



Asian Domain Name Dispute Resolution Centre
hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case no:	HK-1901290
Complainant I:	PCCW-HKT DataCom Services Limited
Complainant II:	PCCW Enterprises Limited
Respondent:	ONE PK
Disputed Domain Name:	<pccwteleservice.com>

1. The Parties and Contested Domain Name

The Complaint-listed Complainant I is PCCW-HKT DataCom Services Limited of 39/ PCCW Tower Taikoo Place, 979 King's Road, Quarry Bay Hong Kong, and the Complaint-listed Complainant II is PCCW ENTERPRISES LIMITED of 39/F PCCW Tower Taikoo Place 979 King's Road, Quarry Bay Hong Kong.

The Respondent is ONE PK of ao men shen shui ao pai wu 11# aomen 355212 MO.

The domain name at issue is <pccwteleservice.com>, registered by Respondent with Godayy.com LLC.

2. Procedural History

On September 11, 2019 , a Complaint in the name of the two Complainants was made by the Complainant I's authorized representative to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "ADNDRC Hong Kong Office") pursuant to the Uniform Policy for Domain Name Dispute Resolution (the "Policy") approved by the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and Asian Domain Name Dispute Resolution Centre Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "ADNDRC Supplemental Rules"). Since there is no signed authorization by the Complainant II, the

Complainant named subsequently shall mean the Complainant I shown on the rendered Complaint.

On September 18, 2019, The ADNDRC Hong Kong Office asked the Registrar GodaddyCom. LLC for the conformation of the registration information of the disputed domain name; and received from the reply in the same day.

In accordance with the confirmed Registrar's information, ADNDRC Hong Kong Office sent a Notification of Deficiencies of the Complaint to the Complainant for the rectification of the registration information for the disputed domain name.

On September 20, 2019, the ADNDRC Hong Kong Office received the new Complaint and notified the Complainant that the Complaint has been confirmed and the case officially commenced, and transmitted the notice of the Complaint to the Respondent informing that the Complainant had filed a Complaint against the registration of the disputed domain name and the ADNDRC Hong Kong Office had sent the Complaint and its attachments through email according to the Rules and the ADNDRC Supplemental Rules. On the same day, the ADNDRC Hong Kong Office notified ICANN and Registrar of the commencement of the proceedings.

The ADNDRC Hong Kong Office had received no Response by the Respondent until October 11, 2019 and notified the parties that no Response had been received, and the case would be judged by default.

Having received a Declaration of Independency and Impartiality and a Statement of Acceptance from Mr. Chi Shaojie, the ADNDRC Hong Kong Office informed the disputing parties of the Confirmation of the Appointment of the Sole Panelist on October 15, 2019.

The sole panelist finds that the Panel was properly constituted in accordance with the Rules and the ADNDRC Supplemental Rules.

The procedural language 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 conformity with the language used by the Complainant in the submitted Complaint.

3. Factual background

The Complainant PCCW-HKT DataCom Services Limited of 39/ PCCW Tower Taikoo Place, 979 King's Road, Quarry Bay Hong Kong found that the disputed domain name pccwteleservice.com was improperly registered by the Respondent ONE PK of ao men shen shui ao pai wu 11# aomen 355212 MO; and thus filed this Complaint to the ADNDRC Hong Kong Office requiring the Panel to make a decision on the transfer of the disputed domain name.

4. Parties' Contentions

A. Complainant

PCCW-HKT Datacom Services Limited and the affiliated company, PCCW ENTERPRISES LIMITED, (hereby known collectively as "Complainant" or "PCCW") are the owners of trademark registrations in many countries around the world. Attached hereto as **Annex 2** are printouts from the Intellectual Property Department of the Macao Special Administrative Region, the United States Patent and Trademark Office, the European Union Intellectual Property Office and the Intellectual Property Department of the Government of the Hong Kong Special Administrative Region for these registrations, which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the "Complainant's Marks." The trademarks relevant to this instant matter are:

