



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-1800194

**Complainants:** CJ Corporation

**Respondent:** Lin Yifei

**Disputed Domain Name(s):** chinacj.net

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### 1. The Parties and Contested Domain Name

The Complainant is CJ Corporation of 12, Sowol-ro 2-gil, Jung-gu, Seoul, Republic of Korea.

The Respondent is Lin Yifei, zhongguo, Beijing, China (100000).

The domain name at issue is ‘chinacj.net’, registered by 1API GmbH.

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on December 18, 2018, seeking for a transfer of the domain name in dispute.

On December 19, 2018, the Center sent an email to the Registrar asking for the detailed data of the registrant. On December 19, 2018, 1API GmbH transmitted by email to the Center its verification response, advising that the Respondent is listed as the registrant and providing the contact details.

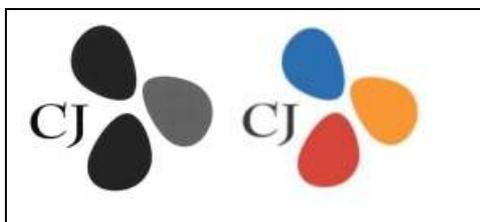
The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the Centre's Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on December 20, 2018 and the due date for the Response was January 9, 2019. No Response was filed by the due date.

On January 10 2019, the Center appointed Mr. Jong-Yoon KIM as the Sole Panelist in the administrative proceeding and with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

### **3. Factual background**

3.1 The Complainant has registered and retained trademarks which consist of word "CJ" and Device as illustrated hereunder (hereinafter called as "the Complainant's trademarks").



3.2 The Complainant's trademarks have been used extensively in connection with such products and services as foods and entertainment worldwide, including Korea, China and other Asian countries since 1994.

3.3 The Complainant has registered domain names that include word “cj”, and Complainants’s domain names registered for consumers in China are <cjchina.net> and <cj.china.net>.

3.4 The disputed domain name <chinacj.net> consists of a country name “CHINA” and word “CJ”. The Complainant has become aware that the disputed domain name was not operated for business purposes by the Respondent, but was linked to several pornographic websites.

#### **4. Parties’ Contentions**

##### **A. Complainant**

The Complainant asserts that the disputed domain name is confusingly similar to its registered and globally famous trademarks “CJ & Device”, because it contains word “CJ”.

The Complainant also alleges that the Respondent has no right or legitimate interests in the disputed domain name because the Complainant has never authorized the Respondent to use the disputed domain name.

The Complainant further asserts that the Respondent has registered and used the disputed domain name in bad faith because the Respondent has linked the domain name to several pornographic websites.

##### **B. Respondent**

The Respondent has submitted no Response.

Under paragraph 5(e) of the Rules, it is provided that if a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the disputes based on the Complaint. As no exceptional circumstance has been brought to the Panel’s attention, it proceeds to make the findings below on the basis of the materials contained in the Complaint.

Furthermore, under paragraph 14(b) of the Rules, when a party defaults in complying with any of the requirements of the Rules, in the absence of exceptional circumstances, the Panel is entitled to draw such inference therefrom as it considers appropriate.

## **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**

Excluding the extension (.net) from the disputed domain name <chinacj.net>, the remaining part is a combination of the terms 'CHINA' and 'CJ'.

Considering that 'CHINA' is a county name having no distinctiveness, and that 'CJ' is the dominant part of the Complainant's trademarks, it is apparent that the combination of the two terms would implicate that the disputed domain name and/or its website is connected with the business provided by the Complainant, especially in China. Under the reason, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

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

The Respondent has provided no evidence to prove its rights or legitimate interests on the disputed domain name.

Reviewing in detail based on the evidences submitted by the Complainant, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, but is using the domain name to divert internet users looking for Complainant's website to an unrelated website featuring pornographic images.

The Respondent is not a licensee of the Complainant. The Respondent is not making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain. The website associated with the disputed domain name generates a profit from users who pay to view pornographic images.

It is not a *bona fide* offering of goods or services to use a domain name for commercial gain by attracting internet users to a website offering sexually explicit and pornographic material where such use is calculated to mislead consumers and to tarnish Complainant's business.

Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

### **C) Bad Faith**

The complainants' trademarks have been registered and used since 1994 in association with foods and entertainment businesses, and have obtained worldwide reputation. The disputed domain name was registered on August 4, 2018, which is more than 24 years behind the registration date of the Complainant's trademarks. The Panel finds on a balance of probabilities that the Respondent would not have selected the disputed domain name without knowing of the reputation of the Complainant's trademark.

This Complaint was submitted on December 18, 2018 which is just about four months later than the registration date of the disputed domain name, from which it is apparent that the website associated with the disputed domain name has been

linked to several pornographic websites, almost since it was registered. The Complainant has never consented to the Respondent's registration of the disputed domain name. Under the circumstances, association of another's trademark with a pornographic website can itself constitute bad faith. *CCA IND. V. Dailey* WIPO Case No. D2000-0148.

Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(iii) of the Policy.

## 6. Decision

For all the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <chinaej.net> be transferred to the Complainant.



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Jong-Yoon KIM

Sole Panelist

Dated: January 28, 2019