



**(Hong Kong Office)**  
**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2201595
<b>Complainant:</b>	PCCW-HKT DataCom Services Limited
<b>Respondent:</b>	bank pccw / pccwbank
<b>Disputed Domain Name:</b>	<pccwbank.com>

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**1. The Parties and Contested Domain Name**

The Complainant is PCCW-HKT DataCom Services Limited of 39/F PCCW Tower Taikoo Place, 979 King's Road, Quarry Bay Hong Kong. The Complainant is represented in these administrative proceedings by Mr. Paddy Tam, CSC Digital Brand Services Group AB, whose address is Drottningatan 92-94, 111 36 Stockholm, Sweden.

The Respondent is bank pccw / pccwbank, of Hong Kong, COSCO Building, Hong Kong, 999110, with email address of pccwbank@protonmail.com.

The domain name at issue is <pccwbank.com>, registered by the Respondent with Dynadot, LLC, P.O. Box 345, San Mateo CA 94401, United States.

**2. Procedural History**

On 18 February 2022, the Complainant submitted a complaint in English to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("the ADNDRC-HK") and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy ("the Policy") approved by the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy ("the Rules") and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("the ADNDRC Supplemental Rules").

Upon receipt of the complaint, the ADNDRC-HK sent to the Complainant by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules. On the same day, upon request by the ADNDRC-HK, the Registrar transmitted by email to the ADNDRC-HK its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 21 February 2022, the ADNDRC-HK notified the Complainant that the information of the Respondent in the Complaint was different from the WHOIS information provided by the Registrar and asked the Complainant to update the information of the Respondent in the Complaint by 26 February 2022.

On 22 February 2022, the Complainant amended the Complaint and its Annexes. Upon receipt of the same, the ADNDRC-HK confirmed that the Complaint was in administrative compliance of the Policy and the Rules. Accordingly, on the same day, the ADNDRC-HK notified the Respondent about the commencement of the proceedings and the due date for the Respondent to file a response, being 20 days from 22 February 2022, i.e. 14 March 2022.

The Respondent had not filed any response within the stipulated time. On 15 March 2022, the ADNDRC-HK sent out notice noting that no response had been received and the complaint was to be proceeded to a decision by the Panel to be appointed.

On 15 March 2022, the ADNDRC-HK sent to Mr. Gary Soo a notification for the selection of a one-person panel to proceed to render the decision. Having received a declaration of impartiality and independence and a statement of acceptance, the ADNDRC-HK notified the parties, on 16 March 2022, that the Panel in this case had been appointed, with Mr. Gary Soo acting as the sole panelist. On the same day, the Panel received the file by email from the ADNDRC-HK and was requested to render the Decision on or before 30 March 2022.

#### The Respondent's Emails

At the time, on 15 March 2022, an email was received by ADNDRC-HK from the Respondent stating:-

*"The company is a company operating in South America and does not have any business in Asia. Why is it in the Asian Domain Name Dispute Resolution Center?"*

On 16 March 2022, the ADNDRC-HK replied to the Respondent, copying the reply to the Complainant, noting that:-

*"...*

*Complaints under the Policy may be submitted to any ICANN approved dispute-resolution service provider. ADNDRC is one of such six service providers.*

*The Policy is incorporated by reference into your Registration Agreement with the Registrar of your domain name <pccwbank.com>, in accordance with which you are required to submit to and participate in the mandatory UDRP proceeding.*

*By the foregoing notice you were informed of the commencement of such UDRP proceedings. You were requested to submit a Response and the due date of such expired on 14 March 2022. The Administrative Panel constituted today will render a Decision by 30 March 2022 regarding whether to support the Complainant's request of transferring the disputed domain name to itself.*

*For more details of the Policy, the Rules and the Asian Domain Name Dispute Resolution Centre Supplemental Rules to the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules"), please refer to the website of the Hong Kong Office of the ADNDRC at <https://www.adndrc.org/udrp#hk>.*"

On 17 March 2022, the Respondent sent the email to the ADNDRC-HK, copying the Complainant and the Panel, stating that:-

*"The company refuses to transfer the company domain name. The company has no business in Asia, why are there complaints and disputes by Asian companies?"*

By the reply email of the ADNDRC-HK of 18 March 2022, the ADNDRC-HK noted that:-  
“We acknowledge receipt of your email dated 17 March 2022 (please see below). We note that you have copied the Panel and the Complainant in such email.”

