



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301594

Complainant: FISKARS UK LIMITED

Respondent: SI CHUAN LONG FEI WANG LUO KE JI YOU XIAN GONG SI

Domain Name: houseofwaterford.com

Registrar: ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED

1. Procedural History

On December 1, 2023, 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 the case to be dealt with by a sole panelist, 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 the same day, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint.

On December 1, 2023, ADNDRC Beijing Office informed by email ICANN and the Registrar ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED to request for the registrar verification in connection with record of the disputed domain name.

On December 4, 2023, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the registration details, confirming the language of the proceeding shall be English. On December 5, 2023, the ADNDRC Beijing Office requested the Complaint to revise and translate its submission.

On December 8, 2023, the Complainant submitted the revised Complaint in English to the ADNDRC Beijing Office.

On December 11, 2023, the ADNDRC Beijing Office notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the proceeding officially commenced. On the same day, the ADNDRC Beijing Office transmitted the

Written Notice of the Complaint to the Respondent, which indicated that the Complainant had filed a Complaint with regards to the disputed domain name and the ADNDRC Beijing Office had sent the complaint and its attachments through email to the Respondent, according to the Rules and the Supplemental Rules. At the same time, the ADNDRC Beijing Office notified ICANN and registrar ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED, of the commencement of the proceeding.

The Respondent failed to submit Response within the time period. The ADNDRC Beijing Office notified the parties of the Respondent's default. Since the Respondent did not say anything in terms of the Panel selection in accordance within the period specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the disputing parties that the ADNDRC Beijing Office would appoint the sole panelist to make a decision. Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. Chi Shaojie, the ADNDRC Beijing Office notified the parties on January 5, 2024 that the Panel in this case had been formed, with Mr. Chi Shaojie acting as the sole panelist. The Panel determines that the appointment was made in conformity with The regulations under Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On January 5, 2024, 2023, the Panel received the file from the ADNDRC Beijing Office and was required to render the Decision within 14 days after the formation of the Panel, i.e. on or before January 19, 2024.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language used in the current administrative proceeding shall be the language used in the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel is going to use English in the proceeding.

2. Factual Background

A. The Complainant

The Complainant in this case is FISKARS UK LIMITED. The registered address is WEDGWOOD DRIVE, BARLASTON, STOKE-ON-TRENT, STAFFORDSHIRE, ST12 9ER, UNITED KINGDOM.

The authorized representative of the Claimant's in this case is Chofn IP Beijing Branch Company.

B. The Respondent

The Respondent in this case is named as SI CHUAN LONG FEI WANG LUO KE JI YOU XIAN GONG SI, the address of which is Yibinshi, Sichuan, China.

The Respondent is the current registrant of the disputed domain name <houseofwaterford.com>, which was registered, according to the WHOIS information, on April 2, 2023 and the registration is to be expired as from April 2, 2024.

The registrar of the disputed domain name is ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED.

3. Parties' Contentions

A. The Complainant

The detailed information of the "WATERFORD" trademark registrations of the Complainant, is listed as follows and the earliest mark was registered on April 30, 1987.

#	Trademark	Registration Date	Reg. No.	Cl.	Designated goods
1.	WATERFORD	April 30, 1987	285111	21	Carved crystal glass products
2.	WATERFORD	September 28, 2022	54046581	8	Can openers (non-electric); Vegetable slicers, hand-operated; Knives; Meat choppers (hand tools); Mincing knives (hand tools); Stamps [hand tools]; Sharpening instruments; Food slicers (non-electric); Table cutlery (knives, forks and spoons); Vegetable choppers; Vegetable knives; Vegetable shredders; Vegetable slicers; Hand tools, hand-operated; Daggers; Handles for hand-operated hand tools
				11	Germicidal lamps for purifying air; Curling lamps; Lava rocks for use in barbecue grills; Hair driers [dryers]; Heating apparatus; Fog machines; Heating installations; Watering installations, automatic; Radiators,

