



Asian Domain Name Dispute Resolution Centre

beijing

## **ADMINISTRATIVE PANEL DECISION**

**Case No. CN-2201513**

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**Complainant: Beijing Jindi Technology CO., Ltd.**

**Respondent: xin**

**Domain Name: tianyancha.pro**

**Registrar: ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED**

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### **1. Procedural History**

On 16 November 2022, the Complainant submitted a Complaint in Chinese to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) 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) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On 18 November 2022, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED, a request for registrar verification in connection with the disputed domain name.

On 21 November 2022, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the registrant and providing the contact details. The Registrar further pointed out that the language of the Registration Agreement is English.

On 22 November 2022, the ADNDRC Beijing Office informed the Complainant of the Respondent's information and the language issue, and notified the Complainant to revise the Complaint according to the Registrar's confirmation. On 7 December 2022, the revised Complaint was received by the ADNDRC Beijing Office.

On 8 December 2022, the ADNDRC Beijing Office notified the Complainant that the

Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar, ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 29 December 2022, the ADNDRC Beijing Office notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the Complainant and the Respondent that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Xue Hong, the ADNDRC Beijing Office notified the parties on 29 December 2022 that the Panel in this case had been selected, with Ms. Xue Hong acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On 29 December 2022, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 12 January 2023.

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 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. Since the language of the current disputed domain name Registration Agreement is English, the Panel determines English as the language of the proceedings.

## **2. Factual Background**

### **A. The Complainant**

The Complainant in this case is Beijing Jindi Technology CO., Ltd. The registered address is Room 2001, 20th Floor, Building B, Building 1, Yard No. 65 Zhichun Road, Haidian District, Beijing China. The Complainant has no authorized representative in this case.

## **B. The Respondent**

The Respondent in this case is xin. The email is ddy88888@outlook.com. The Respondent has no authorized representative in this case.

The Respondent is the current registrant of the disputed domain name “tianyancha.pro”, which was registered on 29 June 2022 according to the WHOIS information. The registrar of the disputed domain name is ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED.

## **3. Parties’ Contentions**

### **A. The Complainant**

(1) The disputed domain name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights

The disputed domain name “tianyancha.pro” differs from the Complainant’s trademark “Tianyancha” only in suffix “.pro”. The Respondent unauthorizedly used the Complainant’s registered trademark in the disputed domain name and on the website, which is highly confusing to the general public.

Firstly, as the Complainant has operated the website <https://www.tianyancha.com/> since October 2014. The Complainant has the exclusive right to use the registered trademark “Tianyancha” in Classes 9, 42 and 45 respectively since 2014.

Under the situation that “Tianyancha” had been registered and widely used by the Complainant, the Respondent created the website with the disputed domain name without any permission from the Complainant. The disputed domain name and the Complainant’s trademark differ only in the suffix, which is likely to confuse the general public, causing adverse social influence and consequences, and seriously infringing upon the legal rights and interests of the Complainant, such as the right of exclusive using of registered trademarks.

Secondly, the Respondent’s webpage used the Complainant’s “Tianyancha” trademark without authorization, and it ranked in the forefront of the searching results of “天眼查” in Bing and other search engines, which shows the Respondent’s subjective intention to confuse the public. In addition, the Respondent used the Complainant’s registered trademark as the domain name of the website by themselves to provide illegal commercial services such as enquiring personal information by ID card, domicile enquiry, call record enquiry, driving track enquiry, etc. The Respondent used the disputed domain name which is similar to the Complainant’s domain name and trademark to carry out illegal business, obviously with the subjective intention of confusion and infringement.

(2) The Respondent has no rights or legitimate interests in respect of the domain

name

The Complainant obtained the exclusive right of “Tianyancha” trademark (No.19743824, No.19743823 and No. 19743830) in Class 42, Class 45 and Class 9 in June 2017. The above three types of trademarks are all related to software products and information service technologies, and the registered commodity items include computer programming; computer software design; computer system design; provision of Internet search engines; domain name registration (legal services).

The Respondent does not have right to use the “Tianyancha” trademark. Nevertheless, the Respondent used the Complainant’s trademark to register domain name without authorization, which infringed on the Complainant’s exclusive right to use the registered trademark and constituted an infringement upon the trademark rights of the Complainant. Therefore, the Respondent does not have rights or legitimate interests in respect of the disputed domain name.

(3) The Respondent’s domain name has been registered and is being used in bad faith

The Complainant registered the domain name “tianyancha.com” in 2014. The Complainant registered the trademark “天眼查” in Classes 9, 35 and 42 on 28 July 2016, and “Tianyancha” in Classes 9, 42 and 45 on 14 June 2017. Over the past 8 years, the Complainant has attached great importance to the protection of brand and commercial reputation, and has made substantial economic costs for the promotion of the trademarks. The trademarks of “天眼查” and “Tianyancha” have establish good image and wide popularity in the market. According to the (2021) Yue 73 Min Chu No. 2503 Judgment, the Court determined that the Complainant’s trademarks “天眼查” in Class 9 and Class 35 had constituted well-known trademarks before August 2019. In addition, the Complainant has been operating legally and compliantly since the establishment, strictly abided by laws and regulations to carry out various businesses, and had never used the technological advantages and brand influence to commit illegal acts infringing on personal privacy and state secrets. However, the actions of the Respondent have seriously violated the legal rights of the Complainant.

Firstly, on 29 June 2022, the Respondent maliciously registered the “tianyancha.pro”, which contained the Complainant’s registered trademarks “Tianyancha”, and used the logo identical to the Complainant’s registered well-known trademark throughout the website of the domain name. The Respondent used a trademark identical to a registered trademark on identical goods without being licensed by the trademark registrant, as stipulated in Article 57 of Trademark Law of the People’s Republic of China. However, the Respondent obviously knew the Complainant’s domain name and trademarks when registered and used the disputed domain name in this case, so the Respondent had obvious subjective intention and constituted trademark infringement.

