



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE
(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.: HK-2101446
Complainant: WANG SONG 王松
Respondent: XIAOJUN LIU
Disputed Domain Name: <6543.COM >

1. The Parties and Contested Domain Name

The Complainant is **Wang Song (王松)** (hereinafter referred to as the “**Complainant**”), of 北京市海淀区展春园小区 11-343, 中国 (address in Simplified Chinese).

The Authorized Representative of the Complainant is **Wang Peibi** and is affiliated with Qi Fa Fa Zhishi Chanquan Fuwu Youxian Gongsi of 北京市海淀区中关村南大街 2 号数码银座 12 层 1203 室, 中国 (address in Simplified Chinese).

The Respondent is **Xiaojun Liu**, (hereinafter referred to as the “**Respondent**”) of Room 705, 1877 Pudongnan Road, Shanghai, People’s Republic of China.

The domain name at issue is <6543.com> (hereinafter referred to as the “**Disputed Domain Name**”), registered with GoDaddy.com, LLC of Suite 219, 14455N Hayden Rd, Scottsdale, Arizona, AZ 85260, United States of America (hereinafter referred to as the “**Registrar**”).

2. Procedural History

On 7 April 2021, the Complaint (in the Chinese language, with some minor elements in the English language) was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (hereinafter referred to as the “**Centre**”), in accordance with the Uniform Domain Name Dispute Resolution Policy (the “**Policy**”) approved by the Internet Corporation for Assigned Names and Numbers (“**ICANN**”) on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “**Rules**”) approved by ICANN Board of Directors on 28 September 2013, and the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**”) Supplemental Rules to the ICANN Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy (the “**Supplemental Rules**”) effective from 31 July 2015.

On 8 April 2021, the Centre confirmed receipt of the Complaint and requested the Complainant to submit the necessary case filing fees in accordance with Article 15 of the Supplemental Rules.

On the same day, the Centre notified the Registrar of the Complaint and requested the Registrar to verify information associated with the Disputed Domain Name.

On 9 April 2021, the Registrar wrote to the Centre for an English version of the Complaint in order to complete the verification request.

On 10 April 2021, the Registrar transmitted to the Centre its verification response disclosing registrant information for the Disputed Domain Name, in which the Registrar stated that Wang Song is not the registrant of the Disputed Domain Name; that the ICANN Policy is applicable to the Disputed Domain Name; that the language of the Registration Agreement of the Disputed Domain Name is English as provided by the Whois database; and that the Disputed Domain Name has now been placed under the registrar lock.

On 13 April 2021, the Centre informed the Complainant that the contact information of the Respondent in the Complaint is different from the Whois information provided by the Registrar:

“In accordance with Article 4 of the Rules for the ICANN Uniform Domain Name Dispute Resolution Policy (‘Rules’), we are now reviewing the Complaint for administrative compliance with the Policy and its Rules, and have found the following deficiency.

The information of the Respondent in the Complaint is different from the Whois information provided by the Registrar:

Domain Name: 6543.com

Name: Xiaojun Liu

Email: eur678@hotmail.com

Address: Room 705, 1877 PUDONGNAN road, Shanghai, China 200125

Phone: +86. 13901740791

Name of Registrar: GoDaddy.com, LLC

For the deficiency stated on the above, may we ask the Complainant to update the information of the Respondent in the Complaint Form with reference to the Whois information provided by the Registrar. The Complainant Form of scanned version(signed) and word version should be sent to the Centre.”

According to Article 4(d) of the Rules, the Complainant is hereby required to rectify the above deficiency within 5 calendar days (18 April 2021), failing which the Complaint will be deemed withdrawn without prejudice to submission of a different complaint by the Complainant.”

On 16 April 2021, the Centre verified that the Complaint satisfied the formal requirements in accordance with the Policy, the Rules and the Supplemental Rules. In accordance with the Rules, the Centre formally notified the Respondent of the Complaint and the proceedings commenced on 16 April 2021.

Under Paragraph 5 of the Rules, the due date for the Respondent to file a Response was on or before 6 May 2021.

On 7 May 2021, the Centre wrote to Dr. Christopher To enquiring as to his availability to act as a Sole Panelist (the “**Panelist**”) in relation to the Disputed Domain Name and whether he is in a position to act independently and impartially between the Parties.