Up to the date of this decision, there is no application or further submission from the Respondent, nor the Complainant. There is no Response from the Respondent.

The Panel notes that the ADNDRC-HK has stated in the email of 16 March 2022 that, referring the Respondent to the Policy, the Rules and the Supplemental Rules, the Panel constituted “...will render a Decision by 30 March 2022”. From the emails, the Respondent was asking the ADNDRC-HK questions about what the matters came before it, to which the ADNDRC-HK provided its answers.

In the circumstances, the Panel proceeds in accordance with the Policy, the Rules and the Supplemental Rules to determine the matters in these Administrative Proceedings. For avoidance of doubts, the Panel notes that there is as yet no Response in accordance with the Policy, the Rules and the Supplemental Rules and the Panel proceeds with the determination on the basis of all the materials before the Panel, notwithstanding individual matter may not have been referred to expressly in the below.

#### *Language of Proceedings*

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the administrative proceedings 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 proceedings.

The language of the current Disputed Domain Name registration agreement is English and, there being no otherwise agreement, the Panel determines English as the language of the proceedings.

### **3. Factual background**

#### *The Complainant*

The Complainant is PCCW-HKT DataCom Services Limited of 39/F PCCW Tower Taikoo Place, 979 King’s Road, Quarry Bay Hong Kong. The Complainant is represented in these administrative proceedings by Mr. Paddy Tam, CSC Digital Brand Services Group AB, whose address is Drottninggatan 92-94, 111 36 Stockholm, Sweden.

#### *The Respondent*


The Respondent is bank pccw / pccwbank, of Hong Kong, COSCO Building, Hong Kong, 999110, with email address of pccwbank@protonmail.com.

### **4. Parties’ Contentions**


A. The Complainant

PCCW-HKT Datacom Services Limited and the affiliated company, PCCW ENTERPRISES LIMITED, (hereby collectively known as “Complainant” or “PCCW”) are the owners of trademark registrations in many countries around the world. Attached to the Complaint as **Annex 2** are printouts from the Intellectual Property Department of the Government of the Hong Kong Special Administrative Region (“HKIPD”), the United States Patent and Trademark Office (“USPTO”), and European Union Intellectual Property Office (“EUIPO”) for these registrations, which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the “Complainant’s trademark(s).” The trademark registrations relevant to this instant matter are:

PCCW-HKT Datacom Services Limited

TRADEMARK	JURISDICTION / TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
PCCW	HK / HKIPD	2002B14787AA	2000-09-05	9, 16, 35, 36, 37, 38, 39, 41, 42
	HK / HKIPD	304214286	2017-07-20	9, 35, 36, 38, 39, 41, 42, 45

PCCW ENTERPRISES LIMITED

TRADEMARK	JURISDICTION / TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
PCCW	US / USPTO	5158668	2017-03-14	9, 16, 35, 36, 37, 38, 39, 41, 42, 45
PCCW	EU / EUIPO	001965557	2002-11-08	9, 16, 35, 36, 37, 38, 39, 41, 42
	US / USPTO	6208273	2017-07-20	9, 16, 35, 36, 37, 38, 39, 41, 42

The Complainant submits and provides documentary records on the followings in relation to the Complainant’s Marks:

PCCW was formed in August 2000 when its holding company PCCW Limited acquired Hong Kong Telecom (HKT), formerly Hong Kong Telephone Company Ltd (founded in 1925). Since then, PCCW has evolved to be Hong Kong’s premier telecommunications service provider and leading operator in fixed-line, broadband and mobile communication services. PCCW employs approximately 22,900 staff and is headquartered in Hong Kong with a presence in mainland China as well as

other parts of the world. In 2020, PCCW reported total revenues in excess of HKD \$38 billion.

