



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1600881
Complainant:	苏宁云商集团股份有限公司 Suning Commerce Group Co., Ltd.
Respondent:	Zhao DongXu
Disputed Domain Names:	<suningfc.com> ,<suningfc.win> ,<suningfc.xyz> , <jssuningfc.cc> , <jssuningfc.win> , <suningdianjing.com> , <suningsucks.com> , <suninglemon.club> and <suninglemon.com>

1. The Parties and Contested Domain Name

The Complainant is 苏宁云商集团股份有限公司 Suning Commerce Group Co., Ltd. whose address is situate at No.1 Suning Avenue, Xuanwu District, 210000 NanJing, China; and the authorized representative of the Complainant in this proceeding is CSC Digital Brand Services Group AB whose address is situate at Saltmätargatan 7, 113 59 Stockholm, Sweden.

The Respondent is Zhao DongXu whose address is situate at Jin An Qu Wu Si Lu Jian Fa Guo Bin Fu 73301, Fu Zhou, Fu Jian, China.

The domain names at issue are <suningfc.com>, <suningfc.win>, <suningfc.xyz>, <jssuningfc.cc>, <jssuningfc.win>, <suningdianjing.com> , <suningsucks.com> , <suninglemon.club> and <suninglemon.com>, registered by the Respondent with the registrars, HiChina Zhicheng Technology Limited, Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), and Web Commerce Communications Limited dba WebNic.cc respectively as particularised in the Procedural History below.

2. Procedural History

On 23 July 2016, the Complainant filed a Complaint with the Hong Kong Office (“HK Office”) of Asian Domain Name Dispute Resolution Centre (“ADNDRC”) pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) with an effective date of July 31, 2015 and the Complainant elects a single member panel for the dispute in this matter. The Complaint was later amended on 16 August 2016 by the Complainant in order to satisfy the formal requirements of the Policy, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) and the ADNDRC Supplemental Rules for

Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”) after the administrative check by the HK Office. All reference to the Complaint hereafter shall mean the Complaint as amended on 16 August 2016.

On 27 July 2016, the HK Office transmitted by email to HiChina Zhicheng Technology Limited, Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), and Web Commerce Communications Limited dba WebNic.cc a request for confirmation of the WHOIS records of the Disputed Domain Names and other related information.

On 27 July 2016, Web Commerce Communications Limited dba WebNic.cc confirmed by email that they are the registrar of the domain name <jssuningfc.cc> and that it was registered by the Respondent for the period from 2015-12-28 to 2016-12-28; and that the Policy is applicable to the dispute relating to this domain name together with the other relevant information.

On 5 August 2016, HiChina Zhicheng Technology Limited and Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) confirmed by email that HICHINA ZHICHENG TECHNOLOGY LTD. is the registrar of the domain names<suningfc.com>, <suningdianjing> and <suningsucks.com>; and 阿里云计算有限公司（原万网）Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) is the registrar of<suningfc.win>, <suningfc.xyz> and <jssuningfc.win> and that these domain names were registered by the Respondent for the periods as follows: < suningfc.com> from 2015-10-13 to 2017-10-13; <suningfc.win> from 2015-12-22 to 2016-12-21; and <suningfc.xyz> from 2016-1-23 to 2016-12-21; < jssuningfc.win > from 2015-12-22 to 2016-12-21; <suningdianjing.com> from 2015-12-29 to 2016-12-29; <suningsucks.com> from 2015-11-10 to 2016-11-10; and <suninglemon.club> from 2016-2-19 to 2017-2-18; and that the Policy is applicable to the dispute relating to all these domain names together with the other relevant information.

On 11 August 2016, after clarification of the spelling of the domain name <suninglemon.com> by the HK Office, HiChina Zhicheng Technology Limited and Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) confirmed that they are the registrar of the domain name <suninglemon.com> and that it was registered by the Respondent for the period from 2016-2-19 to 2017-2-19; and that the Policy is applicable to the dispute of this domain name together with other relevant information.

On 18 August 2016, in accordance with paragraphs 2(a) and 4(a) of the Rules, the HK Office issued in both the languages of Chinese and English the notice of commencement of proceeding and formally notified the Respondent of the Complaint. In accordance with paragraph 5(a) of the Rules, the due date for the Respondent to submit the Response was 7 September 2016. On 25 August 2016, the HK Office confirmed the receipt of the Response submitted by the Respondent.

The HK Office appointed Mr. Raymond HO as the Sole Panelist in this matter on 1 September 2016 and transmitted the file in this matter to the Panel on the same date. The Panel finds that it was properly constituted. The Panel submitted Statement of Acceptance and Declaration of Impartiality and Independence to the HK Office in compliance with paragraph 7 of the Rules.

