



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2001387
Complainants:	BB IN Technology Co., Ltd YANG, JEN-CHIEH (楊仁傑)
Respondent:	KEJIN SU
Disputed Domain Name(s):	<bbinapp.com>

1. The Parties and Contested Domain Name

The Complainants are BB IN Technology Co., Ltd and YANG, JEN-CHIEH (楊仁傑), both of Belize City, Belize.

The Respondent is KEJIN SU, of Fujian, China.

The domain name at issue is <bbinapp.com>, registered by Respondent with GoDaddy.com, LLC, of 14455 N. Hayden Rd., Ste, 226, Scottsdale, AZ 85260, USA.

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) on August 17, 2020, regarding the domain names <bbinapp.com>. On August 24, 2020, the ADNDRC verified that the Complainants satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) and on August 24, 2020, the Respondent was notified of the Complaint. The due date of the Response was September 13, 2020. The Respondent did not file a formal Response and September 14, 2020, the ADNDRC informed the Respondent of its default. The ADNDRC appointed Francine Tan as the sole panelist in this matter on September 14, 2020.

3. Factual background

The 1st Complainant states that it was established in 1999 and that it is a leading gaming software developer and supplier in Asia, with successful collaborations with more than 500 clients around the world. The 1st Complainant has been the beneficial owner of the domain name <bb-in.com> since September 1, 2005. The domain is used for the 1st Complainant’s official website. The 1st Complainant licensed State Leader Co., Ltd. to hold the domain

name <bb-in.com> on the 1st Complainant's behalf until April 2015 and has always used its official website to promote its online gaming products.

The Complainants' BBIN group is an active participant in gaming events and exhibitions in Asia. It has participated in the Global Gaming Expo Asia ("G2E Asia"), a premier Asian trade event and the largest regional sourcing platform for global gaming and entertainment products, for the past 7 years. Annually, more than 95% of the top Asian gaming operators attend the show.

The 2nd Complainant, YANG, JEN-CHIEH, is the CEO of the 1st Complainant. The 1st Complainant is the beneficial owner of various BBIN marks (in stylized and figurative forms) and has authorised the 2nd Complainant to hold the trademark registrations on its behalf.

The Complainants are the owners of numerous trademarks in Asia for the BBIN marks, including but not limited to:

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- “ BBIN ” (Reg No. 302035890) registered in Hong Kong on September 20, 2011;
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- “ BBIN ” (Reg No. 303248343) registered in Hong Kong on December 23, 2014;
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- “ 寶盈集團 ” (Reg No. 303920058) registered in Hong Kong on October 3, 2016;
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- “ BBIN ” (Reg No. 9987511) registered in China on April 7, 2013;
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- “ BBIN ” (Reg No. 16158219) registered in China on March 21, 2016;
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- “ BBIN ” (Reg No. 16158428) registered in China on March 21, 2016;
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- “ BBIN ” (Reg No. 01537666) registered in Taiwan on September 16, 2012;
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- “ BBIN ” (Reg No. 01711095) registered in Taiwan on June 1, 2015;
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- “ BBIN ” (Reg No. 5764174) registered in Japan on May 15, 2015;
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- “ BBIN ” (Reg No. 40201402784Q) registered in Singapore on December 23, 2014;

The disputed domain name <bbinapp.com> was registered on March 11, 2015, which resolves to an active website which features the Complainants' BBIN marks and is used in relation to online gaming and betting services. A cease-and-desist letter was sent to the Respondent on July 22, 2020. The Respondent did not respond to the Complainants' letter.

4. Parties' Contentions

A. Complainants

The Complainants' contentions may be summarized as follows:

- i. The disputed domain name is confusingly similar to the Complainants' BBIN mark as it incorporates the letters BBIN in their entirety. The term "app" is commonly used to refer to "mobile applications" which could confuse the public into thinking that the disputed domain name is related to the Complainants' mobile applications.
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or authorized the Respondent's use and registration of any domain names consisting of the BBIN mark. Trademarks searches conducted of the Hong Kong, Mainland Chinese, Taiwanese, Japanese and Singapore IP trademarks registers have not revealed any trademark applications or registrations for "bbinapp" or other mark in the name of the Respondent.
- iii. The Respondent registered and is using the disputed domain name in bad faith. The disputed domain name was registered on March 11, 2015, by which time the Complainants had already acquired common law and registered rights in the BBIN marks. The Respondent appears by his/her website to be a provider of an online entertainment platform that provides betting and game facilities. He/she appears to be based in China and must have been aware of the BBIN Group which has been well established in the Asian gaming industry (and in the Chinese market) since 1999.