					electric; Lighters; Nuclear reactors
				14	Jewellery; Clocks; Watches; Horological; Chronometric instruments; Bracelet; Necklaces; Ear studs; Pendant, necklace; Precious metals, unwrought or semi-wrought; Jewellery boxes
				16	Paperweights; Signboards of paper or cardboard; Figurines [statuettes] of papier mâché; Paper knives [letter openers]; Steel pens; Drawing sets; Tailors' chalk
				20	Picture frames; Furniture; Trays, not of metal; Work benches; Bamboo arts and crafts; Figurines [statuettes] of wood, wax, plaster or plastic; Identity plates, not of metal; Decorations of plastic for foodstuffs; Nesting boxes for household pets; Identification bracelets, not of metal; Coffins; Table tops; Cushions; Indoor window shades [furniture]
				21	Containers for household or kitchen use; Utensils for household purposes; Unworked or semi-worked glass (except glass used in building); Daily use glassware (including cups, plates, pots, crocks); Painted glassware; Porcelain ware; Earthenware; Beaters (non-electric); Blenders (non-electric), for household purposes; Bottle openers; Bread bins; Bread boards; Butter dishes; Coffee grinders(hand operated); Coffee percolators (non-electric); Coffee pots (non-electric); Cooking pot sets; Cooking pots; Cooking utensils (non-electric); Crockery; Cruets; Deep fryers (non-electric); Kitchen grinders, non-electric; Drinking vessels; Fruit

					<p>presses (non-electric), for household purposes; Frying pans; Garlic presses [kitchen utensils]; Graters for kitchen use; Grills [cooking utensils]; Heat insulated containers; Kettles, non-electric; Kitchen containers; Pepper mills; Pepper pots; Cooking saucepans non-electric; Daily use chinaware (including basins, bowls, plates, pots, tablewares, crocks, jars, cans); Earthenware jars; Tableware, other than knives, forks and spoons; Bottles; Bowls [basins]; Cups; Kitchen utensils; Cake plates; Cake servers; Cookie jars; Trays for domestic purposes; Pie servers; Table plates; Glass bowls; Glass flasks [containers]; Glass art; Works of art of porcelain, ceramic, earthenware, terra-cotta or glass; Drinking glassware; Wine aerators; Vases; Candelabra [candlesticks]; Perfume bottle (empty); Perfume vaporizers; Ice buckets; Crystal [glassware]; Perfume burners; Combs; Brushes; Hair for brushes; Toothbrushes; Toothpick holders; Kitchen mitts; Cages for household pets; Indoor aquaria; Insect traps</p>
3.	WATERFORD	April 14, 2022	57743803	8	<p>Can openers (non-electric); Vegetable slicers, hand-operated; Knives; Meat choppers (hand tools); Mincing knives (hand tools); Stamps [hand tools]; Sharpening instruments; Food slicers (non-electric); Table cutlery (knives, forks and spoons); Vegetable choppers; Vegetable knives; Vegetable shredders; Vegetable slicers; Hand tools, hand-operated; Daggers; Handles for hand-operated hand tools</p>
				11	<p>Germicidal lamps for purifying air;</p>

					Curling lamps; Lava rocks for use in barbecue grills; Heating apparatus; Fog machines; Heating installations; Watering installations, automatic; Radiators, electric; Lighters; Nuclear reactors.
				14	Jewellery; Clocks; Watches; Horological; Chronometric instruments; Bracelet; Necklaces; Ear studs; Pendant, necklace; Precious metals, unwrought or semi-wrought; Jewellery boxes
				20	Picture frames; Furniture; Trays, not of metal; Work benches; Bamboo arts and crafts; Figurines [statuettes] of wood, wax, plaster or plastic; Identity plates, not of metal; Decorations of plastic for foodstuffs; Nesting boxes for household pets; Identification bracelets, not of metal; Coffins; Table tops; Cushions; Indoor window shades [furniture]
				21	Containers for household or kitchen use; Utensils for household purposes; Unworked or semi-worked glass (except glass used in building); Daily use glassware (including cups, plates, pots, crocks); Painted glassware; Porcelain ware; Earthenware; Beaters (non-electric); Blenders (non-electric), for household purposes; Bottle openers; Bread bins; Bread boards; Butter dishes; Coffee grinders(hand operated); Coffee percolators (non-electric); Coffee pots (non-electric); Cooking pot sets; Cooking pots; Cooking utensils (non-electric); Crockery; Cruets; Deep fryers (non-electric); Kitchen grinders, non-electric; Drinking vessels; Fruit

