



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1400609
Complainant:	World Hair Cosmetics Co Ltd
Respondent:	Gale P. Robertson
Disputed Domain Name:	<ida.com>

1. The Parties and Contested Domain Name

The Complainant is World Hair Cosmetics Co Ltd, of Hong Kong.

The Respondent is Gale P. Robertson, of Texas, United States of America.

The domain name at issue is <ida.com>, registered by Respondent with .PDR Ltd d/b/a PublicDomainRegistry.com, of Mumbai, Maharashtra, India.

2. Procedural History

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (“the Centre”) on May 8, 2014, naming Privacy Protection Service INC as respondent. On May 9, 2014 the Registrar confirmed that the domain name is registered with it and revealed that the Respondent is the registrant of domain name. The Registrar also provided the Respondent’s contact details, confirmed that the ICANN Uniform Dispute Resolution Policy (“the Policy”) applies and that the language of the registration agreement is English. At the request of the Centre, the Complainant made an amendment to the Complaint on May 22, 2014. On May 23, 2014 the Centre formally notified the Respondent of the amended Complaint and that the Respondent had until June 12, 2014 to file a Response.

The Panel is satisfied that, in accordance with the ICANN Uniform Dispute Resolution Rules (“the Rules”), paragraphs 2(a) and 4(a), the Centre employed reasonably available means calculated to achieve actual notice of the Complaint to the Respondent and the proceedings commenced on May 23, 2014. In accordance with the Rules, paragraph 5(a), the due date for Response was June 12, 2014. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2014.

The Center appointed Alan L. Limbury as the sole panelist in this matter on June 13, 2013. The Panel finds that it was properly constituted. The Panel informed the Centre on June 13, 2014 that he was in a position to act independently and impartially between the parties.

3. Factual background (undisputed facts)

The Complainant makes and sells a variety of goods for hair care, body care and fragrances under the trademark IDA, which it first registered in China on October 28, 1995 (No. 786177) and subsequently elsewhere.

In 2005 the Complainant registered with GoDaddy.com the domain name the subject of these proceedings, <ida.com>, and renewed that registration in September, 2010 until 2018.

In April, 2014, the Complainant discovered that its account with GoDaddy.com had been hacked and that, as a result, the Registrar had been changed to PublicDomain Registry Ltd and the Complainant was no longer the registrant. The Complainant has complained of cybercrime to the Hong Kong police and to the FBI.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The domain name is identical to the Complainant's IDA trademark.
- ii. The Respondent has no rights or legitimate interests in the domain name, which was hijacked by a hacker not known to the Complainant and illegally transferred to the Respondent.
- iii. On May 12, the Complainant discovered that the domain name resolved to a resellerclub website, so was registered in bad faith by the Respondent for the purpose of resale or to sell to a trade competitor of the Complainant to disrupt the Complainant's business.

B. Respondent

The Respondent did not respond to the Complaint.

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. 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 respondent is not obliged to participate in a proceeding under the Policy but if it fails to do so, asserted facts may be taken as true and reasonable inferences may be drawn from the information provided by the complainant: *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. D2000-0441. See also *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. D2003-0109; *SSL International plc v. Mark Freeman*, WIPO Case No. D2000-1080

and *Alta Vista Company v. Grandtotal Finances Limited et al.*, WIPO Case No. D2000-0848.

A) Identical / Confusingly Similar

The top level of the Domain Name “.com” is generally considered irrelevant for the purpose of determining whether the Domain Name is identical or confusingly similar to the trademark in question: *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. D2000-1525; *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. D2000-0429.

The domain name is clearly identical to the Complainant’s registered trademark IDA.

The Complainant has established this element of its case.

B) Rights and Legitimate Interests

The Panel finds that the IDA mark is distinctive and well known. The Complainant’s assertions are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interest in the domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name: *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. D2000-0624 and the cases there cited. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the domain name.

The Complainant has established this element of its case.

C) Bad Faith

There is no dispute that the domain name had been registered to the Complainant until 2018 and came to be registered to the Respondent and resolve to a reseller website as a result of an unauthorized transfer from GoDaddy.com to the present Registrar. Under these circumstances it is clear that the domain name was registered and is being used in bad faith. See *Dracco Company Limited v NJ Tech Solutions Inc.*, ADNDRC Case No. HK-1400577 and *Dracco Company Limited v Whoisguard*, ADNDRC Case No. HK-1400580.

The Complainant has established this element of its case.

6. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the domain name <ida.com> should be TRANSFERRED to the Complainant.

Alan L. Limbury

Alan L. Limbury
Panelist

Dated: June 22, 2014