Upon review of the Complaint and the Response, the Panel noted that the Complainant applied for English to be used as the language of the administrative proceeding; and the

Respondent took no issue with this application in the Response filed. In addition, subsequent to the transfer of the file of this matter to the Panel, the Complainant sought permission on 2 September 2016 for an extension of 14 days to file supplementary documents. In accordance with paragraphs 10, 11 and 12 of the Rules, on 5 September 2016, the Panel issued Procedural Order No. 1 and ordered that the language of the administrative proceeding shall be English and that any documents submitted in languages other than English or Chinese shall be accompanied by a translation in whole or in part into English. In this Procedural Order No. 1, permission was given to the Complainant to file supplementary documents and /or submissions not later than 15 September 2016; and after the filing of the supplementary documents and/or submissions by the Complainant, the Respondent may file supplementary documents and/or submissions within 14 calendar days thereafter.

On 19 September 2016, the HK Office acknowledged receipt of the supplementary submissions filed by the Respondent subsequent to the supplementary submissions filled by the Complainant on 15 September 2016 pursuant to Procedural Order No. 1.

3. Factual background

The Complainant, 苏宁云商集团股份有限公司 Suning Commerce Group Co., Ltd., was established in 1996 to operate a retail chain in China. The Complainant currently has stores in Beijing, Shanghai, Guangzhou and Shenzhen offering 5,000 to 6,000 different products. In 2014, the Complainant recorded total operating income of over RMB 231 million. In 2013, the Complainant headed the list of China's top 500 non-state owned businesses and was given the title of "Model E-commerce Enterprise" by the Ministry of Commerce of the People's Republic of China. Under the Complainant's trademarks registered in China, Hong Kong SAR and elsewhere in the world, the Complainant offers a wide range of electronics, appliances and general merchandise products. Such products include televisions, audio and video players, disc players, refrigerators, washing machines, small household electronics, air conditioners, telecommunications products, household commodities, cosmetics and baby care products. In 2015, the Complainant purchased Jiangsu Guoxin-Sainty F.C. for ¥523 million and changed their name to "Jiangsu Suning F.C." The football club currently participates in the Chinese Super League and is based in Nanjin, Jiangsu, China. Their home stadium, the Nanjin Olympic Sports Center has a seating capacity of 61,443. The team is commonly known as "JS Suning FC" and maintains a Twitter account under @suningfc. The Complainant's "SUNING" trademark has a strong Internet presence through its websites. The Complainant's primary domain name <suning.com> received an average of over 35,500 unique visitors per month in 2014 and is the 107th most popular website in China and ranked 508 globally. In Annex 9 of the Complaint there is exhibited a complete web analytics from Compete.com and Alexa.com on the findings of the Complainant's domain name <suning.com>.

The Respondent is an individual with an address in the Fu Jian Province of China as disclosed in the WHOIS records of the Disputed Domain Names. The Respondent has registered the Dispute Domain Names within a period of five months from October 2015 to February 2016, mostly for a registration period of one or two years.

4. Parties' Contentions

A. Complainant's Contentions

I. The Disputed Domain Names are Identical or Confusingly Similar to a Trademark or Service Mark in which the Complainant has Rights.

The Complainant submits that by virtue of its trademark and service mark registrations as shown in Annex 1 of the Complaint, the Complainant is the owner of Complainant's "SUNING" trademarks. See United Way of America v. Alex Zingaus, FA 1036202 (NAF Aug. 30, 2007) ("Panels have long recognized Complainant's registration of a mark with a trademark authority is sufficient to confer rights in the mark pursuant to paragraph 4(a)(i) of the Policy"). Furthermore, a complainant is not required to register its marks within the country of the respondent in order to protect its rights in those marks. See Renaissance Hotel Holdings, Inc. v. Renaissance Cochin, FA 932344 (NAF April 23, 2007) (where it was found that it does not matter whether the complainant has registered its trademark in the country in which the respondent resides, only that it can establish rights in some jurisdiction).

The Complainant submits that when comparing the Disputed Domain Names to Complainant's trademarks, the relevant comparison to be made is between only the second-level portion of the Disputed Domain Names and the Complainant's trademarks. See Rollerblade, Inc. v. McCrady, D2000-0429 (WIPO June 28, 2000) (It was found in this case that the top-level domain, such as ".net" or ".com", does not affect the domain name for the purpose of determining whether it is identical or confusingly similar). See also 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").