				presses (non-electric), for household purposes; Frying pans; Garlic presses [kitchen utensils]; Graters for kitchen use; Grills [cooking utensils]; Heat insulated containers; Kettles, non-electric; Kitchen containers; Pepper mills; Pepper pots; Cooking saucepans non-electric; Daily use chinaware (including basins, bowls, plates, pots, tablewares, crocks, jars, cans); Earthenware jars; Tableware, other than knives, forks and spoons; Bottles; Bowls [basins]; Cups; Kitchen utensils; Cake plates; Cake servers; Cookie jars; Trays for domestic purposes; Pie servers; Table plates; Glass bowls; Glass flasks [containers]; Glass art; Works of art of porcelain, ceramic, earthenware, terra-cotta or glass; Drinking glassware; Wine aerators; Vases; Candelabra [candlesticks]; Perfume bottle (empty); Perfume vaporizers; Ice buckets; Crystal [glassware]; Perfume burners; Combs; Brushes; Hair for brushes; Toothbrushes; Toothpick holders; Kitchen mitts; Cages for household pets; Indoor aquaria; Insect traps
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In addition, the Complainant has already registered the domain name <waterfordvisitorcentre.com> as early as 2000, as shown in the table below:

Domain name	Date of registration	Status
<waterfordvisitorcentre.com>	February 24, 2000	Registered

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

The main part “houseofwaterford” of the disputed domain name fully contains the Complainants prior famous trademark “WATERFORD” and “houseof” only has weak

distinctiveness. The prominent part “waterford” of the disputed domain name is identical with the Complainant’s prior registered mark “WATERFORD” and they are confusingly similar.

The Complainant’s “WATERFORD” brand was created by the Penrose family in 1783 and was named after the Irish ancient city of “Waterford”, and is an Irish ancient crystal brand. Its high quality crystals and elegant modern design are sought after around the world, creating a sense of magic and making it a favourite of the British Royal Family, European royalty, and professionals in various fields, such as Westminster Abbey, John F. Kennedy Center, inauguration ceremonies of many US presidents, etc.

Over the years, the Complainant has promoted their WATERFORD brand in various platforms in mainland China by publishing reports and tweets in the news media and We-Media.

The Complainant also sells “WATERFORD” products on JD and Tmall.

Fiskars Shanghai, a Chinese company of FISKARS Group in China, has signed a non-exclusive distribution agreement with Shanghai Shengquan Culture Communication Co., LTD. to sell WATERFORD related products in past years.

In addition to China, the Complainant also applied for/registered WATERFORD marks in various countries and regions covering multiple classes.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name According to the searches via the CNIPA’s online trademark database, it is noted that there are no identical/similar marks under the Respondent, which proves that the Respondent has no trademark rights over “houseofwaterford” or “waterford”. Moreover, the Respondent’s tradename is “SI CHUAN LONG FEI WANG LUO KE JI YOU XIAN GONG SI”, which proves that the Respondent has no tradename right on “houseofwaterford” or “waterford” as well.

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

“WATERFORD” is a distinctive and famous mark, registered and used by the Complainant for many years. It is not a coincidence that the Respondent registered a confusingly similar domain name without prior knowledge of the Complainant’s mark, especially considering the Complainant is using the logo “HOUSE OF WATERFORD” on their website “waterfordvisitorcentre.com”.

From the website of the disputed domain name, it can be found that every time the website is refreshed, there will be presented different company information, and most of them are not real entities, and the webpage also provides many “quick links” jumping to various kinds of companies. Obviously, the Respondent’s application for registration of the disputed domain name is not for fair use, but only using the

Complainant's goodwill and fame to attract website traffic for seeking illegitimate benefits

Based upon the forgoing reasons, the Complainant requests that the disputed domain name should be transferred to the Complainant.

B. The Respondent

The Respondent has not made any response to what the Complainant's request and reasoning.

4. Findings and Analyses

It is meaningful for the parties to understand the nature of the current proceeding which is totally different from that of arbitration or litigation. Though the proceeding is known as administrative proceeding, it is NOT the proceeding by a government agency or any of dispute resolution bodies. The jurisdiction by the Panel over the current dispute on the domain name registered by the Respondent comes from the authorization by the organization for the administration of domain name registration and maintenance.

Anyone intends to register a domain name needs to sign a registration agreement with the domain name administrative authority which makes no substantive examination on the registration application, but stipulates in the registration agreement that whenever a claim against the registration is submitted to the authorized domain name dispute resolution body, e.g. the ADNDRC Beijing Office, the registrant is obliged to be a procedural party which has rights to make arguments against the claim by the Complainant, but subject to a decision made by a Panel constituted in conformity with the stipulated procedural rules.