“PCCW” is the acronym of “Pacific Century Cyber Works” which is a distinctive and well-known mark used by Complainant in connection with telecommunications and related services for over 20 years. Complainant is one of the largest (telecom) corporations in Hong Kong and has won numerous awards globally, including Best Volte Service Provider 2018 at the GCCM Awards 2018, and Best Wholesale Service Provider award for 5 consecutive years since 2015 at the MEF Awards 2017.

PCCW has a strong Internet presence through its websites. Complainant is the owner of numerous TLDs containing their trademark, PCCW including <pccw.com> and <pccwglobal.com> which it has owned since 1998 and 2005, respectively. SimilarWeb.com ranks <pccw.com> as the 737th most popular website in Hong Kong with a global rank of 121,693.

The Complainant further submits as follows and provides documentary proof for the same:

- i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant have rights.

By virtue of its trademark registrations as shown, Complainant is the owner of PCCW trademark. See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”) at 1.2.1* (“Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.”).

It is standard practice when comparing a Disputed Domain Name to Complainant’s trademark, to not take the extension into account. See *WIPO Jurisprudential Overview 3.0 at 1.11.1* (“The applicable Top Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”).

The Disputed Domain Name can be considered as capturing, in its entirety, Complainant’s PCCW trademark and simply adding the generic term “bank” at the end of the trademark. The mere addition of this generic term to Complainant’s trademark does not negate the confusing similarity between the Disputed Domain Name and the Complainant’s trademark under Policy ¶ 4(a)(i), and the Disputed Domain Name must be considered confusingly similar to Complainant’s trademark. It is well established that the addition of generic or descriptive terms is not sufficient to overcome a finding of confusing similarity pursuant to Policy ¶ 4(a)(i). See *WIPO Jurisprudential Overview 3.0 at 1.8* (“Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”).

Additionally, Respondent's use of the Disputed Domain Name contributes to the confusion. Respondent is using the Disputed Domain Name to resolve to a website named "PCCW Bank", which purports to be co-founded by Complainant and Bank of America. Such use suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion. Although the content is usually disregarded under the first element of the UDRP, Panels have "taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name" See *WIPO Jurisprudential Overview 3.0 at 1.15*. As a result, Respondent's use of the Disputed Domain Name is further evidence that the Disputed Domain Name is confusingly similar to Complainant's trademark.

- ii. The Respondent has no rights or legitimate interests in respect of the domain name.

The granting of registrations by the HKIPD, USPTO and EUIPO to Complainant for the PCCW trademark is prima facie evidence of the validity of the term "PCCW" as a trademark, of Complainant's ownership of this trademark, and of Complainant's exclusive right to use the PCCW trademark in commerce on or in connection with the goods and/or services.

Respondent is not sponsored by or affiliated with Complainant in any way. Nor has Complainant licensed, authorized, or permitted the Respondent to use Complainant's trademark in any manner, including in domain names. "In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014).

Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests. See *Policy, ¶4(c)(ii)*. See also *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, D2008-0642 (WIPO June 6, 2008) (finding that a respondent, or his/her organization or business, must have been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain).

In the instant case, the pertinent Whois information identifies the Registrant as "bank pccw / pccwbank". However, no other evidence, except for Respondent's name in the Whois, suggests that Respondent is commonly known by the Disputed Domain Name. Thus, Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the meaning of ¶4(c)(ii). See *LEGO Juris A/S v. Kiana Seyfi / Lego*, D2016-1166 (WIPO Aug. 5, 2016) ("The inclusion of "lego" in the Respondent's name as provided for the registration of the Domain Name is not in itself evidence that the Respondent is commonly known by this name.").

Furthermore, at the time of filing the complaint, Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack

of legitimate interest. See *Jackson National Life Insurance Company v. Private WhoIs www.jacksonnationallife.com N4892*, D2011-1855 (WIPO Dec. 23, 2011) (“The Panel concludes that the Respondent possesses no entitlement to use the name or the words in the Complainant’s marks and infers [...] from the “Private Whois” registration that it is not known by such name. There is no evidence of the Respondent ever being commonly known by the name or words now included in the disputed domain name.”).