PCCW ENTERPRISES LIMITED

TRADE MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
PCCW	MO	N/7237	2001-03-28	9
PCCW	MO	N/7238	2001-03-28	16
PCCW	MO	N/7239	2001-03-28	35
PCCW	MO	N/7240	2001-03-28	36
PCCW	MO	N/7241	2001-03-28	37
PCCW	MO	N/7242	2001-03-28	38
PCCW	MO	N/7243	2001-03-28	39
PCCW	MO	N/7244	2001-03-28	41
PCCW	MO	N/7245	2001-03-28	42
PCCW	US	5158668	2017-03-14	9,16,35,36,37,38,39,41,42,45
PCCW	EM	001965557	2002-11-08	9,16,35,36,37,38,39,41,42

PCCW-HKT Datacom Services Limited

TRADE MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
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PCCW	HK	2002B14787	2000-09-05	16
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PCCW was formed in in August 2000 when its holding company PCCW Limited acquired Hong Kong Telecom (HKT), formerly Hong Kong Telephone Company Ltd (founded in 1925). Since then, PCCW has evolved to be Hong Kong’s premier telecommunications service provider and leading operator in fixed-line, broadband and mobile communication services. PCCW employs approximately 24,000 staff and is headquartered in Hong Kong with a presence in mainland China as well as other parts of the world. In 2018, PCCW reported total revenues in excess of HKD \$38 billion (*see Annex 7*).

“PCCW” is the acronym of “Pacific Century Cyber Works” which is a distinctive and well-known mark used by Complainant in connection with telecommunications and related services for over 20 years. Complainant is one of the largest (telecom) corporations in Hong Kong and has won numerous awards globally including Best Volte Service Provider 2018 at the GCCM Awards 2018, and Best Wholesale Service Provider award for 3 consecutive years since 2015 at the MEF Awards 2017 (*see Annex 7* for full list of Complainant’s awards).

PCCW has a strong Internet presence through its websites. Complainant is the owner of numerous TLDs containing their trademark PCCW including <pccw.com> and <pccwteleservices.com> which it has owned since 1998 and 2006 respectively. SimilarWeb.com ranks <pccw.com> as the 737th most popular website in Hong Kong with a global rank of 121,693.

See Annex 5 for Whois contact information for Complainant’s primary domain names <pccw.com> and <pccwteleservices.com>; *see also Annex 6* for screenshots of Complainant’s primary domain names; *see also Annex 8* for website analytics for Complainant’s primary domain name <pccw.com>.

By virtue of its trademark and service mark registrations as shown in **Annex 2**, Complainant is the owner of PCCW trademark. *See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”) at 1.2.1: “Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.”*

When comparing the Disputed Domain Name to Complainant’s trademarks, the relevant comparison to be made is between only the second-level portion of the Disputed Domain Name and the Complainant’s trademarks. *See Gardline Surveys Ltd. v. Domain Fin. Ltd.*, FA 0153545 (NAF May 27, 2003) (“[t]he addition of a top-level domain is irrelevant when establishing whether or not a mark is identical or confusingly similar, because top-level domains are a required element of every domain name”).

Concerning the Disputed Domain Name, Respondent has added the generic, descriptive term “teleservice” to Complainant’s PCCW trademark, thereby making the Disputed Domain Name confusingly similar to Complainant’s trademark. The fact that such term is closely linked and associated with Complainant’s brand and trademark only serves to underscore and increase the confusing similarity between the Disputed Domain Name and the Complainant’s trademark. More specifically:

“teleservice” – PCCW Teleservices, now known as HKT Teleservices, is a subsidiary of Complainant and provides a wide range of services including local telephony, local data and broadband, international telecommunications, mobile and other telecommunication services (*see Annex 7*). Information about this subsidiary can be found at Complainant’s primary domain name <hkcteleservices.com>. Complainant also owns the domain name <pccwteleservices.com> which differs from the Disputed Domain Name by just one letter (*see Annex 5*).

Past Panels have consistently held that a disputed domain name that consists merely of a complainant’s trademark and an additional term that closely relates to and describes that complainant’s business is confusingly similar to that complainant’s trademarks. *See Inter IKEA Systems B.V. v. Franklin Lavall?e / IkeaCuisine.net*, D2015-2042 (WIPO, Dec. 22, 2015) (“The confusing similarity between the disputed domain name and the Complainant’s IKEA trade mark is in fact further enhanced by the inclusion of a term that relates to the furniture business of the Complainant”). *See also Aviva Brands Limited v. Domain Administrator, See PrivacyGuardian.org / Shi Lei*, D2018-2449 (WIPO Dec. 19, 2018) (the Panel finds that the addition of the terms “share” and “plan” to the AVIVA trademark is not sufficient to exclude confusing similarity, all the more that they are related to the Complainant’s activities and that they make the disputed domain name very confusingly similar to the Complainant’s own domain name <avivashareplans.com>.).