The Centre appointed Dr. Christopher To as the Panelist in this matter on 11 May 2021.

The Panelist finds that it was properly constituted and has acted independently and impartially in reaching its conclusion.

In accordance with Paragraph 15(a) of the Rules, the Panel is of the view that it shall decide the Complaint on the basis of statements and documents submitted to it.


According to Paragraph 15(d) of the Rules, this Panel shall issue a reasoned decision.

3. Factual background

Complainant

The Complainant established a limited company (in Simplified Chinese “北京友亿胜天网络科技有限公司”), in Beijing of the People’s Republic of China (see Attachment 6 of the Complaint).

On 26 June 2010, the Complainant purchased and registered the Disputed Domain Name on SEDO.COM (see Annex 4 of the Complaint) and the Complainant officially became the owner of the Disputed Domain Name on 8 July 2010 (see Annex 5 of the Complaint).

The Complainant used the Disputed Domain Name to run its online gaming 6543 minigames business “”, (“6543 小游戏”).

As claimed by the Complainant, on 26 December 2011, tianya.cn messaging mistakenly leaked the Complainant’s password with the Registrar and the password of Disputed Domain Name registered email address “*dinokingwang@gmail.com*”. The Disputed Domain Name was inappropriately used by a hacker with *mala fide* intentions.

On 21 February 2013, the Complainant filed a Complaint (“Initial Complaint”) with the ADNDRC-Beijing Office (https://www.adndrc.org/files/udrp/CN/CN-1300653_Decision.pdf). As the Complainant had not complied with 4(a) of the Policy, the ADNDRC-Beijing Office rejected the Initial Complaint.

On 14 June 2013 and 1 August 2013, the Complainant approached the Chinese Public Security Bureau (中国公安机关) to report the incident (see Annex 3 of the Complaint). The Chinese Public Security Bureau (中国公安机关) dealt with the incident but given that the criminal component occurred outside the jurisdiction of the People’s Republic of China, the authorities did not pursue the matter further.

Respondent

The Respondent, Xiaojun Liu, is an individual.

On 7 May 2021, the Centre informed this Panel that the Centre did not receive a Response from the Respondent on or before 6 May 2021, as such, the Respondent has not contested the allegations of the Complaint and is in default.

Disputed Domain Name

The Disputed Domain Name was created on 4 October 2001.


4. Parties’ Contentions

Complainant


The Complainant made the following submissions in the Complaint:


i. Identical/Confusingly Similar

The Complainant contends that the Disputed Domain Name belongs to the Complainant and the account login details of the Complainant were hacked and leaked, which led to the Disputed Domain Name being stolen and used by another.

The Complainant advocates that “6543” and “” is known amongst the gaming community.


The Complainant registered the appropriate licenses (in Simplified Chinese 《增值电信业务经营许可证》、《网络文化经营许可证》) including the Internet Content Provider, a permit issued by the Chinese Ministry of Industry and Information Technology (MIIT), which is required to operate a website (“6543 小游戏”) in the People’s Republic of China (see Annex 7 of the Complaint).

To better utilize the “6543” wording in the operation of its online gaming business, the Complainant organized a logo design bidding announcement on 18 August 2010. Over 60 design proposals were received. After several rounds of screening and modification, eventually the logo was decided to be “” (see Annex 8 of the Complaint).

The Complainant states that “” and “6543” were used extensively to operate the Disputed Domain Name website (6543.com) from 2011 to 2013. After the Disputed Domain Name was inappropriately stolen, the Complainant’s online gaming business came to a sudden halt in the second half of 2013 (see Annex 9 of the Complaint).

According to the Complainant, the “” service logos became the most comprehensive, professional, and popular leisure gaming website in the People’s Republic of China. The Complainant’s gaming products (in Simplified Chinese, “《征战四方》、《火影世界》、《龙将》、《帝国文明》、《凡人修真 2》、《神仙道》”etc...) are very popular amongst gaming users. The online gaming business of the Complainant has been strongly recommended in various influential platforms (including in Simplified Chinese “百度百科、搜狗百科、360 百科、一网游（专业网游游戏平台）、游戏王国、重庆目录”) (see Annex 11 of the Complaint).

The Complainant stated that the “” logo was used to participate in gaming exhibitions (see Annex 13 of the Complaint).