Respondent registered the Disputed Domain Name on October 30, 2021, which is significantly after Complainant filed for registration of its trademark with HKIPD, USPTO and EUIPO, and significantly after Complainant’s first use in commerce of its PCCW trademark in 2000. The Disputed Domain Name’s registration date is also significantly after the Complainant’s registrations of its <pccw.com> domain name on June 5, 1998 and <pccwglobal.com> domain name on September 16, 2005. In other words, Complainant already had a worldwide reputation in its PCCW trademark by the time Respondent registered the Disputed Domain Name, which fully adopts Complainant’s PCCW trademark. It is therefore, evident that the Disputed Domain Name carries a high risk of implied affiliation with the Complainant and any use of the Disputed Domain Name cannot be considered as fair. See *WIPO Jurisprudential Overview 3.0 at 2.5.1*.

Moreover, it is apparent that Respondent has intentionally registered the Disputed Domain Name for the purpose of making illegitimate or unfair use of Complainant's trademark by misleading Internet users who are seeking information about Complainant's products or services. Here, Respondent uses “PCCW” as part of its business name and claims to be co-founded by Complainant and Bank of America, which is false and untrue. In the website’s “About PCCWBANK” page, Respondent listed Complainant as one of its shareholders and copied Complainant’s logo along with Complainant’s company profile without authorization. Respondent also included a link to Complainant’s website <www.pccw.com> at the bottom page of its website. While Complainant does not provide online investment information brokerage platform services, Respondent’s overall use of the Disputed Domain Name creates a likelihood of confusion and mistaken belief among Internet users that the Disputed Domain Name and its website are connected or affiliated with the Complainant. See *Bytedance Ltd. v. Registration Private, Domains By Proxy, LLC / Lê Van Luong, Cong ty TNHH Thuong Mai NNA Viet Nam*, D2020-3219 (WIPO Feb. 9, 2021) (“The Complainant has sufficiently demonstrated that the Website consists of false and misleading information, e.g. the reference to 800,000 countries, and that the Respondent does not actually offer an online trading platform. The Panel finds that the Respondent has intentionally registered the Domain Name for the purpose of making illegitimate or unfair use of the Trademark by misleading Internet users who are seeking information about the Complainant’s products or services.”). Thus, Respondent's use to-date of the Disputed Domain Name confirms that Respondent is not making a legitimate noncommercial or fair use without intent for commercial gain.

- iii. The disputed domain name has been registered and is being used in bad faith.

The Complainant and PCCW trademark are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods or services using the PCCW trademark since 2000, which is well before Respondent's registration of the Disputed Domain Name.

By registering a domain name that includes Complainant's PCCW trademark while merely adding the generic term "bank", Respondent has created a domain name that is confusingly similar to Complainant's trademark, as well as its <pccw.com> domain. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Further, by falsely claiming Complainant to be a co-founder and shareholder of "PCCW Bank", it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brand at the time the Disputed Domain Name was registered. See *Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000). Stated differently, the PCCW trademark is so closely linked and associated with Complainant that Respondent's use of this mark or any minor variation thereof strongly implies bad faith. Where a domain name is "so obviously connected with such a well-known name and products,...its very use by someone with no connection with the products suggests opportunistic bad faith." See *Parfums Christian Dior v. Javier Garcia Quintas*, D2000-0226 (WIPO May 17, 2000).

ICANN policy dictates that bad faith can be established by evidence that demonstrates that "by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site..., 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 [Respondent's] web site or location." See *Policy ¶4(b)(iv)*. In this case, Respondent creates a likelihood of confusion with Complainant and its trademark by using the PCCW brand and name throughout the website, claiming association with Complainant by naming Complainant as a co-founder and shareholder of "PCCW Bank", with Respondent then attempting to profit from such confusion by offering online investment information brokerage platform services. As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion. The impression given by the Disputed Domain Name and its website would cause consumers to believe the Respondent is somehow associated with Complainant when, in fact, it is not. Respondent's actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name, and the Respondent is thus using the fame of the Complainant's trademark to improperly increase traffic to the website listed at the Disputed Domain Name for Respondent's own commercial gain. It is well established that such conduct constitutes bad faith. See *World Wrestling Fed'n Entm't, Inc. v. Ringside Collectibles*, D2000-1306 (WIPO Jan. 24, 2001) (concluding that the respondent registered and used the <wwfauction.com> domain name in bad faith because the name resolved to a commercial website that the complainant's customers were likely to confuse with the source of the complainant's products).