Further, the Respondent's website prominently features the  mark which is a clear imitation of the Complainant's registered stylized BBIN mark, which is used by the Complainants on their official website. The Respondent thereby seeks to pass off its website as that of the Complainants.

The Respondent's bad faith registration and use are also reflected by the following: The 1st Complainant is a global partner of NOVA ESPORTS, which is an "esports organization". Further to their collaboration, the 1st Complainant promotes The League of Legends 2020 Pacific Championship Series (Lol) which NOVA ESPORTS takes part in. The Respondent by his/her website appears to promote Lol and NOVA ESPORTS, when in fact he/she has no involvement in Lol nor any relationship with NOVA ESPORTS.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

The 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

Paragraph 4(a)(i) of the Policy requires the complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

In the present case, the Complainants have provided evidence of their numerous trademark registrations for the various BBIN marks, including in China where the Respondent is located. The Complainants, additionally, have been using the BBIN marks for a long time and have acquired rights at common law therein.

It is well established by numerous UDRP Panel decisions that the inclusion of a generic or descriptive term does not serve to differentiate a domain name in dispute from a complainant's mark. In the present case, the disputed domain name comprises entirely of the Complainants' BBIN mark and the inclusion of a generic/ descriptive term, "app". The inclusion of the term "app" does not serve to distinguish the disputed domain name from the Complainants' BBIN mark nor does it avoid confusing similarity when considered as a whole.

Consequently, the Panel finds that the Complainants have shown that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights.

The first element of paragraph 4(a) the Policy has been satisfied.

B) Rights and Legitimate Interests

Once a complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name. (See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition* ("WIPO Overview 3.0"), section 2.1.)

In the present case, the Complainants have demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Complainants have provided evidence that they commenced use of the trade mark BBIN and own various trademark registrations before the disputed domain name was registered and that they are not affiliated with nor have they licensed or otherwise permitted the Respondent to use the Complainants' trade mark.

Further, the addition of the term “app” to the disputed domain name is likely to trigger an inference of affiliation with the Complainants and their BBIN mark. This does not constitute legitimate fair use of the disputed domain name. (See WIPO Overview 3.0, section 2.5.1.)

The Respondent has not submitted a Response to the Complaint and did not provide any explanation or evidence to show he/she has rights or legitimate interests in the disputed domain name sufficient to rebut the Complainants’ *prima facie* case.

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

The second element of paragraph 4(a) the Policy has been satisfied.

C) Bad Faith

A complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainants have submitted evidence which shows that the Respondent registered the disputed domain name after the Complainants had secured registrations of their BBIN trade marks. According to the evidence filed by the Complainants, the Complainants have owned registrations for the BBIN trade marks since the year 2011.

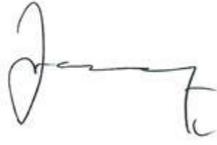
The fact that the Respondent’s website features the Complainants’ stylized mark  and offers competing services shows that the Respondent was well aware of the Complainants and their BBIN/ trade marks, as well as their reputation in the online gaming industry. The Panel is strongly persuaded by the evidence submitted that the Respondent had targeted the Complainants specifically with a view to mislead and confuse unsuspecting Internet users to his/her website to increase the number of visitors, all for commercial gain. The Panel therefore finds the circumstances described in paragraph 4(b)(iv) of the Policy to have been established in this case. The Panel also draws a negative inference from the Respondent’s failure to respond to the proceedings and the fact that the Respondent has used a privacy shield to hide his/her identity, which are further indications of the Respondent’s bad faith. (See WIPO Overview 3.0, section 3.2.1)

The Panel therefore concludes that the disputed domain names were registered and are being used in bad faith.

The third element of paragraph 4(a) the Policy has been satisfied.

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 <bbinapp.com> be transferred to the Complainants.



Francine Tan
Panelist

Dated: September 28, 2020