The Complainant asserts that the usage of “” and “6543” to operate many different online games on other platforms was a success resulting in numerous advertisements being generated. A list of such games (as below) was provided by the Complainant in Annex 10 of the Complaint.


序号	投诉人经营的游戏	推广投诉人游戏的第三方平台	网址
1	《帝国文明》	1234	http://www.1234.cn/wz/32993.html
2	《凡人修真2》	新浪游戏	http://games.sina.com.cn/w/n/2011-12-06/1521558179.shtml
3	《火影世界》	07073游戏网	http://www.07073.com/hysj/xinwen/543444.html
4	《龙将》	一游网 (EEYY游戏网)	http://www.eeyy.com/webgame/longjiang/6543.html
5	《凡人修真2》	9u8u网页游戏	http://www.9u8u.com/frxz2/gl/201204/54155.html
6	《火影世界》	网易游戏	https://ent.163.com/game/11/1031/11/7HMJNG6L00314J6M2.html
7	《魔神战纪》	百度百科	https://baike.baidu.com/item/%E9%AD%94%E7%A5%9E%E6%88%98%E7%BA
8	《神仙道》	豆瓣	https://www.douban.com/game/11591528/
9	《梦幻西游》网页版	搜狗百科	https://baike.sougou.com/v68963126.htm?fromTitle=%E7%BD%91%E9%A1%B5%E7...
10	《征战四方》	百度百科	https://baike.baidu.com/item/%E5%BE%81%E6%88%98%E5%9B%9B%E6%96%B...

The Complainant submits that “” and “6543” wordings were used extensively in their online gaming service platforms and an official Weibo “6543 游戏” was created which led to major responses being generated online (see Annex 12 of the Complaint).

The Complainant further submits that by using the Disputed Domain Name in collaboration with Baidu, it was able to generate revenue (see Annex 14 of the Complaint). The Complainant also worked with many other companies, (in Simplified Chinese “科大

讯飞股份有限公司、湖南快乐阳光互动娱乐传媒有限公司、北京搜狗网络技术有限公司签订广告合作合同开展合作以及游戏同行企业上海易娱网络科技有限公司、上海心动企业发展有限公司、上海锐战网络科技有限公司、苏州蜗牛数字科技股份有限公司、北京火影时代网络科技有限公司、四三九九网络股份有限公司、广州菲音信息科技有限公司、广州捷游信息科技有限公司等”) in relation to advertising of its games (see Annex 15 of the Complaint).



The Complainant states that by using the “” and “6543” wordings and logo in operating of its online gaming business, it was able to win multiple awards. Some of the awards as stated in Simplified Chinese are ““2013 手游盛典年度大奖评选大赛 十大经典游戏平台 6543 网页游戏平台”、中国电子竞技运动发展中心在 2011 年 12 月 31 日向投诉人颁发荣获“2011 中国游戏产业‘最佳人气网页游戏平台’”、投诉人运营的游戏《龙将》荣膺中国游戏产业年会评选的中国“游戏十强”之“2013 年度十大最受欢迎的网页游戏”、中国网游风云榜颁发的“2011 年中国年度最受欢迎网页游戏平台”奖杯、“中国游戏风云榜 2012 年度最佳运营平台””. (see Annex 16 of the Complaint).


The Complainant contends that the Disputed Domain Name is unique to the Complainant, having extensively used the Disputed Domain Name for a relatively long period of time, even though the Complainant has not registered any trademark/service mark associated with the Disputed Domain Name.

The Complainant relies on “WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0)” “*To establish unregistered or common law trademark rights for purposes of UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant’s goods and/or services.*”

The Complainant drew to the attention of this Panel the case of **UITGERVERIJ CRUX v. W. FREDERIC ISLER WIPO Case No.D2000-0575** in that “*A fundamental principle of trademark law is that rights in a trademark can be acquired through use, and such rights exist even though the trademark may not be registered.*” and **Finter Bank Zurich v. Gianluca Olivieri WIPO Case No.D2000-0091** “*Therefore, for the purpose of deciding*

the priority of rights on the addresses "finter.com" and "finter.org", the priority of use by Finter Bank Zürich will not be determined only by the registration of the mark in 1995, but by its prior use.”



