



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

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| Case No. | HK-1500730 |
| Complainant: | Lenovo (Beijing) Limited |
| Respondent: | Mr. Andrew Johnson |
| Disputed Domain Name: | <lenovo.info> (the “Domain Name”) |

1. The Parties and Contested Domain Name

The Complainant is Lenovo (Beijing) Limited, of 6 Chuangye Road, Shangdi Information Industry Base, Haidian District, Beijing, 100085 People’s Republic of China.

The authorised representative of the Complainant is Zhang Peng Attorney, of Mingyong Law Office, B2-304, Five Buildings, No.9 Chegongzhuang Street, Xicheng District, Beijing, 100044 People’s Republic of China.

The Respondent is Mr. Andrew Johnson, of 5531 Lynn Dell Road, Roanoke, VA24018, USA.

The Domain Name at issue is <lenovo.info>, registered by Respondent with GoDaddy.com, LLC (R171-LRMS), of 14455 N Hayden Rd Suite 219, Scottsdale, Arizona 85260, USA.

2. Procedural History

On 26th March 2015, the Complainant submitted the Complaint. On 27th March 2015, the ADNDRC Hong Kong Office (the “ADNDRC”) wrote to the Domain Name Registrar GODADDY.COM, LLC advising it that a Complaint had been made, requesting the Registrar to confirm registration information, and to take appropriate action towards the Domain Name in accordance with the UDRP, such as: prohibit the Domain Name being transferred to a third party. On 27th March 2015, the ADNDRC wrote to the Complainant requesting it to submit the case filing fee on or before 5th April 2015. On 28th March 2015, the Registrar confirmed the registration information. On 8th April 2015, the ADNDRC acknowledged receipt of the case filing fee.

On 9th April 2015, the Respondent acknowledged receipt of the Complaint. On 10th April 2015, the ADNDRC wrote to the Respondent stating that in accordance with Paragraph

4(a) of the Rules, it was reviewing the Complaint to ensure administrative compliance with the Policy and the Rules.

On 10th April 2015, the ADNDRC wrote to the Complainant requesting it to serve a copy of the Complaint to the Respondent and the Registrar in accordance with Para 3 (b) (xii) of the Rules and Article 5(3) of the Supplemental Rules. On 10th April 2015, the Complainant complied with the request and sent the Complaint. On 23rd April 2015, the Respondent sent his Response, which was within the required time.

On 5th May 2015, the ADNDRC appointed Mr. Niall Lawless as Sole Panelist to make a decision in the English language in this dispute. Mr. Lawless having confirmed that he was available, and was in a position to act independently and impartially between the parties. Mr. Lawless is required to render his decision on or before 19th May 2015.

There are no other judicial proceedings current or pending in respect of the Domain Name.

3. Factual background

The Complainant established in 1984 has headquarters in Beijing, China, and Morrisville, North Carolina, USA. It designs, develops manufactures and sells personal computers, tablet computers, smartphones, workstations, servers, electronic storage devices, IT management software and smart television sets.

The Respondent registered the Domain Name on 20th September 2010. The Domain Name is currently resolving to a holding page with the notice “*Website coming soon. Please check back soon to see if website is available*”.

4. Parties’ Contentions

A. Complainant

The Complainant seeks transfer of the Domain Name.

The Complainant says:-

- The main part of the Domain Name is “Lenovo”, which is identical to the Complainant’s name and trademarks.
- The Respondent has no rights or legitimate interests in respect of the domain name.

The Complainant says that the Domain Name was registered and is being used in bad faith because:-

- The Respondent registered the Domain Name based on his knowledge of the Complainant’s name and trademarks. The main part of the Domain Name is “Lenovo”, which will cause confusion that the Domain Name is associated with the Complainant.
- The Respondent’s registration of the Domain Name prevents it from registering and using it.
- Even if the Domain Name is not actively used, the Respondent’s passive holding of the Domain Name is “cyber-squatting”, and that it is reasonable to conclude that Respondent’s purpose in “cyber-squatting” is to obtain improper profits.
- The Respondent is not affiliated in any way with the Complainant, and has not been authorised by the Complainant to register the Domain Name.