Secondly, the Respondent provided the public with various information inquiry services on the disputed domain name webpage under the name of the Complainant. Subjectively, the Respondent has intentionally clung to the goodwill of the Complainant, while objectively mislead the public to think that the disputed domain name was related to the Complainant, and had caused confusion and misidentification among the public, which violated the provisions of the Anti-Unfair Competition Law.

Finally, in the actual operation of the disputed domain name, the Respondent provided illegal services such as ID card number enquiry, room record enquiry, domicile enquiry etc., which not only seriously derogated the Complainant's reputation, but also was suspected of illegal and criminal behavior.

To sum up, the Respondent, by using "tianyancha.pro", has engaged in unfair competition and infringed on the Complainant's trademark right and reputation, and is even suspected of committing a crime. The Respondent has registered the domain name in bad faith and is using the domain name in bad faith.

The Complainant requests the disputed domain name "tianyancha.pro" to be transferred to the Complainant.

## **B. The Respondent**

The Respondent failed to submit a Response within the specified time period.

## **4. Discussions and Findings**

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The registrant has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name 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 documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent 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 online 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.

### **A. Identity or Confusing Similarity**

Under the Paragraph 4(a)(i) of the Policy, the Complainant must prove that the disputed domain name is identical with, or confusingly similar to the trademark or service mark in which the Complainant has rights.

The Complainant provides the registration certificates to show that, prior to the registration of the disputed domain name, three Complainant's trademarks "Tianyancha" have been registered in China on 14 June 2017 and effective since then. The Panel finds that the Complainant's rights in the trademarks "Tianyancha" can be proved.

The disputed domain name "tianyancha.pro", apart from the non-distinctive generic top-Level Domain ".pro", consists of "tianyancha". It's been established under the Policy that the identity or confusing similarity provided in the Paragraph 4(a)(i) can be proved by simple comparison of the character compositions of the disputed domain name and the complainant's legally proven mark. In comparison, the second-level domain "tianyancha" is almost identical with the Complainant's registered marks "Tianyancha", and its combination with the generic top-level domain ".pro" that commonly refers to the meaning of "professional" in English makes it even more confusing with the meaning of "Tianyancha professional" or "Tianyancha for professional use".

Based on the foregoing discoveries, the Panel finds that the Complaint has proven the first element under the paragraph 4(a) of the Policy, *i.e.* the disputed domain name is confusingly similar to the marks in which the Complainant has rights.

### **B. Rights or Legitimate Interests of the Respondent**

The Complaint contends that the Respondent used Complainant's trademark to register domain name without authorization, which conflicted with the Complainant's exclusive right to use the registered trademark and constituted an infringement upon the trademark rights of the Complainant. The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name "tianyancha.pro".

The Respondent does not provide any information to the Panel asserting any rights or legitimate interests it may have in the disputed domain name.

The Paragraph 4(c) of the Policy provides a list of circumstances which can be taken to demonstrate a respondent's rights or legitimate interests in a domain name. However, there is no evidence before the Panel that any of the situations described in the Paragraph 4(c) of the Policy apply here. To the contrary, the lack of any Response leads the Panel to draw a negative inference.

Therefore, and also in light of the Panel's findings below, the Panel finds that the Complaint has proven the second element under the Paragraph 4(a) of the Policy, *i.e.* the Respondent has no rights or legitimate interests in the disputed domain name "tianyancha.pro".

### **C. Bad Faith**

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Respondent did not respond to the Complainant's contentions.

The Complainant proves that its registered marks "天眼查" and "Tianyancha", many years before the registration of the disputed domain name, have been used for online enterprise information search services offered primarily through the website of "www.tianyancha.com" and acquired substantive market reputation.

The Panel notes from the evidence provided by the Complainant that the disputed domain name is being used at the website "https://www.tianyancha.pro", on which the Complainant's registered trademarks "天眼查" are repeatedly used to promote a series of commercial online search services offered by the Respondent. The Panel notes that the Respondent's business model is based on extensive process of personal information, including sensitive personal information (such as mobile location, marriage status, bank card information and communication records), without any legal safeguard explicitly required by the Chinese Personal Information Protection Law and other laws. The Respondent's for-profit activities conducted through the website of the disputed domain name obviously violate the mandatory legal obligations and the offence is subject to legal punishments under the Chinese laws.

After taking into all the circumstances of the case, the Panel finds that the Respondent, despite having no legitimate right or interest in the disputed domain name, obviously imitates and intends to profit from the Complainant's reputable marks "天眼查" and "Tianyancha" both through registering the disputed domain name that is confusingly similar to the Complainant's marks and through confusing the domain name with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of its website as well as of the services offered through its website. In addition, the Respondent's suspecting irregular activities conducted through the website of the

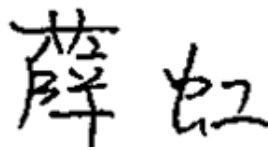
disputed domain name are very likely to get the Complainant involved in the risks of legal liabilities or even criminal punishments.

Given the high likelihood of confusing similarity between the disputed domain name and the Complainant's marks and the Respondent's abusive use of the disputed domain name, the Panel finds that the disputed domain name has registered and is using the disputed domain name "tianyancha.pro" in bad faith under the Policy, Paragraph 4(b)(iv).

Therefore, the Complaint has successfully proven the third element under the Paragraph 4(a) of the Policy.

## 5. Decision

For all 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 "tianyancha.pro" be transferred to the Complainant Beijing Jindi Technology CO., Ltd.



(Signature)

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Xue Hong

Dated: 12 January 2023