee-eee.org>**, registered by Respondent with Web Commerce Communications Limited dba WebNic.cc, of Lot 2-2, Incubator 1, Technology Park Malaysia, 57000 Kuala Lumpur, Malaysia.

**2. Procedural History**

The Complainant filed a Complaint on March 24, 2014 with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) (the "Centre"), concerning domain name **<ieee-eee.org>** (the "disputed domain name") and naming Christian Grear / Shun Yuen Co., Ltd as Respondent.

On March 24, 2014, the Centre sent an e-mail to Web Commerce Communications Limited dba WebNic.cc requesting registrar verification of the disputed domain name. Web Commerce Communications Limited dba WebNic.cc e-mailed a response on the same day, stating that Christian Grear / Shun Yuen Co., Ltd is listed as the registrant.

The Centre forwarded this information to the Complainant on March 26, 2014.

The Centre sent an e-mail to the Respondent on March 28, 2014, stating that a Complaint had been filed against it concerning the disputed domain name.

The Respondent did not submit a response to the Complaint.

### 3. Factual background

The following facts are asserted by Complainant. They are not disputed by Respondent.

The Complainant is the world's largest technical company. It has over 375,000 members in 160 countries. It is a leading authority in technical areas such as computer engineering, biomedical technology, telecommunications, electric power, aerospace and consumer electronics. It is well-known in the engineering and technology related industries worldwide.

The Complainant's organizational unit, the Institute of Electrical and Electronics Engineers Standards Association (IEEE SA) develops global standards in a broad range of industries including power and energy, biomedical and health care, information technology, telecommunication, transportation, nanotechnology and information assurance.

The IEEE trademark is well-known to many members of the general public through the numerous technical devices that embody standards developed by IEEE SA for wireless networking known as WI-FI, the Ethernet family of frame-based computer technology technologies for local area networks, bi-directional parallel communications between computers and printers and serial bus interfaces commonly referred to as FireWire or iLink. For over a century IEEE SA or its predecessor organizations have developed technical standards pursuant to a program that offers balance, openness, due process and consensus. In 2006, Complainant initiated the "EEE" standard, a set of enhancements seeking to improve energy efficiency of Ethernet networking standards.

The Complainant has used and registered the IEEE house trademark in a number of jurisdictions including the United-States, the European Union, Canada, Australia, China, Egypt, Hong Kong, China, Mexico, the Republic of Korea, the Russian Federation, Singapore, Switzerland and Taiwan. The earliest IEEE trademark known to this Panel was registered in 1993.

The disputed domain name was registered on July 12, 2012.

### 4. Parties' Contentions

#### A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant contends that the disputed domain name is identical or confusingly similar to the house IEEE trademark since the disputed domain name incorporates the house IEEE trademark in its entirety with the mere addition of a hyphen and the letters "eee" which is an acronym for one of its standards, namely "Energy Efficient Ethernet".
- ii. The Complainant claims that the Respondent cannot demonstrate that it has any rights to or legitimate interests in the disputed domain name. It has not authorized the Respondent to use the IEEE house trademark. Also, the Respondent is not using the disputed domain name with a *bona fide* offering of goods or services or for legitimate noncommercial or fair use.

- iii. The Complainant submits that the disputed domain name has, as covered by the Policy, paragraph 4(a)(iii), been registered and is being used in bad faith. Having submitted that its IEEE trademark is well-known, the Complainant submits that it is unlikely that the Respondent would have selected and registered the disputed domain name without knowing about the reputation of the IEEE house trademark.
- iv. The Complainant furthermore contends that the disputed domain name is being used to defraud internet users in purchasing publications. The website purports to offer publications and a system with a nature and functions that are confusingly similar to that of the Complainant's, including journals and standards.

B. Respondent

Respondent did not reply to Complainant's contentions and is therefore in default.

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a 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.

### A) Identical / Confusingly Similar

The Complainant provided sufficient evidence demonstrating that it has numerous registered rights in the IEEE house trademark – the earliest since 1993 in numerous countries and in particular in the United States, the European Union, Canada, Australia, China, Egypt, Hong Kong, China, Mexico, the Republic of Korea, the Russian Federation, Singapore, Switzerland and Taiwan.

The disputed domain name consists of the Complainant's trademark, in its entirety, together with a hyphen and the letters "eee". It has been held in many previous UDRP cases that incorporating a trademark in its entirety is typically sufficient to establish that a disputed domain name is identical or confusingly similar to a registered trademark (see *Oakley, Inc. v. Kate Elsberry, Elsberry Castro*, WIPO Case No. D2009-1286 and *World Wrestling Federation Entertainment, Inc. v. Ringside Collectibles*, WIPO Case No. D2000-1306).

The only difference between the Complainant's trademark and the disputed domain name is the addition of the hyphen and the acronym "eee". The addition of a word that describes Complainant's goods or services is even more likely to confuse Internet users (see *Ansell Healthcare Products Inc. v. Australian Therapeutic Supplies Pty. Ltd.*, WIPO Case No. D2001-0110 and *Eveready Battery Company, Inc. v. Oscar Haynes*, WIPO Case No. D2003-1005). The acronym "eee" actually reinforces confusion since Complainant offers to the public standards such as the Energy Efficient Ethernet under the IEEE trademark.