Despite not having registered the “” and “6543” as trademarks/services marks, nevertheless the wide usage of the logo and wordings by the Complainant creates an impression in the minds of consumers that the logo and wordings are associated with the Complainant and its services, thus entitling the Complainant to enjoy the necessary legal rights in relation to the logo/wordings.

ii. Rights and Legitimate Interests

The Complainant contends that the Respondent does not have the legitimate legal rights and interests in relation to the Disputed Domain Name. In support of such stance, the Complainant submitted internet archives (see Annex 9 of the Complaint) as proof that after the Disputed Domain Name was inappropriately stolen in or around 2013, the Respondent did not use the Disputed Domain Name, and as such was left unused i.e., “*Parked*”¹. However, during this period of inactive use, advertisements advertising the selling of the Disputed Domain Name were visible in the marketplace.

The Complainant is of the view that the mere registration of the Disputed Domain Name by the Respondent is not sufficient to establish its rights or legitimate interests in it. In fact, by using the Dispute Domain Name, the Respondent has deceived and confused and/or is likely to deceive and confuse members of the trade and public into believing that the Disputed Domain Name is in some way affiliated and/or associated and/or connected with the Complainant.


The Complainant states that it has not authorized and/or consented to the Respondent to use the Disputed Domain Name.

¹ A parked domain is any registered domain name that isn't actively connected to any service like a website or email address.

The Complainant further states that the use of the Disputed Domain Name by the Respondent is unlawful and illegal as it was procured by an inappropriate manner.

iii. Bad Faith

The Respondent registered the Disputed Domain Name in bad faith after it was inappropriately stolen from the Complainant. The Complainant reported the matter to the Chinese Public Security Bureau (中国公安机关) on 14 June 2013 and 1 August 2013 (see Annex 3 of the Complaint).

The Complainant submits that by using the Disputed Domain Name, the Respondent has intentionally attempted to prevent the Complainant from using the Disputed Domain Name. are clearly tainted with *mala fide* intention, knowing very well (due to its extensive and substantial use) that the Complainant, has in the logo/wordings of “” and “6543” marks.

As claimed by the Complainant, the Respondent further demonstrated maliciousness by advertising for sale of the Disputed Domain Name. On a few occasions, the Respondent .approached the Complainant offering to sell the Disputed Domain Name for a price ranging from USD \$30,000 to USD\$ 100,000. The last communication stated that “何必花钱仲裁，10万（美元）以下整站转让给你就是了。对我现在用处不大” (see Annex 17 of the Complaint).

The Complainant submits that the intentions of the Respondent are clear, in that actions of the Respondent show that the Disputed Domain Name was not used in good faith but bad faith.

The Complainant further submits that the Respondent is not providing commercial services but is merely holding the Disputed Domain Name in bad faith with the view of preventing the Complainant from using the Disputed Domain Name (see Annex 9 of the Complaint).

The *mala fide* intention and lack of good faith of the Respondent can clearly be inferred as the Respondent would have been aware of the Complainant's "543.com" and "6543" marks. In the opinion of the Complainant, this is clear evidence of bad faith.

Respondent

The Respondent did not reply to the Complainant's contentions as stated in the Complaint.

5. Findings

Having considered all the documentary evidence before me including newly presented evidence that was reasonably unavailable to the Complainant during the Initial Complaint and the Respondent's non-participation in these proceedings after being afforded every opportunity to do so in accordance with Paragraph 5(f) of the Rules, the Panelist is of the view that it should proceed to decide on the Disputed Domain Name, based upon the Complaint and evidence adduced by the Complainant as contained within the Complaint. Paragraph 5(f) of the Rules stipulates that:

"If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint."

Whereas Paragraph 10(d) of the Rules states that:

"The Panel shall determine the admissibility, relevance, materiality and weight of the evidence."

Similarly, Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of

the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

In the present case the Parties had not agreed to use a particular language for these proceedings. As the Registration Agreement is in the English language as confirmed by the Registrar in its correspondence to the Centre of 10 April 2021, then in accordance with Paragraph 11(a) of the Rules, the language of the administrative proceedings shall be in the English language.

On 15 April 2021, the Complainant wrote to the Centre justifying its stance that the proceedings should be conducted in the Chinese language. The reasons given include the following:

1. The Respondent should be proficient in the Chinese language;
2. The Complainant and the Respondent (or Group/Affiliates) use the Chinese language in the email exchanges and their names are also in the Chinese language;
3. According to the information of the Respondent provided by the Registrar, the name of the Respondent and the address or contact details are based within the People’s Republic of China; and
4. If the Complainant is required to use other languages other than the Chinese language in these proceedings then the Complainant would need to spend extra time to translate the relevant documents, evidence and/or materials.