The Complainant submits that in creating the Disputed Domain Names <suningfc.com>, <suningfc.win>, <suningfc.xyz>, <jssuningfc.cc> and <jssuningfc.win> and <suningdianjing.com>, the Respondent has added the generic, descriptive terms "fc," "js" and "dianjing" to Complainant's SUNING trademark, thereby making the Disputed Domain Names confusingly similar to Complainant's trademark. The fact that such terms are closely linked and associated with Complainant's brand and trademark only serves to underscore and increase the confusing similarity between the Disputed Domain Names and the Complainant's trademark. More specifically, the Complainant submits as follows:

- "fc" – FC is a common abbreviation for Football Club. As shown in the evidence in the relevant annexure to the Complaint, the Complainant purchased the professional Chinese football club Jiangsu Guoxin-Sainty F.C. in 2015 and renamed the club Jiangsu Suning F.C.

- "js" – JS is an abbreviation for Jiangsu an eastern coastal province of the People's Republic of China. Jiangsu is also the province which is the home of Complainant's professional Chinese football club, Jiangsu Suning F.C. or, as it is commonly known, JS Suning F.C.

- "dianjing" – This term is related to the gaming industry (e-sport business or electronic sport business) and is the Chinese meaning of the competition event for Gaming inductee.

The Complainant points out that 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 Exxon Mobil Corporation v. mga enterprises limited, FA 1273445 (NAF Aug. 26, 2009) (In this case it was found that the addition of the terms "travel" and "club," which have an obvious relationship to complainant's [Exxon's] business in that case, to the complainant's mark in the disputed domain name in that case <exxontravelclub.com> create a confusing similarity between the disputed domain name and the registered mark). See also Allianz of Am. Corp. v. Bond, FA 0680624 (NAF June 2, 2006) (where it was found that the addition of the generic term "finance," which described the complainant's financial services business...did not sufficiently distinguish the respondent's disputed domain name from the complainant's mark). See also Kohler Co. v. Curley, FA 0890812 (NAF Mar. 5, 2007) (where it was found confusing similarity where <kohlerbaths.com>, the disputed domain name in that case, contained the complainant's mark in its entirety adding "the descriptive term 'baths,' which is an obvious allusion to complainant's business").

The Complainant therefore submits that the Disputed Domain Names <suningsucks.com>, <suninglemon.club> and <suninglemon.com> contains the Complainant's SUNING trademark in its entirety and simply adds a generic, negative term to the trademark, thus creating a domain name that is confusingly similar to the Complainant's trademark. The Complainant also submits that the etymology of the term "lemon" in English (slang) commonly refers to a defective or "worthless" item. It is pointed out that many panels have held that the mere addition of generic, negative terms to a trademark does not sufficiently differentiate the resulting disputed domain name from that trademark. Thus, the Disputed Domain Names must be considered confusingly similar to Complainant's trademark. See Yahoo! Inc. v. Fato, FA 0286410 (NAF July 26, 2004) (In that case it was found that the <fuckyahoo.com> domain name was confusingly similar to the complainant's YAHOO! mark). See also State Farm Mutual Automobile Insurance Company v. Sean Dada, FA 1521298 (NAF Oct. 25, 2013) (where it was found that the term "sue" is a generic negative term and <suestatefarm.info> is confusingly similar to complainant's trademark in that case).

II. The Respondent has no Rights or Legitimate Interests in Respect of the Disputed Domain Names

The Complainant submits that the granting of registrations by the State Administration For Industry & Commerce of the People's Republic of China (SAIC) and the Intellectual Property Department of The Government of the Hong Kong Special Administrative Region to the Complainant for the "SUNING" trademark is prima facie evidence of the validity of the term "SUNING" as a trademark, of the Complainant's ownership of this trademark, and of the Complainant's exclusive right to use the "SUNING" trademark in commerce on or in connection with the goods and/or services specified in the registration certificates.

The Complainant points out that the Respondent is not sponsored by or affiliated with the Complainant in any way; and the Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names.

It is the Complainant's submission that the Respondent is not commonly known by the Disputed Domain Names, which evinces a lack of rights or legitimate interests. From the WHOIS data for the Disputed Domain Names, the Respondent as the registrant of the Disputed Domain Names is identified as "Zhao DongXu / ZhaodongXu / Modify Modify /

Zhao Dongxu / Zhao Dongxu,” which does not resemble the Disputed Domain Names in any manner – thus, where no evidence, including the WHOIS record for the Disputed Domain Names, suggests that Respondent is commonly known by the Disputed Domain Names, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Names within the meaning of paragraph 4(c)(ii) of the Policy. See Instron Corp. v. Kaner, FA 0768859 (NAF Sept. 21, 2006).