B. Respondent

The Respondent does not dispute the Complainant's assertions made in respect of Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Resolution Policy.

The Respondent says that he bought the Domain Name in good faith as a professional courtesy, with the intention of turning it over to the Complainant. The Respondent says that he does not wish to keep the Domain Name. The Respondent says that he tried to contact the Complainant and its Complaint legal representative, but did not receive any replies. The Respondent says that he has not used the Domain Name.

5. Findings

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

- i. Respondent's domain name 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.

A) Identical / Confusingly Similar

The Complainant operates selling products in around 160 countries. It has offices and operations in more than 60 countries with about 54,000 employees. In 2014, the Complainant was the world's largest personal computer vendor by unit sales. The Complainant became a global partner of the International Olympic Committee in 2004 and sponsored the 2006 Turin Winter Olympic Games and the 2008 Beijing Olympic Games. The Complainant and "Lenovo" products are recognised across the world. The Complainant created the word "Lenovo" as a brand and subsequently obtained many registrations for "Lenovo" formative trademarks in 141 countries and regions. For example, trademarks in the USA for "Lenovo" number 3,149,377 application dated 20th February 2003; number 3,226,026 application dated 24th March 2003 and number 3,271,488 application dated 24th March 2003.

The Complainant has established that it has rights to the trademark "Lenovo" and the Domain Name is identical to that.

B) Rights and Legitimate Interests

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the Trademark "Lenovo". Given that the Respondent has not provided any evidence to support a right or legitimate interest in the Domain Name, I decide that the Respondent has no rights or legitimate interests in respect of the Domain Name.

C) Bad Faith

To succeed the Complainant must show that the Domain Name was registered in bad faith and has been used in bad faith. Paragraph 4 (b) of the Policy sets out circumstances that are to be taken as evidence of the registration and use of a domain name in bad faith:-

(i) circumstances indicating 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 who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(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; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.

In the Response, the Respondent confirms that he knew of the Claimant and the name "Lenovo" when he registered the Domain Name on 20th September 2010. As the Domain Name was registered some considerable time ago, it is disingenuous for the Respondent to assert that he bought the Domain Name in good faith as a professional courtesy, with the intention of turning it over to the Complainant. Therefore, I decide that the Respondent registered the Domain Name in bad faith.

However, the test under the Policy Paragraph 4 (a) iii is that for the Complainant to prevail, it must prove both that the Domain Name was registered in bad faith, and that it is being used in bad faith.

The holding page the Domain Names currently resolves to states "*Website coming soon. Please check back soon to see if website is available*". If the Respondent uses the Domain Name to publish a website, it is likely to cause confusion that the Domain Name is associated with the Complainant

Notwithstanding the current holding page text, it seems that the Respondent's use of the Domain Name is passive. As discussed in *Telstra Corporation Limited -v- Nuclear Marshmallows* WIPO Case No D2000-0003, passive holding can, in certain circumstances, constitute a domain name being used in bad faith "*the concept of a domain name "being used in bad faith" is not limited to positive action; inaction is within the concept. That is to say, it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith*".

I decide that the Respondent's passive holding of the Domain Name between 20th September 2010 and today, is using the Domain Name in bad faith because:-

- The Complainants name and trademarks enjoy considerable international reputation of which the Respondent was aware when he registered the Domain Name.
- The Respondent has made it clear that he did not or does not intend to use the Domain Name.

In addition, the registration of the Domain Name prohibits the Complainant registering and using the Domain Name and disrupts its business.

6. Decision

Pursuant to Section 4 of the Policy and Article 15 of the Rules, the Panelist orders that the Domain Name < lenovo.info > be transferred to the Complainant.



Niall Lawless
Sole Panelist

Dated: 11th May 2015