Based on the foregoing, the Disputed Domain Name is clearly confusingly similar to Complainant's PCCW trademark.

The Respondent has no rights or legitimate interests in respect of the domain name:

Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests. *See Policy, ¶ 4(c)(ii); see Whois data for the Disputed Domain Name set forth in Annex 3. See also World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe, D2008-0642 (WIPO June 6, 2008) (finding that a respondent, or his/her organization or business, must have been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain). Furthermore Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating Complainant's trademark. "In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed." See Sportswear Company S.P.A. v. Tang Hong, D2014-1875 (WIPO December 10, 2014).*

In the instant case, the pertinent Whois identifies the Respondent as "ONE PK" (*see Annex 3*), which does not resemble the Disputed Domain Name in any manner – thus, where no evidence, including the Whois record for the Disputed Domain Name, suggests that Respondent is commonly known by the Disputed Domain Name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the meaning of ¶ 4(c)(ii). *See Moncler S.p.A. v. Bestinfo, D2004-1049 (WIPO, Feb. 8, 2005) (in which the panel noted "that the Respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name" [moncler.com]).*

The Respondent is using the Disputed Domain Name to redirect internet users to a website that resolves to a blank page and lacks content (*see Annex 4*). Respondent has failed to make use of this Disputed Domain Name's website and has not demonstrated any attempt to make legitimate use of the domain name and website, which evinces a lack of rights or legitimate interests in the Disputed Domain Name, as confirmed by numerous past Panels. *See Nenê f/k/a Maybyner Rodney Hilario v. Master, Host, FA 0924563 (NAF Apr. 10, 2007) (Holding that absence of content at website evinced a lack of rights or legitimate interests in the disputed domain name).*

Respondent was using the Disputed Domain Name to direct internet users to a website that featured adult content. Respondent had removed the website content after Complainant submitted a takedown request to the website hosting service provider (*see Annex 11* for evidence of takedown). Although Complainant did not capture a screenshot of the Disputed Domain Name's website at that time, a screenshot of the Disputed Domain Name's historical website metadata shows adult content in the description (*see Annex 4* for screenshot of website metadata). Numerous past Panels have held that use of a disputed domain name that is confusingly similar to a complainant's trademarks to link to a website featuring pornographic or adult content evinces a lack of legitimate rights or interests. See *MatchNet plc v. MAC Trading*, D2000-0205 (WIPO May 11, 2000) (finding that it is not a bona fide offering of goods or services to use a domain name for commercial gain by attracting Internet users to third party sites offering sexually explicit and pornographic material, where such use is calculated to mislead consumers and tarnish the Complainant's mark).

Respondent registered the Disputed Domain Name on July 2, 2019, which is significantly after Complainant filed for registration of its PCCW trademark with the Intellectual Property Department of the Government of the Macao Special Administrative Region, the United States Patent and Trademark Office, the European Union Intellectual Property Office and the Intellectual Property Department of the Government of the Hong Kong Special Administrative Region, and also significantly after Complainant's first use in commerce of its trademark in 2000. (*ee Annex 2* for Complainant's trademark registrations, and *Annex 3* for WHOIS information of the Disputed Domain Name).

Respondent registered the Disputed Domain Name on July 2, 2019, which is significantly after Complainant registered its <pccw.com> domain name on June 5, 1998 and its <pccwteleservices.com> domain name on October 4, 2006. (*nnex 3* for WHOIS information of the Disputed Domain Name, and *Annex 5* for WHOIS information of the Complainant's primary domain names).

The disputed domain name has been registered and is being used in bad faith:

The Complainant and its PCCW trademarks are known internationally, with trademark registrations across numerous countries, including in Macao where the Respondent is based. The

Complainant has marketed and sold its goods and services using this trademark since 2000, which is well before Respondent's registration of the Disputed Domain Name on July 2, 2019.

