



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CNcc-2000004

Complainant: Julius Baer Group Ltd. (Julius Bär Gruppe AG)

Respondent: Jamie Thorburn

Domain Name: juliusbaer.cc

Registrar: Eranet International Limited

1. Procedural History

On 2 January, 2020, the Complainant submitted a Complaint in English 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 2 January, 2020, 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, a request for registrar verification in connection with the disputed domain name.

On 3 January, 2020, 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 contact details.

On 7 January, 2020, the Complainant submitted a revised Complaint to the ADNDRC Beijing Office, and on 9 January, 2020, the ADNDRC 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 the Registrar of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. 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 Dr. Timothy Sze, the ADNDRC Beijing Office notified the parties on 17 February, 2020, that the Panel in this case had been selected, with Dr. Sze 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 17 February, 2020, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 2 March, 2020.

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

2. Factual Background

A. The Complainant

The Complainant in this case is Julius Baer Group Ltd. (Julius Bär Gruppe AG). The registered address is Bahnhofstrasse 36, 8001 Zurich. The authorized representative in this case is Beijing AnJie Law Firm.

B. The Respondent

The Respondent in this case is Jamie Thorburn. The registered address is Street 872 Doncaster Rd, Doncaster East (Post 3109).

The Respondent is the current registrant of the disputed domain name "juliusbaer.cc", which was registered on the Registrar, Eranet International Limited, according to the WHOIS information.

3. Parties' Contentions

A. The Complainant

The Complainant has rights in its registered trademarks including "JULIUS BAER" and its German/Chinese forms. The Complainant's registered trademarks including "JULIUS BAER" and its German/Chinese forms in China and international trademarks registered through the Madrid Protocol in WIPO (hereinafter referred as "JULIUS BAER series trademarks") include but not limited to the following:

TM No.	Cl.	Appl. Date	Reg. Date	Mark Name	TM	Products/Services
117 486 12	16	2012-11-15	2014-07-14	Julius Bär 瑞士宝盛	Julius Bär 瑞士宝盛	Printed matter.
117 486 13	36	2012-11-15	2017-01-21	Julius Bär 瑞士宝盛	Julius Bär 瑞士宝盛	Financial transactions; financial consulting; financial analysis; financial information; banking; financial management; investment consulting; capital investment; securities trading; storage of valuable items; trust; financial services; financial data services online through the Internet and global communication networks; financial information services through the Internet Provide; exchange currencies; mortgages; provident fund services; coin valuation online with global communication networks
287 145 36	36	2018-01-16	2019-08-14	瑞士宝盛	瑞士宝盛	Same as above.
287 145 35	16	2018-01-16	2019-08-07	瑞士宝盛	瑞士宝盛	Printed matter.
G6 141 41	14/ 16/ 36	1993-07-09	1994-01-09	JULIUS BAER	JULIUS BAER	<ul style="list-style-type: none"> • Class 14 Precious metals and their alloys and goods made of these materials or coated therewith. • Class 16 Printed matter. • Class 36 Financing services, including investment advice, financial management and transactions relating to securities, deposit of valuables in safes; insurance underwriting; real estate transactions.
G6 141 43	14/ 16/ 36	1993-07-09	1994-01-09	BANQUE JULIUS BAER	BANQUE JULIUS BAER	Same as above.
G6 141 44	14/ 16/ 36	1993-07-09	1994-01-09	BANK JULIUS BÄR	BANK JULIUS BÄR	Same as above.
G7 837 29	14/ 16/ 36	2002-07-03	2002-07-18	JULIUS BAER MULTISELE	JULIUS BAER MULTISELECT	Same as above.

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G7 837 30	14/ 16/ 36	2002-07-0 3	2012-0 7-18	JULIUS BAER MULTITRADI NG	JULIUS BAER MULTITRADING	Same as above.
G7 837 31	14/ 16/ 36	2002-07-0 3	2012-0 7-18	JULIUS BAER MULTIFUND	JULIUS BAER MULTIFUND	Same as above.
G7 837 32	14/ 16/ 36	2002-07-0 3	2012-0 7-18	JULIUS BAER MULTICLIEN T	JULIUS BAER MULTICLIENT	Same as above.
G7 505 71	9/1 4/1 6 /35 36/ 38/ 42	2000-05-1 0	2000-1 1-10	JULIUS BAR	JULIUS BAR	<ul style="list-style-type: none"> • Class 9 Software; magnetic, electronic and optical data carriers; appliances and instruments for recording, saving, reproducing, using, distributing, handling and recovering data, images, text and signals. • Class 14 Precious metals and their alloys and goods made of or coated with these materials not included in other classes. • Class 16 Printed matter. • Class 35 Business organization and management consulting; business investigations; business valuation services; business appraisals; analyses and appraisals of enterprises; expert evaluations and reports relating to business matters; data compilation and systemization in a database. • Class 36 Financial operations; financial transactions; financial consulting; financial analysis; financial information; banking business; financial management; investment consultancy; capital investment; monetary operations; security transactions; deposit of valuables in safes; trustee services; insurance; real estate operations. • Class 38 Telecommunications; online provision and transmission of information and financial data, including via the Internet and on global communication networks; electronic messaging and image transmission services, including via e-mail. • Class 42 Expertise activities; scientific investigations; computer programming; provision of information on global networks; provision of access to a central database server