When it comes to the adjunction of gTLD “.org”, it is now well established that the generic top-level domain should not be taken into account when evaluating the identity or similarity between a disputed domain name and the Complainant’s trademark. See *Research in Motion Limited v. Input Inc., Domain Manager*, WIPO Case No. D2011-2197. Thus, the TLD “.org” is without legal significance since the use of a TLD is technically required to operate the domain name.

In view of the above, the Panel finds that the Complainant’s trademark is readily recognizable as such within the disputed domain name despite the addition of the hyphen and the acronym “eee” and overall, it is likely to lead to Internet user confusion. The Complainant has proven that the disputed domain name is identical or confusingly similar to the trademark in which it has demonstrable rights.

Therefore the Panel finds that the domain name at issue is confusingly similar to the trademarks of the Complainant. The first condition required to be satisfied under paragraph 4(a)(i) is therefore fulfilled.

### **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy sets out how a respondent can demonstrate rights to or legitimate interests in a disputed domain name. In the present case, the Respondent has not filed any submission or evidence to demonstrate its rights to or legitimate interests in the disputed domain name. Consequently, paragraph 14(b) of the Rules allows the Panel, in the absence of exceptional circumstances, to draw such inferences from the absence of a Response from the Respondent as it considers appropriate.

The Panel finds that the Respondent is trying to benefit from the reputation of the Complainant’s well-known trademark. The Respondent has chosen to use a domain name that contains the Complainant’s trademark in its entirety without authorization by the Complainant.

There is no evidence before the Panel to show that the Respondent was acting in pursuance of any rights or legitimate interests when registering the disputed domain name. In addition, the Complainant has denied having any connection with the Respondent or authorization at all. In *Guerlain S.A. v. Peikang*, WIPO Case No. D2000-0055, the Panel stated, “in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain incorporating those trademarks, it is clear that no actual or contemplated bona fide or legitimate use of the domain name could be claimed by the Respondent”.

Despite the opportunity provided through this procedure, the Respondent has chosen not to assert any rights or legitimate interests in the disputed domain name.

Based on the above, the Panel considers the Complainant has made a *prima facie* case that the Respondent lacks rights to or legitimate interests in the disputed domain name.

Therefore, the Complainant has shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

### **C) Bad Faith**

To succeed in such a proceeding, the Complainant must show not only that the domain name at issue is identical or confusingly similar to its registered trademark and that Respondent has no

rights to or legitimate interests in the domain name, but also that the Respondent registered and used the domain name in bad faith.

The Complainant has submitted ample evidence and argument to support the conclusion that the registration of the disputed domain name was made in bad faith.

In the Panel's view the Respondent's registration of the disputed domain name represents deliberate disregard of the Complainant's trademark rights. Clearly the Respondent knew of the Complainant's well-known trademark at the time of registration as the Complainant's trademark is used in its entirety in the disputed domain name. As stated in *Oakley, Inc. v. Joel Wong/Blue Host.com- INC.*, WIPO Case No. D2010-0100, "it is inconceivable that the Respondent registered the disputed domain name without prior knowledge of the Complainant's rights". Also, as expressed in *Singapore Airlines Limited v. European Travel Network*, WIPO Case No. D2000-0641, where the selection of domain names is so obviously connected to the complainant's trademark their very use by someone with no connection with the company suggests opportunistic bad faith. Similarly, in *Sony Kabushiki Kaisha (also trading as Sony Corporation) v. Inja, Kil*, WIPO Case No. D2000-1409, where the respondent registered a number of domain names incorporating a well-known trademark in its entirety, the panel stated, "that it is inconceivable that the respondent could make any active use of the disputed domain names without creating a false impression of association with the complainant".

It was the Respondent's duty to establish that the registration of the disputed domain name does not infringe on any rights or any third party. A quick Internet search would have revealed Complainant's trademarks to the Respondent. Failure to do such a search is a contributory factor to bad faith.

Therefore, the Panel finds that Respondent has registered the domain name at issue in bad faith. Under the third UDRP condition, the Complainant has to prove not only that the domain name was registered in bad faith but also that it is used in bad faith.

By using the trademarks held by the Complainant as well as an acronym designating its standards for Ethernet networking energy savings, the Respondent has, to the opinion of this Panel, used the disputed domain name in bad faith. Moreover the website passes itself off as facilitating the management of the increasing number of published articles and its system is said to allow publishers and their team to make publishing more efficient. The website claims that its journal is published 12 times a year and covers issues of generic interest to engineers. In this regard, the Panel finds that the website purports to offer publications and a system with a nature and functions that are confusingly similar to that of the Complainant's.

Finally, the Panel finds the fact that the Respondent registered several other similar domain names, including one which was transferred as a consequence of a WIPO decision to be contributory factors which further indicate bad faith on the part of the Respondent.

Noting that the Respondent has not rebutted any of the Complaint the Panel considers that the Respondent's choice of the disputed domain name was a deliberate action to gain a commercial advantage.

On the basis of the above, the Panel is satisfied that the Respondent's conduct falls within paragraph 4(a)(iii) of the Policy.

Therefore, the Panel finds that the Complainant has demonstrated that the disputed domain name was registered and used in bad faith.

## **6. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy, the Panel orders that the disputed domain name <ieee-eee.org> be transferred to the Complainant.

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Nathalie Dreyfus  
Panelist

Dated: May 5, 2014.