In these circumstances given that the Complaint is drafted in the Chinese language which is not in line with the Registration Agreement and that the Respondent has failed to communicate on the matter, the Panelist considers that it would be appropriate (and without prejudice to any of the parties) for the present proceedings to be conducted in the English language in line with Paragraph 11(a) of the Rules. In saying this, the Panel does not require the Complainant to translate the Complaint and the annexes attached to the Complaint. With this in mind the Panelist shall issue its decision in both the Chinese and English languages. Should there be any discrepancies in the Chinese and English language of the decision the English language decision shall take precedence.

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

- A. Disputed Domain Name is **identical or confusingly similar** to a trademark or service mark in which Complainant has rights; and
- B. The Respondent has no **rights or legitimate interests** in respect of the Disputed Domain Name; and
- C. Disputed Domain Name has been registered and is being used in **bad faith** by the Respondent.

The Panelist would like to state that the Respondent's non-participation in these proceedings (i.e., default) would not by itself mean that the Complainant claims are deemed to have prevailed. In fact, the Respondent's default is not necessarily an admission that the Complainant's claims are true. The burden of proof still rests with the Complainant to establish the three elements contained within Paragraph 4(a) of the Policy as stated above by a preponderance of the evidence for the Panelist to determine in accordance with Paragraph 10(d) of the Rules.

Although this is a re-filled case, nevertheless the Complainant has presented new evidence that was not tendered in the Initial Complaint to support its case.

A. Identical / Confusingly Similar

The Complainant contends that the Disputed Domain Name is confusing similar to the Complainant's logo/wordings and in support of such stance relies on "*WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0)*".

Paragraph 1.3 of the WIPO Overview 3.0 states that:

"1.3 What does a complainant need to show to successfully assert unregistered or common law trademark rights?"

To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a

distinctive identifier which consumers associate with the complainant's goods and/or services.

Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.

(Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services.)

Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning.

As noted in section 1.1.2, for a number of reasons, including the global nature of the Internet and Domain Name System, the fact that secondary meaning may only exist in a particular geographical area or market niche does not preclude the complainant from establishing trademark rights (and as a result, standing) under the UDRP.

Also noting the availability of trademark-like protection under certain national legal doctrines (e.g., unfair competition or passing-off) and considerations of parity, where acquired distinctiveness/secondary meaning is demonstrated in a particular UDRP case, unregistered rights have been found to support standing to proceed with a UDRP case including where the complainant is based in a civil law jurisdiction.

The fact that a respondent is shown to have been targeting the complainant's mark (e.g., based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier.


Even where a panel finds that a complainant has UDRP standing based on unregistered or common law trademark rights, the strength of the complainant's mark may be considered relevant in evaluating the second and third elements.” [Emphasis added]

The threshold test for confusing similarity under the Policy involves a comparison between the relevant marks/logos/wordings belonging to the Complainant and the Disputed Domain Name to ascertain the presence of the trademark/mark in the Disputed Domain Name. In order to satisfy this test, the relevant marks/logos/wordings would generally need to be recognizable as such within the Disputed Domain Name, with the addition of merely descriptive, common or geographical wording typically being regarded as insufficient to prevent a finding of confusing similarity.


In essence, this Panel has to consider whether the Disputed Domain Name, namely, <6543.com>, is a central and distinguishable part of the Complainants' marks.

The Disputed Domain Name contains two elements: (i) “6543” and (ii) top-level generic domain “.com”. It is well established that the top-level generic domain “.com” does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion, and should be ignored for identifying the “*confusing similarity*” element.

On a side-by-side comparison of the Disputed Domain Name and the textual components of the Complainant's logo/wordings, the mark is recognizable within the Disputed Domain Name. In fact, the Disputed Domain Name incorporates the entirety of the mark/logo/wordings of the Complainant.

The distinctive part of the Disputed Domain Name <6543.com> is “6543”, which is confusingly similar to the Complainant’s “” and “6543” marks thus creating a likelihood of confusion amongst internet users.

The Panelist finds that the Complainant has rights in the mark/logo/wordings acquired through use.