Registering a domain name that incorporates Complainant's PCCW trademark in its entirety and including the term "teleservice" which is related to Complainant's business, Respondent has created a domain name that is confusingly similar to Complainant's trademark, as well as its <pccwteleservices.com> domain (*see Annex 5*). As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Further, the composition of the domain makes it illogical to believe that Respondent registered the domain without specifically targeting Complainant.

In light of the facts set forth within this Complaint, it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brands at the time the Disputed Domain Name was registered. *See Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000). Stated differently, PCCW is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith – where a domain name is "so obviously connected with such a well-known name and products; its very use by someone with no connection with the products suggests opportunistic bad faith." *See Parfums Christian Dior v. Javier Garcia Quintas*, D2000-0226 (WIPO May 17, 2000). Thus, where the Disputed Domain Name is identical to Complainant's PCCW trademark, "it defies common sense to believe that Respondent coincidentally selected the precise domain without any knowledge of Complainant and its trademarks." (*See Asian World of Martial Arts Inc. v. Texas International Property Associates*, D2007-1415, WIPO Dec. 10, 2007).

At the time of registration of the Disputed Domain Name, the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks and that registration of domain names containing well-known trademarks constitutes bad faith per se. In addition to the many trademarks filed in connection with Complainant's business prior to Respondent's registration of the Disputed Domain Name, Complainant is one of the largest (telecom) corporations in Hong Kong and has won numerous awards globally including Best Volte Service Provider 2018 at the GCCM Awards 2018, and Best Wholesale Service Provider award for 3 consecutive years since 2015 at the MEF Awards 2017 (*see Annex 7* for full list of Complainant's awards), which demonstrates Complainant's fame. Further, performing searches

across a number of internet search engines for “pccw teleservice” returns multiple links referencing Complainant and its business (*see Annex 9*). *See Caesar World, Inc. v. Forum LLC*, D2005-0517 (WIPO Aug. 1, 2005) (“given the Complainant’s worldwide reputation and presence on the Internet, indicates that Respondent was or should have been aware of the marks prior to registering the disputed Domain Name”).

Typosquatting itself has been taken as evidence of bad faith registration and use by past Panels. The Disputed Domain Name incorporates Complainant’s PCCW trademark in its entirety and is a slight misspelling of its <pccwteleservices> domain name. Respondent is attempting to capitalize on typing errors committed by Complainant’s customers in trying to locate Complainant on the internet. In other words, the Disputed Domain Name is a typosquatted version of Complainant’s primary domain and has intentionally been designed to closely mimic Complainant’s primary domain. Numerous Panels have found that registering a domain name to take advantage of traffic generated by typing errors committed by another’s customers, as here, is evidence of bad faith registration and use pursuant to Policy ¶ 4(a)(iii). *See WIPO Jurisprudential Overview 3.0* at paragraph 3.1.4: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. *See also Longs Drug Stores Cal., Inc. v. Shep Dog*, D2004-1069 (WIPO, February 28, 2005) (Finding typosquatting to be evidence of bad faith domain name registration).

Previously, the website of the Disputed Domain Name had featured sexually-explicit, pornographic content, which provides evidence of Respondent’s bad faith registration and use of this domain. Respondent had removed the website content after Complainant submitted a takedown request to the website hosting service provider (*see Annex 11* for evidence of takedown). Although Complainant did not capture a screenshot of the Disputed Domain Name’s website at that time, a historical screenshot of the Disputed Domain Name’s website metadata showed adult content description (*see Annex 4* for screenshot of website metadata). Past Panels have consistently held that a respondent’s use of a confusingly similar domain name to direct unsuspecting internet users to adult content, as here, is evidence of bad faith registration and use of that domain name. *See Verizon Trademark Services LLC v. n/a and Ruslan Biletsky*, FA 1383599 (NAF May 12, 2011) (Panel find that use of a confusingly similar domain name to resolve to adult-oriented material constitutes bad faith registration and use).