As it is, the current proceeding is a part of the whole proceeding for the registration and maintenance of domain names. As such, the fundamental feature of the Panel's making a judgment on the entitlement to the disputed domain name is to decide on a core issue of which party should be the rightful holder of the disputed domain name, so as to be in conformity with the basic requirements set forth under the Policy and to help keep the good operative order for the running of the internet, and to be beneficiary to the protection of common interests of the web-users.

Paragraph 4(a) of the Policy provides that in order to be entitled to the requested transfer of the disputed domain name, the Complainant shall prove the following three indispensable facts, i.e.

(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.

The Panel is going to say the following words on the findings and analyses with regard to the three stipulated prerequisites for a final decision.

A. Identity or Confusing Similarity

As revealed in the subtitle, what the Panel needs to do is to hold either of the facts with regard to the judgment on the key element of “Identity” OR “Similarity”; and the two basic elements to be compared are the Complainant’s registered trademarks and the identifying part of the disputed domain name.

Since the Complainant has based itself principally upon its commercial fame gained in its business practice in China, and the Respondent sounds to be a Chinese entity (四川 LONG FEI 网络科技有限公司), the Panel shall make the relevant analyses mainly from the Chinese perspective.

The Complainant submits and proves that it obtained by legal means the 1987-registered trademark WATERFORD as well as a series of the follow-up registered trademarks containing the key word WATERFORD from the legitimate owner of those marks, and thus presently being entitled to those marks which may be compared with the major identifying part of the disputed domain name <houseofwaterford.com>. Obviously, the two are not identical, thus what the Panel is going to do is to identify whether the two are in confusing similarity.

In the eyes of those who know English to certain extent, “houseofwaterford” may be separated into four English words, namely “house, of, water, ford”. Since the words of “water & ford” are spelled without a hyphen in between, they may be deemed equivalent to the Complainant’s trademark “WATERFORD”. Then, the question is whether the added words “house & of” may be the key elements to substantively differentiate “houseofwaterford” from “WATERFORD”? The answer is NO due to the following considerations.

Firstly, as submitted and proved by the Complainant, it registered the domain name <waterfordvisitorcentre.com> as early as in the year of 2000; and has been using on the web the term “HOUSE OF WATERFORD” which may be translated into Chinese as “沃特福德之家”. It is as clear as a nose on the face that the concept of “houseofwaterford” should be exclusively linked to the Complainant’s registered trademark “WATERFORD”, and has nothing to do with the Respondent. That is to say, the registration of the disputed domain name by the Respondent is to be targeted for the Complainant’s business reputation. Since the Complainant has been using the term “HOUSE OF WATERFORD” in connection to its registered trademark “WATERFORD”, the Panel holds that the Respondent registered the disputed domain

name purposely to be used to get the web-users confused the Respondent and the Complainant.

Secondly, the Respondent fails to explain and prove why it has chosen the term “houseofwaterford” to register the disputed domain name, especially what could be the linkage between the “houseofwaterford” and the Respondent itself. In other words, if the Respondent is fond of the term “house of”, why it was not willing to use the term of “houseoflongfei (longfei 之家)” as the major part of the domain name? The answer is nothing but “houseoflongfei” has no connection to the Complainant. It is apparent that the purpose of the Respondent’s is to take a ride on the good-will of the Complainant’s, which constitute the foundation of the Panel’s conclusion of “confusing similarity” of the two compared subject matters.

As such, the Panel has sufficient reason to hold that the identifying part of the disputed domain name is of high confusing similarity with the Complainant’s registered trademark; therefore the Complainant meets the first requirement for the could-be transfer of the disputed domain name.

B. Rights or Legitimate Interests of the Respondent

Pursuant to Paragraph 4(a)(ii), the second prerequisite for the Complainant to meet in terms of the request for the transfer of the disputed domain name is to prove that the Respondent does not enjoy any right to or legitimate interest in the domain name at issue.