Additionally, the Disputed Domain Name's website contains a registration page on which Internet users can create an account. Such registration page is



likely to be used for phishing purposes - to obtain data from Internet users who might have been led to believe that the website associated with the Disputed Domain Name belonged to the Complainant. The Disputed Domain Name and its website are also connected to several social media accounts, pages and mobile applications (“apps”). Having been deceived into believing that Complainant was the source of the Disputed Domain Name and its website, users via these social media platforms, messages and apps could unsuspectingly supply Respondent with their personal or financial information, which allows the possibility of phishing or fraud. This further demonstrates Respondent’s bad faith under Policy ¶ 4(a)(iii). See *Peteski Productions, Inc. v. Host Master, 1337 Services LLC*, D2020-2033 (WIPO Sept. 28, 2020) (finding bad faith where Respondent is likely to have registered the Domain Name for the purpose of phishing and to be using it for phishing. “The Respondent’s website invites visitors to provide personal information to the Respondent. A section headed “REQUEST AN EPISODE / CONTACT US” reads: “Have a request, a question, a comment? Want to collaborate in some way? Just have something nice to say? I’d love to hear from you! Shoot me a message below and I’ll be sure to get back to you as soon as I can. Thanks.” There then follows a form for the visitor to enter their name, email address etc. and a message.”).

Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use. See also *WIPO Jurisprudential Overview 3.0 at 3.6* (“Panels have also viewed a respondent’s use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith.”).

Finally, on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted Complainant’s trademark, and Respondent should be found to have registered and used the Disputed Domain Name in bad faith. See *Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, D2014-1754 (WIPO Jan 12, 2014) (“the Panel makes its finding regarding bad faith registration by asking whether it is more likely than not from the record of the evidence in the proceeding that Respondent had the ELECTRIC FOOTBALL trademark in mind when registering the Domain Name.”).

The Complainant requests that the disputed domain name be transferred to the Complainant.

#### B. Respondent

The Respondent is bank pccw / pccwbank, of Hong Kong, COSCO Building, Hong Kong, 999110, with email address of [pccwbank@protonmail.com](mailto:pccwbank@protonmail.com). The Respondent registered the Disputed Domain Name on 30 October 2021.

While there are the emails of 15 and 16 March 2022 sent by the Respondent after the stipulated time, the Respondent has not submitted a response within the stipulated time.

## 5. Findings

Paragraph 14 of the Rules provides that, in the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the complaint; and that, if a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Paragraph 15(a) of the Rules instructs the Panel as to the principles that the Panel is to use in determining the dispute, stating that the Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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 was and is the holder of the various trademark registrations for the trademark "PCCW", i.e. the Complainant's Marks and the registrations were with various jurisdictions and of dates earlier than the registration of the Disputed Domain Name in issue by the Respondent. From the documents and evidence supplied, the Complainant is of wide scale operation with the Complainant's Marks, at places including Hong Kong. To all these, the Panel accepts and finds that the Complainant has the necessary legal rights and interests over the Complainant's Marks for the purpose of the Complaint.