It is the Complainant’s contention that the Respondent is using the Disputed Domain Names to redirect internet users to websites that resolve to a blank pages and lack content. The Respondent has failed to make use of the websites of the Disputed Domain Names and has not demonstrated any attempt to make legitimate use of the domain names and websites, which evinces a lack of rights or legitimate interests in the Disputed Domain Names. See Nenê f/k/a Maybyner Rodney Hilario v. Master, Host, FA 0924563 (NAF Apr. 10, 2007) (where it was held that absence of content at website evinced a lack of rights or legitimate interests in the disputed domain name). See also Bloomberg L.P. v. SC Media Servs. & Info. SRL, FA 0296583 (NAF Sept. 2, 2004) (where the respondent in that case was using the disputed domain name to resolve to an empty page featuring no substantive content or links that constitutes further evidence that that respondent's failure to actively use the disputed domain name suggests a lack of rights and legitimate interests in the disputed domain name as blank pages were neither a bona fide offering of goods or services nor a legitimate non-commercial or fair use under Policy.

The Complainant contends that as shown on screenshots of the Disputed Domain Names’ websites in Annex 3 of the Complaint, and the fact that the Respondent has offered to sell the Disputed Domain Name <suningfc.com> for US\$90,000; an amount that far exceeds the Respondent’s out-of-pocket expenses in registering the domain, there is further evidence to show the Respondent’s lack of rights and legitimate interests in respect of the Disputed Domain Names. See Reese v. Morgan, FA 0917029 (NAF Apr. 5, 2007) (where it was found that an offer to sell a domain name in excess of the out-of-pocket expenses incurred in maintaining the domain name was evidence that the respondent had no true rights or legitimate interests). See also Hewlett-Packard Co. v. High Performance Networks, Inc., FA 0095083 (NAF July 31, 2000) (where it was held that there were no rights or legitimate interests where the respondent registered the domain name with the intention of selling its rights). In Annex 10 of the Complaint there are email communications in which the Respondent offered to sell the Disputed Domain Name <suningfc.com>.

The Complainant points out that the Respondent registered the Disputed Domain Names between October 2015 and February 2016, which was significantly after the Complainant filed for registration of its “SUNING” trademark with the State Administration For Industry & Commerce of the People’s Republic of China (SAIC) in 1994 and the Intellectual Property Department of The Government of the Hong Kong Special Administrative Region in 2005.

III. The Disputed Domain Names were Registered and are Being Used in Bad Faith

It is the Complainant’s submission that at the time of registration of the Disputed Domain Names, 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 numerous trademarks filed in connection with Complainant’s business prior to Respondent’s registration of the Disputed

Domain Names, the Complainant is the leader in the electronic market in China with a large physical presence with stores in Beijing, Shanghai, Guangzhou and Shenzhen offering 5,000 to 6,000 different products. Further, while constructive notice may sometimes alone be regarded as insufficient to support a finding of bad faith, it is generally found that a respondent should be considered as possessing actual notice and knowledge of a complainant's marks, and thus having registered the domain in bad faith, where the complainant's mark is well-known and the circumstances support such a finding. See GO Local NC Farms, LLC v. Paul Darcy, FA 1426087 (NAF Mar. 13, 2012) (“a finding of bad faith hinges squarely on the probability that it was more likely than not that respondent knew of, and targeted, complainant's trade mark”). See also Orbitz Worldwide, LLC v. Domain Librarian, FA 1535826 (NAF Feb. 6, 2014) (“The Panel notes that although the UDRP does not recognize “constructive notice” as sufficient grounds for finding... bad faith, the panel here finds actual knowledge through the name used for the domain and the use made of it”). See also Clearwater Systems, Inc. v. Glenn Johnson / Clear Water Systems of Remington Inc., D2014-0878 (WIPO Aug. 5, 2014) (“Knowledge and targeting [of a trademark] may be proven inferentially”).

The Complainant also submits that the Respondent should be considered to have known of the existence of the Complainant's trademarks due to the timing and circumstances surrounding the Respondent's registration of the Disputed Domain Names <suningfc.win>, <jssuningfc.win>, <jssuningfc.cc> and <suningfc.xyz>, which provides further evidence of bad faith registration. In addition to Complainant's well-known trademarks and broad renown, the Respondent's registration of the Disputed Domain Names shortly after Complainant announced its purchase of Jiangsu Guoxin-Sainty F.C and its subsequent name change to Jiangsu Suning F.C. on December 21, 2015 (as shown in Annex 7 to the Complaint), strongly suggests that the Respondent knew of the Complainant and only registered the Disputed Domain Names in response to the publicity generated and received by Complainant. The Complainant points out those previous panels that have held that registration of a domain name related to and shortly after an announcement or event by Complainant constitutes opportunistic bad faith registration. See Amazon.com, Inc. and Amazon Technologies, Inc. v. shi lei, FA 1568713 (NAF Aug. 15, 2014) (In that case, the respondent's registration of <amazonfirephone.us> within days of initial reports regarding Complainant's new smartphone and on the same day that the complainant filed for registration of the AMAZON FIRE mark provides evidence of opportunistic bad faith). See also Sota v. Waldron, D2001-0351 (WIPO June 18, 2001) (where it was found that the respondent's registration of the <seveballesterostrophy.com> domain name at the time of the announcement of the Seve Ballesteros Trophy golf tournament “strongly indicates an opportunistic registration”). See also Lean In Foundation d/b/a LeanIn.Org v. James Miller, FA 1549870 (NAF Apr. 18, 2014) (where it was found that the respondent's registration of fifteen domain names related to the LEAN IN mark came just four days after announcement of a movie related to the complainant and this trademark, which demonstrates opportunistic bad faith under the Policy).