The Disputed Domain Name currently resolves to an inactive site and is not being used (*see Annex 4*), though past Panels have noted that the word bad faith "use" in the context of ¶4(a)(iii) does not require a positive act on the part of the Respondent – instead, passively holding a domain name can constitute a factor in finding bad faith registration and use pursuant to Policy ¶4(a)(iii). *See Alitalia-Linee Aeree Italiane S.p.A v. Colour Digital*, D2000-1260 (WIPO Nov. 23, 2000) (finding bad faith where the Respondent made no use of the domain name in question and there are no other indications that the Respondent could have registered and used the domain name in question for any non-infringing purpose). In this case, the Disputed Domain Name is confusingly similar to Complainant's trademark, and Respondent has made no use of the Disputed Domain Name, factors which should be duly considered in assessing bad faith registration and use. *See DCI S.A. v. Link Commercial Corp.*, D2000-1232 (WIPO Dec. 7, 2000) (concluding that the respondent's passive holding of the domain name satisfies the requirement of ¶4(a)(iii) of the Policy).

The Disputed Domain Name can only be taken as intending to cause confusion among internet users as to the source of the Disputed Domain Name, and thus, the Disputed Domain Name must be considered as having been registered and used in bad faith pursuant to Policy ¶4(b)(iv), with no good faith use possible. More specifically, where the Disputed Domain Name incorporates Complainant's PCCW trademark and includes the term "teleservice" related to Complainant's business, there is no plausible good-faith reason or logic for Respondent to have registered the Disputed Domain Name. Rather it is indicative of an intention to hold the disputed domain name "for some future active use in a way which would be competitive with or otherwise detrimental to Complainant." *See Jupiters Limited v. Aaron Hall*, D2000-0574 (WIPO, August 3 2000). Further, considering these circumstances, any use of the Disputed Domain Name whatsoever, whether actual or theoretical, would have to be in bad faith: "it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law" (*Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000)).

Finally, on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted Complainant's trademark, and Respondent should be found to have registered and used the Disputed Domain Name in bad faith. *See Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain*

Administrator, Vertical Axis Inc., D2014-1754 (WIPO Jan 12, 2014) (“the Panel makes its finding regarding bad faith registration by asking whether it is more likely than not from the record of the evidence in the proceeding that Respondent had the ELECTRIC FOOTBALL trademark in mind when registering the Domain Name.”).

In view of the foregoing, the Complainant requests the Panel to make a decision on the transfer of the disputed domain name to the Complainant.

B. Respondent

The Respondent makes no response by any means against any of the allegations and claims by the Complainant in the whole course of the proceeding.

5. Findings

It is meaningful for the parties to understand the legal nature of the current proceeding that is totally different from that of arbitration or litigation in normal sense. Though the proceeding is known as administrative proceeding, it is really NOT the proceeding by a government agency. The jurisdiction by the Panel over the current dispute on the domain name registered by the Respondent comes from the authorization by the organization for the administration of domain name registration and its validity. Anyone intends to register a domain name needs to sign a registration agreement with the administrative authority which makes no substantive examination on the registration application, but stipulates in the registration agreement that whenever a complaint against the registration is submitted, the registrant is obliged to be a procedural party which has rights to make arguments against the claim, but subject to a decision made by a Panel constituted in conformity with the stipulated procedural rules under the Policy and its affiliated documents.

As it is, the current proceeding is a part of the whole proceeding for the registration and validity of domain names. As such, the fundamental feature of the Panel’s making a judgment on the entitlement to the disputed domain name is to decide on a core issue of which party should be the rightful holder of the disputed domain name, so as to be in conformity with the basic requirements set forth under the Policy and its affiliated documents, and to help keep the good order for the running of the internet, and to be beneficiary to the protection of common interests of the web-users.

The indispensable pre-condition for the Panel to find out the disputing facts is to base itself upon the allegations and defenses by the parties, which does not exist in the judgment of present dispute due to the lack of any defense by the Respondent. In view of this, what the Panel is

going to do for the fact-finding is to base itself upon the submissions and the relevant exhibits by the Complainant alone. Unless the Panel has a reason to reject any factual submission or evidence by the Complainant in view of the panelist's professional sense to make judgment and personal experiences in making decisions on domain name disputes, the facts are to be held by the adoption of the Complainant's submitted evidences.

