



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.:	HK-1901304
Complainant:	Shangri-La International Hotel Management Limited
Respondent:	Mark Luo Longboom LLC
Disputed Domain Name:	<shangrilacenter.com>

1. The Parties and Contested Domain Name

The Complainant is Shangri-La International Hotel Management Limited of the British Virgin Islands.

The Respondent is Mark Luo of Longboom LLC Milpitas, California 95036, United States of America (“USA”).

The domain name at issue is <shangrilacenter.com> registered by the Respondent with GoDaddy.com, LLC, of Arizona, USA.

2. Procedural History

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on November 27, 2019. On November 27, 2019 the Centre transmitted to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 2019, the Registrar transmitted to the Centre its verification response disclosing registrant information for the disputed domain name which differed from the named Respondent information in the Complaint. The Centre sent an email communication to the Complainant on December 18, 2019, providing the registrant information disclosed and by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on December 19, 2019.

The Centre has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Centre’s Supplemental Rules.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint and the proceeding commenced on December 19, 2019. In accordance with the Rules, the due date for the Response was January 8, 2020.

No Response was received by the Centre.

The Centre appointed Sebastian Hughes as the Panelist in this matter on January 10, 2020. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

A. Complainant

The Complainant is a company incorporated in the British Virgin Islands and part of the Hong Kong-based Shangri-La Hotels and Resorts Group.

The Complainant manages over 100 hotels and resorts throughout the Asia Pacific, North America, the Middle East and Europe under the trade mark SHANGRI-LA (the “Trade Mark”), including the Shangri-La Centre at four sites in China and Mongolia.

In 2018, the Complainant had a consolidated revenue of US\$2,517.9 million.

The Complainant is the owner of registrations in numerous jurisdictions worldwide for the Trade Mark, including USA registration No 1576957 with a registration date of January 9, 1990.

The Complainant is also the owner of the domain names <shangri-la.com> and <shangrilacentre.com>, registered on May 2, 1995 and August 14, 2019, respectively.

B. Respondent

The Respondent is apparently an individual resident in the USA.

C. The Disputed Domain Name

The disputed domain name was registered on September 20, 2010.

D. Use of the Disputed Domain Name

The disputed domain name is resolved to a website providing sponsored links to third party websites offering hotel and accommodation services (the “Website”).

4. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

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 trade mark 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 Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration. The Complainant also has unregistered or common law rights arising through its use of the name "Shangri-La Centre".

The disputed domain name incorporates the entirety of the Trade Mark (with the exception of the hyphen) together with the word "center".

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

The disputed domain name is also almost identical to the name of the Complainant's Shangri-La Centre properties (the only, immaterial, differences being the absence of the hyphen and the use of the North American spelling of the word "Center").

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark and to the unregistered mark "Shangri-La Centre".

Accordingly, the first condition under paragraph 4(a) of the Policy has been established.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed 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 disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

There is no evidence that the Complainant has authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Complainant has prior rights in the Trade Mark which precede the Respondent's registration of the disputed domain name by many years. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent has used the disputed domain name in order to gain pay-per-click revenue from the sponsored links featured on the Website.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C) Bad Faith

Given the notoriety of the Complainant and of its Trade Mark; the close similarity between the disputed domain name and the Trade Mark; the lack of any explanation from the Respondent; and the use of the disputed domain name in the manner set out above, the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out. The Panel considers it is inconceivable the Respondent was not aware of the Complainant's Trade Mark at the time he registered the disputed domain name.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has been fulfilled.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <shangrilacenter.com> be transferred to the Complainant.



Sebastian Hughes
Sole Panelist

Dated: February 3, 2020