The Panelist agrees with the Complainant’s contentions that the Disputed Domain Name is the same and is a central and distinguishable part of the Complainant’s “” and “6543” marks. The Panelist further concurs with the Complainant’s stance that the Disputed Domain Name can easily mislead members of the public into believing that the Disputed Domain Name is owned or operated by the Complainant, or that the Respondent has a relationship or association with the Complainant in some way or form.

As stated previously, the Respondent has not contested the allegations of the Complaint and is in default.

For the foregoing reasons, the Panelist concludes that the Complainant has discharged the burden of proof to establish the elements of identical and confusingly similar trademark or service mark in accordance with Paragraph 4(a) (i) of the Policy.

B. Rights and Legitimate interests

The burden of proof shifts to the Respondent once the Complainant provides prima facie evidence showing that the Respondent lacks legitimate rights or 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 trademark 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 trademark or service mark at issue.

There is no evidence that the Complainant has authorized, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the mark. In fact, according to the Complainant the mark was inappropriately acquired by the Respondent with *mala fide* intentions.

The Panelist finds on 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 shifts to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trademark 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. The Complainant has neither authorized nor consented to the Respondent to use the Complainant's trademarks/marks.

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 Complainant has in a credible way alleged that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name whereas the Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the Disputed Domain Name. This ineffectively entitles the Panelist to infer that the

Respondent has no rights or legitimate interests in respect of the Disputed Domain Name at issue.

To sum up, the Panelist is satisfied on the totality of the evidence before it that the Respondent's use of the Disputed Domain Name is not in connection with a bona fide offering of goods or services. The Respondent has not been authorized or licensed by the Complainant to use its marks. Nor is there any evidence that the Respondent has been commonly known by the Disputed Domain Name or similar name. Neither is there evidence that the Respondent has been 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 mark of the Complainant.

In the circumstances, the Panelist concludes that, on a balance of probabilities, the Complainant has discharged its burden of proof to show that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name pursuant to paragraph 4(a) (ii) of the Policy.

C. Bad Faith

Paragraph 4(b) of the Policy sets out four (4) factors in which the Panelist shall take into consideration in determining whether the Respondent has registered and used the Disputed Domain Name in bad faith. Either one (1) of these four (4) factors being evident would amount to registration and use in bad faith on the part of the Respondent.

Bad faith cannot be presumed, but once the Complainant has presented some evidence to establish a prima facie case, the onus then shifts onto the Respondent to either justify or explain its business conduct.

From the evidence submitted by the Complainant, the Respondent attempted on a few occasions to sell the Disputed Domain Name back to the Complainant for a price ranging from USD \$30,000 to USD\$ 100,000. As such the Panelist contends that the Respondent's bad faith is evident by Paragraph 4(b) (i) of the Policy:

“(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”

The Panelist finds that, given the fact that the Complainant’s trademark/mark is widely known, it is overwhelmingly likely that the Respondent, was aware that it was infringing the Complainant’s trademark/mark. Therefore, the Panelist concludes that the Respondent has acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to the Complainant who is the owner of the trademark or service mark, for valuable consideration in excess of the Respondent’s documented out-of-pocket costs directly related to the Disputed Domain Name, in line with one of the four factors the Panelist needs to take into consideration in determining whether the Respondent has registered/used the Disputed Domain Name in bad faith, namely paragraph 4(b)(i) of the Policy.

For the foregoing reasons, the Panel concludes that the Complainant has discharged the burden of proof to establish that the Respondent registered and used the Disputed Domain Name in bad faith in accordance with Paragraph 4(a) (iii) of the Policy.

6. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if *“...after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding”*.

Reverse Domain Name Hijacking is defined under the Rules as *“...using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name”*.

In light of the conflicting decisions as to whether it is necessary for a Complainant to establish both bad faith registration and bad faith use, the Panel does not find this to be a case of Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons and in accordance with Paragraph 4(a) of the Policy and Paragraph 15 of the Rules, the Panelist is satisfied that the Complainant has sufficiently proved the existence of all three elements pursuant to Paragraph 4(a) of the Policy. The Panel orders that the Disputed Domain Name <6543.com> be transferred to the Complainant.

A handwritten signature in black ink, appearing to read "Christopher To", written over a horizontal line.

Dr. Christopher To
Panelist

Dated: 24 May 2021