The Panel finds it clear that the Disputed Domain Name <pccwbank.com> incorporates the "pccw" part and the "bank" part. The part "bank" is generic. The Panel accepts that the key distinctive identifications is the "pccw" individually and the "pccwbank" collectively. To some internet users, these are individually and collectively confusing with "PCCW" and hence the Complainant's Marks and/or their related websites with the "pccw" part in the domain names. Both "pccw" in the Disputed Domain Name is identical and/confusingly similar to the "PCCW" marks and the "pccwbank" in the Disputed Domain Name is also confusingly similar to the "PCCW" marks. The Panel believes that they being the lower-case versions do not change these findings. Thus, in the circumstances, the Panel also believes that the use of the Respondent of the Disputed Domain Name adds on to such confusions. In this case, Respondent created a likelihood of confusion with Complainant and its trademark by using the PCCW brand and name throughout the website, claiming association with Complainant by naming Complainant as a co-founder and shareholder of "PCCW Bank".

Accordingly, the Panel finds that the Complainant has succeeded in proving the elements in Paragraph 4(a)(i) of the Policy as regards <pccwbank.com>.

## **B) Rights and Legitimate Interests**

In the present case the Complainant alleges that Respondent has no rights or legitimate interests in respect of the domain name. Also, there is nothing from the Respondent showing that the Complainant and the Respondent have any prior connection, and the latter has in any way been authorized by the former to use its mark in the Disputed Domain Name. As per the above, the Complainant's Marks have acquired significant recognition regionally and in places like Hong Kong, prior to the registration of the Disputed Domain Name. The Panel also notes that the registered address of the Respondent is also Hong Kong.

Furthermore, the Panel accepts that the part "pccwbank" is not a term commonly used in the English language or any language and there is also no evidence that the Respondent has been commonly known by the Disputed Domain Name or has in any way has any rights or justified association to the name of "pccwbank". The Panel also agrees that there is no other evidence, except for the Respondent's name in the WHOIS, which suggests that the Respondent is commonly known by the Disputed Domain Name. Thus, the Panel finds that the Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name. For the avoidance of doubts, the Panel does not consider the emails of the Respondent of 16 & 17 March 2022 assist (if at all) the Respondent in any way.

To all theses, the Respondent does not respond to disagree or to submit contrary evidence. There is no application from the Respondent to serve any response to explain or to rebut

Thus, in these circumstances, given the rights of the Complainant over the Complainant's Marks in places, including Hong Kong which is the registered address of the Respondent according to the WHOIS information, the Panel finds that the Complainant has succeeded in proving the elements in Paragraph 4(a)(ii) of the Policy.

## **C) Bad Faith**

Under Paragraph 4(b) of the Policy, the following are relevant examples a Panel may take as evidence of registration and use in bad faith:

- (i) Circumstances indicating that the Respondent has registered or 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 the Respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has 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 the Respondent has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website 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 its website or location or of a product or service on its website or location.

The Complainant contends that it is clear that the Disputed Domain Name has been registered and is being used in bad faith. The Complainant highlights that the Complainant obtained its registration for the Complainant's Marks for years and had become widely known among internet users and the relevant public in the sectors and various regions. The Complainant submits that, from the print-outs and other evidence, the Respondent was clearly aware of and was targeting the Complainant and/or the Complainant's Marks and the associated goodwill in registering / using the Disputed Domain Name. The Complainant submits that the use of the Respondent of the Disputed Domain Name also points to bad faith. To all these, the Respondent does not respond to disagree or to submit contrary evidence.

The Panel accepts these as factual findings and agrees with the Complainant that the Respondent registers the domain name in issue knowing the rights and interests of the Complainant over the Complainant's Marks. The Panel particularly notices that the Complainant's Marks had been registered as trademarks in Hong Kong, which is the same as the registered address of the Respondent according to the WHOIS information. Accordingly, the Panel finds that all these do constitute bad faith on the part of the Respondent in the use and registration of the Disputed Domain Name.

Therefore, the Panel also finds that the Complainant has succeeded in proving the elements in Paragraph 4(a)(iii) of the Policy as regards <pccwbank.com>.

## **6. Decision**

Having established all three elements required under the Policy in respect of the Disputed Domain Name <pccwbank.com>, the Panel concludes that relief should be granted in favour of the Complainant. Accordingly, the Panel decides and orders that the Disputed Domain Name <pccwbank.com> shall be transferred from the Respondent to the Complainant.



Gary Soo  
Sole Panelist

30 March 2022