The Complainant points out that the Disputed Domain Names currently resolve to inactive sites and are not being used, though past Panels have noted that the word bad faith "use" 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. See Telstra Corp. v. Nuclear Marshmallows, D2000-0003 (WIPO Feb. 18, 2000).

The Complainant submits that the Disputed Domain Names can only be taken as intending to cause confusion among internet users as to the source of the Disputed Domain

Names, and thus, the Disputed Domain Names must be considered as having been registered and used in bad faith, with no good faith use possible. More specifically, where the Disputed Domain Names incorporate Complainant's famous "SUNING" trademark in its entirety then add the generic terms "fc" and "js," which have an obvious relationship to the Complainant, and the negative terms "sucks" and "lemon," there is no plausible good-faith reason or logic for the Respondent to have registered the Disputed Domain Names, and the "only feasible explanation for the respondent's registration of the disputed domain names is that the respondent intends to cause confusion, mistake and deception by means of the disputed domain name. Accordingly, any use of the disputed domain name for an actual website could only be in bad faith." See Vevo LLC v. Ming Tuff, FA 1440981 (NAF May 29, 2012). Further, considering these circumstances, any use of the Disputed Domain Names whatsoever, whether actual or theoretical, would have to be in bad faith. See Indymac Bank v. Ebeyer, FA 0175292 (NAF Sept. 19, 2003) (where it was held that "there is no conceivable way [r]espondent could use the disputed domain names such that they would not infringe on [c]omplainant's INDYMAC mark, and therefore it is illogical to await [r]espondent's use of the domain names to find bad faith use").

It is the Complainant's contention that the Respondent has registered numerous domain names that each infringes upon Complainant's SUNING trademark. The sheer number of infringing domain names registered by the Respondent demonstrates that the Respondent is engaging in a pattern of cybersquatting, which is evidence of bad faith registration and use. See The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc., D2000-0113 (WIPO Apr. 13, 2000) See also Unified Brands, Inc. v. John Paul / International Chef Solutions, FA 1563720 (NAF July 30, 2014)

The Complainant reiterates that the Respondent is currently offering to sell the Disputed Domain Name <suningfc.com> for US\$90,000, which constitutes bad faith because the Respondent has demonstrated an intent to sell, rent, or otherwise transfer the Disputed Domain Name for valuable consideration in excess of his out-of-pocket expenses. It is well established that seeking to profit from the sale of a confusingly similar domain name that incorporates a third party's trademark demonstrates bad faith. See Broadcom v. Domain Management / Syed Hussain FA 1419370 (NAF Jan. 17, 2012).

The Complainant points out that the Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity on Disputed Domain Names <suningdianjing.com>, <suningsucks.com> and <suninglemon.com>, which past panels have held as further evidence of bad faith registration and use. See Dr. Ing. H.C. F. Porsche AG v. Domains by Proxy, Inc., D2003-0230 (WIPO May 16, 2003). See also T-Mobile USA, Inc. v. Utahhealth, FA 0697819 (NAF June 7, 2006) (where it was found that the respondent's "efforts to hide its true identity through the use of a "proxy" domain registrar are evidence of bad faith registration"). See Yahoo! Inc. v. cancelyahoo.org Private Registrant/ A Happy DreamHost Customer, FA 1503412 (NAF July 29, 2013) (where it was found that the respondent "used a privacy service to register the disputed domain name...which raised the rebuttable presumption of bad faith registration and use of the disputed domain name").