One of the prerequisites for the Respondent to register the disputed domain name through the Registrar is to accept the Policy as the binding regulations for the registration. As mentioned, the Policy applies to this dispute as the substantive criteria for making the judgment of whether the Complainant's request is to be sustained or rejected. As stipulated in the Paragraph 4(a) of the Policy, when claiming back a domain name registered by the Respondent, the Complainant must prove each and all of the following:

- (1) Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) Respondent's domain name has been registered and is being used in bad faith.

Based itself upon the stipulations under the Policy, what the Panel needs to do is to find out whether each AND all of the three basic facts can be attested by the Complainant. If the answer is yes, the Panel makes a decision in the Complainant's favor in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplemental Rules. If not, the claim by the Complainant shall be rejected.

A) Identical / Confusingly Similar

Pursuant to Paragraph 4(a) (i) of the Policy, the Complainant must prove that the domain name at issue is identical OR confusingly similar to a trademark or service mark to which it is entitled. As stipulated in the Policy, the Complainant needs to prove either the IDENTITY or the CONFUSING SIMILARITY. To meet the requirement, the Complainant submits copies of trademark registration certificates, intending to prove that it is entitled to the trademarks "PCCW" which was registered earlier than the registration of the disputed domain name. The Panel examines all the relevant exhibits by the Complainant in relation to the entitlement to the registered trademark "PCCW" etc., and finds that some of the said marks were registered in the name of PCCW Enterprises Limited which allegedly is the Complainant's subsidiary, and some are owned directly by the Complainant, e.g. that registered with the Trade Marks Registry, Intellectual Property Department, HKSAR of PRC as shown in the Complainant's Annex 2.

Since trademark registration is a piece of easily accessible information, the Panel holds that the Complainant owns the trademark PCCW.

Furthermore, in terms of “.com” domain name dispute resolution, the Complainant is not only entitled to a registered trademark, but also may resort to a previously used unregistered trademark as the base for satisfying the first criterion set forth under the Policy. The key-words of PCCW is not only a registered mark and also a long-been-used mark of the Complainant’s.

Based upon the above fact-finding, the Panel needs to do is to compare the Complainant’s registered trademark PCCW with the disputed domain name pccwteleservice.com, so as to make a ruling that whether the two is confusingly similar in the eyes of common web-users.

Obviously, anyone who knows English may understand the general meaning of “teleservice” which is simply a lingual combination of “telecommunication” and “service”, but probably does not know the real meaning of the acronym of PCCW without being access to the service by the Complainant. As it is, when an ordinary web-user sees the disputed domain name, what is attractive to his eyes is no more than the letters of PCCW which for those who are familiar with the Complainant’s service may take it for someone who have certain relation with PCCW or with those using the acronym as their trade names.

Based on the above deduction of reasoning, the Panel holds that the Complainant meets the first requirement for the transfer of the disputed domain name.

B) Rights and Legitimate Interests

Pursuant to Paragraph 4(a) (ii) of the Policy, the second requirement for the Complainant to meet in terms of the request for the transfer of the disputed domain name is to prove that the Respondent does not have rights to or legitimate interests in the domain name at issue. Reading the expression of the stipulation, it seems to be the Complainant who shall take the burden of proof to establish the fact that the Respondent does NOT have rights or legitimate interests in connection to the disputed domain name. Since the Complainant claims and proves that it is entitled to the disputed domain name and the Respondent has nothing to do with it except having squatted it in bad faith, it can hardly submit any evidence to prove something it does not think real. Probably for this reason, the Panel pays more attention to whatever the Respondent argues with regard to the rights or legitimate interests in respect to the disputed domain name. The Policy gives chances to the Respondent to make argument on this issue by stipulating several could-be circumstances in the relevant article of the Policy. Unfortunately, the Respondent makes no argument to say it has certain right or legitimate interest in regard to the domain name

at issue. Under the circumstances, how could the Panel hold that it is the Respondent who is entitled to the disputed domain name?

On the other side, the Complainant submitted exhibits to certify that the major identifying part PCCW of the disputed domain name was the unique acronym of the Complainant's created trade name; and not a least lawful relation with regard to the disputed domain name exists between the two disputing parties, or between the Respondent and some other party who is entitled to any right in the dispute.