Literarily understanding, it seems to be the Complainant who shall take the burden of proof to establish the fact that the Respondent does NOT have rights or legitimate interests in connection to the disputed domain name. Since the Complainant submits that it is exclusively entitled to the word “WATERFORD” and the Respondent has nothing to do with such a word except using it to register the disputed domain name in bad faith, the Complainant can hardly provide any evidence to prove something it does not think to exist. For this reason, the Panel pays more attention to whatever the Respondent could argue with regard to the rights or legitimate interests in respect to the disputed domain name. The Policy gives the chance to the Respondent to make arguments on this issue by stipulating several could-be circumstances in the relevant article of the Policy.

Regrettably, the Respondent makes no argument to say it does have certain rights or legitimate interest in regard to the domain name at issue. Under the circumstances, how could the Panel hold that the Respondent does have a right or legitimate interest in the disputed domain name?

On the other side, the Complainant submitted enough exhibits to certify such facts as the word “WATERFORD” was created and used by somebody who transferred the mark to the Complainant who currently has been using the mark as the brand of its

products and service offered to the consumers all over the world. It is worth being mentioned is the fact that the Complainant has registered the domain name <waterfordvisitorcentre.com> in 2000 to market its products and service on internet, which started much earlier than the Respondent's registration of the disputed domain name.

Based upon the above comprehensive analyses of all the relevant evidences by the Complainant, the Panel has sufficient reason to ascertain that it is none other than the Complainant who has rights and legitimate interests in connection to the disputed domain name; and further holds that the Complainant meets the second requirement set forth under Paragraph 4(a)(ii).

C. Bad Faith

Furthermore, the Complainant has yet to establish the fact of bad faith on the part of the Respondent in registering and using the disputed domain name, as set forth in the Paragraph 4(a) (iii) of the Policy.

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”.

The logical thinking of the Panel on the above stipulation is something like that when a party registers a domain name which is NOT created by itself with a distinctive feature known in the real world, but identical or confusingly similar to a mark or logo or sign to which the other party has rights and legitimate interests with high market value, the intention of the registration is clear, namely taking advantages by causing confusion to the consumers.

On the other hand, if the registrant is NOT intentionally to take others' advantage, it should create a distinctive domain name to make web-users easily tell the name from others. What is more, if someone registers a domain name in bad faith, it is hard for him to make use of the registered subject matter in good-faith, otherwise the ill-intention of the registrant would not be revealed.

The word "waterford" may not be easily found in the ordinary English-Chinese dictionaries, thus the Panel holds that the word was created by the earliest user of the word, who later registered the word as an exclusive trademark and became the trademark owner. Whoever he or she is, the Complainant proves to be the current right-holder of the trademark and entitled to claim all the good-will attached to the created word "waterford". On the contrary, the word "waterford" is absolutely NOT made by the Respondent who has included the word into the registered identifying part of the disputed domain name deliberately with bad-faith.

The Complainant alleges as quoted "From the website of the disputed domain name, it can be found that every time the website is refreshed, there will be presented different company information, and most of them are not real entities, and the webpage also provides many 'quick links' jumping to various kinds of companies. Obviously, the respondent's application for registration of the disputed domain name is not for fair use, but only using the Complainant's goodwill and fame to attract website traffic for seeking illegitimate benefits."

It is necessary to point out that the word "USE" as mentioned in the Paragraph 4(b) of the Policy should be interpreted as "be used by either the Respondent itself or by someone else unless proved to be nothing to do with the Respondent". As proved by the Complainant, the website using the disputed domain name has not been showing the Respondent's name but the Respondent does not say and prove the said website has nothing to do with it. As it is, the Panel has a reason to ascertain that the disputed domain name has been used in bad-faith which may get the Complainant suffers from could-be reputation or economic damage incurred in such ill-famed use.

In view of the foregoing groundings, the Panel ascertains that the Complainant meets the third requirements for the requested transfer of the domain name at issue.

Based upon all the above findings and analyses, the Panel comes to the final conclusion that the Complaint fulfills each AND all of the conditions provided in Paragraph 4(a) of the Policy.

5. Decision

In light of all the foregoing findings and in accordance with Paragraphs 4(a), 8(a) of the Policy and 5(e) of the Rules, the Panel orders that the Respondent SI CHUAN

LONG FEI WANG LUO KE JI YOU XIAN GONG SI to transfer of the disputed domain name <houseofwaterfor.com> to the Complainant FISKARS UK LIMITED.

A handwritten signature in black ink, appearing to be 'Chi Shaojie', with a stylized flourish extending to the right.

(Chi Shaojie)

Dated: January 18, 2024