



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-18010169
Complainant No. 1:	PCCW-HKT DataCom Services Limited
Complainant No. 2	PCCW Enterprises Limited
Respondent:	Rohit Saxena
Disputed Domain Name(s):	< pccwglobal.org >

1. The Parties and Contested Domain Name

1. The Complainant No. 1 is PCCW-HKT DataCom Services Limited and Complainant No. 2 is PCCW Enterprises Limited. Both Complainants No.1 & No. 2 reside at 39/F PCCW Tower Taikoo Place, Quarry Bay, Hong Kong.
2. The Respondent is Rohit Saxena of 1330A pocket G, Dilshad Garden, Delhi 110093 India.
3. The domain name at issue is <pccwglobal.org>, registered by Respondent with PDR Ltd. d/b/a PublicDomainRegistry.com.

2. Procedural History

4. The Complainant filed this complaint with the Asian Domain Name Dispute Resolution Centre (ADNDRC) (Hong Kong Office) on 11 September 2018.
5. The Respondent failed to respond within 20 calendar days as required under paragraph 5 of the UDRP Rules and on 1 November 2018 was in default of filing a response.
6. On 8 November 2018, after confirming that he was able to act independently and impartially between the parties, the ADNDRC appointed David Allison as the sole Panelist in this matter.

3. Factual background

7. Complainant No. 1 and its affiliated company, Complainant No. 2 (together the “Complainants”) are Hong Kong’s premier telecommunications service providers and the leading operator of fixed-line, broadband and mobile communication services. The Complainants are known as “PCCW”, which is the acronym of “Pacific Century Cyber

Works” which is a distinctive and well-known mark used by Complainants in connection with telecommunications and related services for over 15 years.

8. Evidence provided by the Complainants show that they are the registered owners of a large number of trademarks for “PCCW” and “PCCW GLOBAL” in classes including 9, 16, 35, 36, 37, 38, 39, 41 and 42. The Complainants marks are registered in Hong Kong, the United States, India and Europe. Some of the earliest “PCCW” trademarks adduced by the Complainants were registered in 2000. Relevantly, a large number of marks for PCCW were registered in India in October 2003.
9. The Complainant has also registered and operated the top level domain names <pccwglobal.com> and <pccw.com> which it has owned since 2005 and 1998 respectively.
10. The evidence submitted by the Complainant clearly demonstrates that the Complainants have extensive and long standing trademark rights in the marks PCCW and PCCW GLOBAL. The Complainants are very well known to consumers throughout the world, particularly in Asia.
11. The Respondent failed to file any Response. Accordingly, little is known about the Respondent. However, based on the relevant WHOIS search report, it appears that the respondent is an individual based in India.

4. Parties’ Contentions

Complainant

12. The Complainants’ contentions may be summarized as follows:

- i. The disputed domain name is identical or confusingly similar to the trademarks owned by the Complainants.
- ii. The Respondent has not been authorized by the Complainants and has no rights to the PCCW/ PCCW GLOBAL trademarks.
- iii. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services.
- iv. The respondent has offered to sell the disputed domain name and such an offer suggests bad faith.

Respondent

13. The Respondent has not filed a response to the Complainant’s complaint.

5. Findings

14. 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 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. Respondent's domain name has been registered and is being used in bad faith.

15. Although the Respondent has failed to file a response, the Panel must still satisfy itself that each of the three elements noted above has been satisfied. Accordingly, each of the three elements will now be examined in turn.

A) Identical / Confusingly Similar

16. When assessing the disputed domain name in respect of confusing similarity, it is a well-accepted principle that TDL suffixes such as ".com", ".net", etc are to be ignored.

17. When the ".org" suffix is ignored, the only distinctive element of the disputed domain name which is to be assessed is the element "PPCWGLOBAL". This element is identical to the many trademarks held by the Complainant worldwide. As such, the first element clearly is satisfied.

B) Rights and Legitimate Interests

18. The Complainant argues that the Respondent has never been authorized by the Complainant to use its trademarks. Further, the Panel notes that the disputed domain name appears to have no discernable relationship to the Respondent's name, nor is the Respondent's name to be found anywhere on the website to which the dispute domain name resolves.

19. While the Panel recognizes that the overall burden of proving this element rests with the Complainant, it also recognizes the well-established principle that once the Complainant establishes a *prima facie* case that the Respondent lacks sufficient legitimate rights and interests, then the burden shifts to the Respondent.

20. In this case, the Panel finds that the Complainant has adduced a sufficient *prima facie* case whereas the Respondent has failed to adduce any evidence whatsoever. Therefore, the Panel finds that the second element of UDRP paragraph 4(a) is made out.

C) Bad Faith

21. To establish the third element, the Complainant must establish that the Respondent both registered and used the disputed domain name in bad faith. Bad faith may be established through examination of all of the circumstances of a case to see whether the Respondent takes unfair advantage of or otherwise abuses a Complainant's trademark.

22. The Complainants claim that due to the long history of the Complainant's operations in Asia, the Respondent knew or ought to have known about the Complainants prior to registering the disputed domain name.

23. The Complainant has also adduced evidence to show that the Respondent is offering to sell the disputed domain name. The disputed domain name has been placed on an

online auction site with a note that bids in excess of US\$500 would be accepted. On the other hand, there is no content whatsoever on the websites to which the disputed domain name resolves. In the circumstances and based on the evidence before the Panel, there can be no other conclusion than the Respondent has obtained the disputed domain name with sole purpose and intent of selling it in excess of the reasonable costs associated with acquiring it.

24. When assessing bad faith, the Panel may consider the circumstances outlined at paragraph 4(b) of the UDRP. In particular, UDRP paragraph 4(b)(i) is relevant here, namely: that the circumstances indicate “...*that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant ...for valuable consideration in excess of our documented out-of-pocket costs directly related to the domain name*”.
25. In light of the evidence adduced showing that the Respondent is offering to sell the disputed domain name, and with no evidence whatsoever to the contrary to suggest any good faith reason why the Respondent has acquired the disputed domain name, the Panel finds that the Respondent acquired the disputed domain name for the purpose of offering it for sale and such purpose falls squarely within the ambit of paragraph 4(b)(i) of the UDRP.
26. Considering all of the matters described above, the evidence adduced by the Complainant and the complete lack of response/ evidence filed by the Respondent, the Panel has no hesitation in finding the Respondent has applied for and used the disputed domain name in bad faith. Accordingly, the third element of UDRP paragraph 4(a) is made out.

6. Decision

27. The Panel finds that the Complainant has satisfied all three elements of UDRP paragraph 4(a). Accordingly, the Panel orders that the disputed domain name <**pccwglobal.org**> be transferred to the Complainants.

David Allison
Panelist

Dated: 22 November 2018