The Complainant also points out that the Complainant first made an attempt to purchase the Disputed Domain Name <suningfc.com> on January 22, 2016 through an anonymous acquisition initiated by the Complainant's representative. Upon learning of the Respondent's high asking price, it was revealed that the purchase attempt was being conducted on behalf of the Complainant. A cease and desist letter was then sent by e-mail

advising the Respondent of the unauthorized use of the “SUNING” trademark by the domain name at issue and requested a voluntary transfer of the same. The Complainant also offered reasonable compensation for costs incurred related to the registration of the Disputed Domain Name. The Respondent claimed he had no prior knowledge of the Complainant stating that “suningfc = suning + fc = sunshine real estate.” Several email communications were exchanged, however since no amicable solution could be reached, the Complainant chose to proceed with filing a complaint with ANDRC. See Encyclopedia Britannica v. Zuccarini, D2000-0330 (WIPO June 7, 2000) (where it was found that failure to positively respond to a demand letter provides “strong support for a determination of ‘bad faith’ registration and use”). There is attached to Annex 10 of the Complaint a copy of the Complainant’s cease and desist letter to the Respondent and corresponding email communications in which the Respondent claims use of the name in relation to real estate. Finally, the Complainant submits that on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted the Complainant’s trademark, and the Respondent should be found to have registered and used the Disputed Domain Names 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., FA D2014-1754 (WIPO Jan 12, 2014) (where “the [p]anel 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 [r]espondent had the ELECTRIC FOOTBALL trademark in mind when registering the Domain Name.”)

B. Respondent’s Contentions

1. It is the contentions of the Respondent that the Disputed Domain Name <suningfc.com> was the earliest registered by the Respondent and it came out from a casual idea of running a site to provide free real estate information after the Respondent’s return from Japan. The Respondent submits that the Chinese pinyin “fc” is the abbreviation for “Fang Chan” which means real estate in English. The Respondent argues that in China it is very common for people to access a real estate site named in form of “xxxfc”. The Respondent cites the example of the website <sinafc.com> 橙房网 which is a well-known real estate site from Amoy of the Fujian Province of China. The Respondent also cites <haotingfc.com> 豪庭房产, which is a professional real estate information site from TaiYuan of the ShanXi Province of China. In addition, the Respondent points out that another well-known website <chinafc.com> 中国家具城 in which the Respondent submits the abbreviation “fc” has another meaning of a “Furniture City”.
2. The Respondent claims that he had been working in Kawasaki, Kanagawa in Japan before 2014; and that during his stay in Japan, the Respondent only heard of Chinese companies like “Huawei” and “Qingdao”; and that there was “no appearance” about the Complaint at all “at his surroundings”.
3. The Respondent avers that as his last name is Dong Xu and is written as “东旭” in Chinese, he named his website “旭日房产” in Chinese. The Respondent says that he originally tried to register “sunfc.com”, but it had already been taken in 1998. The Respondent claims that after considering the expression of “旭日” which means “a sun

which is rising up in the east”, the Respondent added a “ing” after the term “sun” to convey this idea. The Respondent submits that the Complaint arbitrarily drew a conclusion that the Respondent’s name does not resemble the Disputed Domain Names without an investigation.

4. The Respondent claims that in the beginning of 2016, the Respondent began to construct his website “旭日房产” and also put a web page on server with an explanatory note in the Chinese characters in form of “SUNing” to highlight the “SUN” but that was not captured in the screen shot produced in the evidence of the Complaint. The Respondent adds that several weeks later, for some “top-design reason”, the Respondent suspended the construction temporarily; and in order “not to keep the domain name idle”, a webpage for non-profit public positive deeds was also put on for some time as captured by the evidence provided by the Complainant in the Complaint.

5. The Respondent denies issuing any selling advertisement commercial, neither in the cyberspace (on internet) nor in the media (on paper). As regards the Respondent having mentioning of xx USD in the emails schemed by the Complainant, it was just as a response as a manner of courtesy in response to Mr Joe’s (from DNBuy) constant, and repeated requests. The Respondent points out that his answer is radically not seeking a deal.

6. It is also the Respondent’s contention that “SUNING” is actually not only a trademark, it is also a geographic place name “肃宁” which located in CangZhou, Hebei Province of China and there are over one and a half million search items by Baidu.

7. The Respondent claims that about half a month after registering the Disputed Domain Name <suningfc.com>, the Respondent received a call from a person who claimed himself to be a staff member of SUNING club, threatening the Respondent to transfer the domain name to him immediately for free. The Respondent also claims that shortly after this call, the Respondent registered the Disputed Domain Name <suningsucks.com> irrationally; and thereafter the Respondent learned about the Complaint’s “SUNING” company through Baidu, and registered the other Disputed Domain Names in succession.

8. The Respondent states that he agrees to transfer the 8 of the Disputed Domain Names (except “suningfc.com”) to the Complaint as long as the basic registering expense is paid as “amicable and good-faith” settlement of the matter.