Based upon the above reasoning, the Panel ascertains that it is none other than the Complainant who has rights and legitimate interests in connection to the disputed domain name; and further holds that the Complainant meets the second requirement set forth under Paragraph 4(a) (ii).

C) Bad Faith

The Complainant has yet to establish the fact of bad faith on the part of the Respondent as set forth in the Paragraph 4(a) (iii) of the Policy.

Under the Paragraph 4(b) of the Policy, the following circumstances, in particular, shall be considered evidence of the registration and use of a domain name in bad faith: “..... (ii)you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct;”

As mentioned in the above paragraphs, the key factor in the identifying part of the disputed domain name is the Complainant's acronym reflecting the unique feature of the Complainant, and the Respondent does not say it is created by itself by any special meaning which differs from that of the Complainant's. Thus, logically speaking, the Panel thinks it a correct conclusion that the Respondent registered the disputed domain name with an intention to take a free ride of the fame of the Complainant by cybersquatting.

Obviously, the Complainant was prevented from registering the same domain name embodying its prominent feature by the acronym PCCW, if the disputed domain name is still in the hands of the Respondent. Furthermore, no evidence proves that the Respondent has other intent than the one said in the Paragraph 4(b) of the Policy.

Furthermore, the logical thinking of the Panel is when a party registers a domain name which is NOT created by the party with its distinctive feature known in the real world, but identical or confusingly similar to a mark or logo or sign to which the other party has rights and legitimate interests with high market value, the intention of the registration is clear, namely taking illegal advantages by causing confusion to the consumers or preventing the lawful owner to register the same domain name for its business activities.

On the other hand, if the registrant is NOT intentionally to take others' advantage, it should create a distinctive domain name to make web-users easily tell the name from others. What is more, if someone registers a domain name in bad faith, it is hard for him to make use of the registered subject matter in good-faith, otherwise the ill-intention of the registrant would not be realized. The conduct of "register only" may be regarded as sort of passive form of ill-use. That seems to be underlying the stipulation under Item (ii) of Paragraph 4(b) of the Policy. This fundamental logic further supports the holding of bad-faith fact in the foregoing paragraph. In view of this, the Panel holds that the Complainant meets the requirement set forth under Paragraph 4(a)(iii) of the Policy.

The Complainant submits, "Previously, the website of the Disputed Domain Name had featured sexually-explicit, pornographic content, which provides evidence of Respondent's bad faith registration and use of this domain. Respondent had removed the website content after Complainant submitted a takedown request to the website hosting service provider (*see Annex 11* for evidence of takedown). Although Complainant did not capture a screenshot of the Disputed Domain Name's website at that time, a historical screenshot of the Disputed Domain Name's website metadata showed adult content description (*see Annex 4* for screenshot of website metadata). Past Panels have consistently held that a respondent's use of a confusingly similar domain name to direct unsuspecting internet users to adult content, as here, is evidence of bad faith registration and use of that domain name. See *Verizon Trademark Services LLC v. n/a and Ruslan Biletsky*, FA 1383599 (NAF May 12, 2011) (Panel find that use of a confusingly similar domain name to resolve to adult-oriented material constitutes bad faith registration and use)."

The Respondent fails to make any rejection to what the Complainant says and leads the panel to think over a question of why? No other answer than the one what the Complainant says is true and the Respondent has nothing to say against the Complainant's submission, which leads the Panel to a conclusion that the disputed domain name was used by bad-faith.

Based upon all the above findings, the Panel comes to final conclusion that the Complaint fulfills each AND all of the conditions provided in Paragraph 4(a) (i) (ii) (iii) of the Policy.

6. Decision

In light of all the foregoing findings and in accordance with Paragraphs 4(a), 8(a) of the Policy and 5(e) of the Rules, the Panel holds:

- a) That the disputed domain name “pccwteleservice.com” is confusingly similar with the Complainant’s registered and long-been-used trademark “PCCW”; and
- b) That the Respondent has no rights to or legitimate interests in the disputed domain name; and
- c) That the domain name was registered and used in bad faith.

As such, the Panel rules that the disputed domain name “pccwteleservice.com” shall be transferred to the Complainant PCCW-HKT DataCom Services Limited.



The Sole Panelist

Dated: October 23, 2019