C. The Complainant’s supplementary submissions

The supplementary submissions filed by the Complainant that have not been previously raised in the Complaint can be summarized as follows:

1. The Complainant points out that the Complainant has expanded its business to Japan since 2009 and has now set up 41 chain stores in Japan as shown in Supp. Annex 2. Given the huge reputation of the Complainant, the Complainant submits that the

Respondent must have had knowledge on Complainant's SUNING trademark before the registration of the Disputed Domain Names.

2. The Complainant's involvement in Football has been widely reported since March 2015. In December 2015 Complainant announced that it had acquired the Chinese Football Club Jiangsu Guoxin-Sainty F.C. (江苏国信舜天足球俱乐部) as shown in Supp. Annex 6. Prior to that, on 3 July 2015, approximately 3 months before Respondent's registration of the earliest Disputed Domain Name, several news agencies in China published a rumor that the Complainant may take control of Jiangsu Guoxin-Sainty F.C., see Supp. Annex 7. In fact, four of the Disputed Domain Names were registered either on the exact date, or within a couple of days, of numerous press releases announcing Complainant's acquisition of Jiangsu Guoxin-Sainty F.C. (江苏国信舜天足球俱乐部), see Supp. Annex 8-9. In light of these facts, it is impossible that the Respondent registered the domain names <suningfc.com>, <suningfc.win>, <jssuningfc.cc> and <jssuningfc.win> at that moment solely because of his recent business plan. In addition, the Complainant points out that the Respondent has not submitted any evidence to support this idea.

D. The Respondent's Supplementary Submissions

The Supplemental Submissions filed by the Respondent that have not been previously raised in the Response can be summarized as follows:

1. The Respondent claims that he has not come across any of the Complainant's chain stores in Japan.
2. The Respondent accepts that FC can indeed be explained as an acronym of "Football Club" today, but not necessarily tomorrow.
3. The Respondent submits that a domain name is an entrance to the cyberspace and it is a creative work.

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. The respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. The respondent has no rights or legitimate interests in respect of the domain name; and
- iii. The respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

In view of the evidence submitted by the Complainant in Annex 1 of the Complaint, there is at least one of the trademarks registered in China in the name of the Complainant, namely, Trademark registration number 4823162 that depicts the word

“SUNING”. The other trademarks registered in China in the name of the Complainant, namely, trademark registration numbers 816517, 1956701, 811873, 805878, 811936 and 803968 depict the Chinese words “蘇寧” only. As regards the trademarks registered in Hong Kong SAR, they are not in the name of the Complainant. The Panel accepts the Complainant’s submission and finds that the Complainant’s registration of the “SUNING” trademark bearing registration no. 4823162 with the State Administration For Industry & Commerce of the People’s Republic of China is sufficient to confer rights in the mark pursuant to paragraph 4(a)(i) of the Policy.

The Disputed Domain Names <suningfc.com>, <suningfc.win>, <suningfc.xyz>, <jssuningfc.cc>, <jssuningfc.win>, <suningdianjing.com>, <suningsucks.com>, <suninglemon.club> and <suninglemon.com> comprise of "SUNING" followed by “fc”, dianjing, sucks or lemon or with a prefix “js”. The Panel is satisfied on the evidence produced in the Complaint that (a) “fc” is a common abbreviation for Football Club and that the Complainant had purchased the professional Chinese football club Jiangsu Guoxin-Sainty F.C. in 2015 and renamed the club Jiangsu Suning F.C.; (b) “js” is an abbreviation for Jiangsu an eastern coastal province of the People’s Republic of China which is the home of Complainant’s professional Chinese football club, Jiangsu Suning F.C. or, as it is commonly known, JS Suning F.C.; and (c) “dianjing” is a term is related to the gaming industry such as e-sport business or electronic sport business. The Panel finds that the addition of the generic, descriptive terms “fc,” “js” or “dianjing” that are intimately related to, or connected with, the Complainant’s business makes the Disputed Domain Names <suningfc.com>, <suningfc.win>, <suningfc.xyz>, <jssuningfc.cc>, <jssuningfc.win> and <suningdianjing.com> confusingly similar to Complainant’s “SUNING” trademark. The Panel also finds the addition of the generic, negative term of “sucks” or “lemon” in the Disputed Domain Names <suningsucks.com>, <suninglemon.club> and <suninglemon.com> makes them confusingly similar to the Complainant’s “SUNING” trademark.

As for the generic Top-Level Domains ("gTLD") ".net", ".com" and the country code Top-Level Domains ("ccTLD") ".co" and ".cc", it is well established that in making an inquiry under the Policy as to whether a domain name is identical or confusingly similar to a trade mark, the gTLD / ccTLD suffixes may be disregarded. Adopting the observation of the panel in Gardline Surveys Ltd.v. Domain Fin. Ltd., FA 0153545 (NAF May 27, 2003), the 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.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

As stated in paragraph 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition (“WIPO Overview 2.0”), once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent

fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has made a prima facie case here. It is therefore for the Respondent to show that this is not the case.

Paragraph 4(c) of the Policy provides that any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the respondent's rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

(i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel considers that there is no merit in the Respondent's submission that "SUNING" resembles his last name Dong Xu which is "东旭" in Chinese. The Panel rejects the Respondent's claim the Disputed Domain Names resemble his name; and finds that the Respondent is not commonly known by any of the Disputed Domain Names.

There are glaring doubts to the allegation that the Respondent used the Disputed Domain Name <suningfc.com> in the beginning of 2016 to begin to construct his website "旭日房产". The WHOIS record as shown in Annex 2 of the Complaint discloses the website of <suningfc.com> is "肃宁风采网". The Panel considers the claim of "旭日房产" website is a mere recent invention of the Respondent. The Panel rejects the Respondent's submission that the Disputed Domain Name <suningfc.com> was registered for a real estate website. The Panel finds no evidence in the Respondent's claim that he has used <suningfc.com> for "non-profit public positive deeds".

Based on an evaluation of all the relevant evidence, that Panel finds that none of the circumstances as referred to in paragraph 4(c) of the Policy exists in this case.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C) Bad Faith

In chronological order the Respondent registered the Disputed Domain Names : < suningfc.com> on 2015-10-13, <suningsucks.com> on 2015-11-10, <suningfc.win> on 2015-12-22, <suningfc.win> on 2015-12-22, <jssuningfc.cc> on 2015-12-28 <suningdianjing.com> on 2015-12-29, <suningfc.xyz> on 2016-1-23, <suninglemon.club> on 2016-2-19 and <suninglemon.com> on 2016-2-19 over a short period of 5 months around the time of the announcement by Complainant of its acquisition of the Chinese Football Club Jiangsu Guoxin-Sainty F.C. (江苏国信舜天足球俱乐部) in December 2015. The Panel notes that most the Disputed Domain Names with “fc” were registered either shortly before or right at the time of this announcement. The Panel considers that the inclusion of “jc” to the Disputed Domain Name <jssuningfc.cc> registered in December 2015 by the Respondent was no coincidence if it were not for the Complainant’s newly acquired football club, commonly known as “JS Suning F.C.”, at that time. The timing and the identical similarity of the Dispute Domain Name <jssuningfc.cc> is clear evidence of cybersquatting. Coupled with the registration of the other 8 Disputed Domain Names around that time would point to the clear conclusion that the Respondent knew very well the Complainant, the Complainant’s brand name and trademarks and the Complainant’s acquisition of the football club at that time.

Paragraph 4(b) of the Policy provides that for the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent has registered or the respondent has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

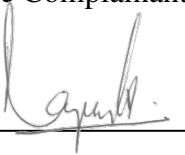
(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent’s web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s web site or location or of a product or service on the respondent’s web site or location.

Irrespective of where the Respondent resided at the material times, taking into account (a) the timing of the Respondent’s registrations of the 9 Disputed Domain Names;(b) the inactive websites with virtually no content for the Disputed Domain Names; (c) the Respondent’s offer to sell to the Complainant at US\$90,000; and (d) all the other relevant circumstances in this case, the Panel finds that the Respondent clearly knew about the Complainant, the Complainant’s trade name “蘇寧” which in Pinyin is “SUNING”, the Complainant’s “SUNING” trade mark, the

Complainant's <suning.com> website, and also the Complainant's acquisition of the football club at the time the Respondent registered the Disputed Domain Names. Even if the Respondent knew none of these, the Panel considers that there is no plausible good-faith reason or logic for the Respondent to have registered these nine Disputed Domain Names that are confusingly similar to the "SUNING" tradename or trademark over this short 5-month period of time. On totality of evidence, the Panel considers that the irresistible inference in the circumstance of the present case must be bad faith registration and use of the Disputed Domain Names by the Respondent. The Panel finds that the Respondent registered and has been using the Disputed Domain Names in bad faith, and that paragraph 4(a)(iii) of the Policy has been satisfied.

6. Decision

For all the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the Disputed Domain Names <suningfc.com> ,<suningfc.win> ,<suningfc.xyz> , <jssuningfc.cc> , <jssuningfc.win> , <suningdianjing.com> , <suningsucks.com> , <suninglemon.club> and <suninglemon.com> be transferred to the Complainant.



Raymond HO
Sole Panelist
21 September 2016