						and to global networks; computer software rental.
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The Complainant is a company registered and existing under the laws of Switzerland. The Complainant is the leading Swiss private banking service provider with a history of more than 120 years. Currently, the Complainant is present in all major financial centers with branches and offices in more than 40 cities and 20 countries. The Complainant focuses on providing high-end services and in-depth advice to private clients around the world. As the international reference and pioneer in private banking, The Complainant manages the company for the long term and pursues a corporate strategy based on dedication and expertise. The Complainant owns many “JULIUS BAER” series trademark registrations in many countries and regions around the world, including in China (see the above chart).

This Complaint is based on the following grounds:

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

The Complainant has rights in its registered JULIUS BAER series trademarks. The Complainant’s JULIUS BAER series trademarks registered worldwide including in China are protected under relevant law and rules.

The disputed domain name <juliusbaer.cc> consists of “JULIUSBAER” and a Country Code Top Level Domain (“ccTLD”) “.CC”. In the current case, the ccTLD should be viewed as standard registration requirements and as such should be disregarded under the first element confusing similarity test.

As mentioned above, the Complainant’s JULIUS BAER series trademarks enjoy high reputation among consumers of private banking services around the world. “JULIUSBAER” is clearly recognizable within the disputed domain name. <juliusbaer.cc> completely incorporates the JULIUSBAER and constitutes identical or confusingly similar marks with the Complainant’s registered JULIUS BAER series trademarks. This Complaint satisfies the requirement of Paragraph 4(a)(i).

b. the Respondent has no rights or legitimate interests in respect of the domain names.

The Respondent has no rights or legitimate interests in respect of the domain names for the purpose of paragraph 4(a)(ii) of the Policy because: (1) As the legitimate owner of rights and interests related to JULIUS BAER series registered trademarks and domain names per se, the Complainant had never authorized or consent to the Respondent’s use of JULIUS BAER trademarks in respect of the disputed domain names; (2) the Respondent is not actively using the disputed domain name in any of its business operations in good faith; and (3) the Respondent does not own any trademark rights related to JULIUS BAER, and there is no evidence indicating Respondent has been commonly known by the disputed domain name.

c. As the legitimate owner of rights and interests related to JULIUS BAER series registered trademarks and domain name per se, the Complainant had never authorized or consent to Respondent's use of JULIUS BAER trademarks in respect of the disputed domain name.

The Complainant is the legitimate right holder of JULIUS BAER series trademarks worldwide and in China. It also registered the domain name <juliusbaer.com> in as early as 1996 and consistently used the domain name to establish its principle website for providing private banking services. The Complainant's trademarks and the domain name have acquired high degree of fame and established stable connection with the Complainant through extensive uses in commerce by the Complainant and its affiliates. Therefore, the Complainant is the legitimate owner of rights and interests related to "JULIUS BAER" series registered trademarks and domain name per se.

JULIUS BAER is not a fixed phrase in either English or German and has no other meaning other than in relation with the Complainant. The Complainant has never licensed, consented to or otherwise authorized the Respondent's use of JULIUS BAER trademarks in respect of the disputed domain name. As such, the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests, and the burden of production on this element should be shifted to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element.

d. The Respondent is not actively using the disputed domain name in any of his or her business operations in good faith.

There is no evidence suggesting that the Respondent has used, prepared to use or is using the disputed domain name in connection with a bona fide offering of goods or services, and any uses of the disputed domain name will inevitably mislead users into believing that the disputed domain names are associated with the Complainant and may divert users to the disputed domain names, enabling the Respondent to make a commercial gain.

e. the Respondent does not own any trademark rights related to JULIUS BAER, and there is no evidence indicating the Respondent has been commonly known by the disputed domain names.

Based on the search results in the Madrid System of WIPO, the Respondent does not own any trademark rights related to JULIUS BAER. The Respondent is a natural person who has neither been commonly known by the disputed domain names, nor has the Respondent acquired any trademark incorporating the disputed domain names. The distinctive part of the disputed domain name is the Complainant's trademark "JULIUS BAER". When searching "juliusbaer" on Bings, the results shown on the first page are all related to the Complainant. The first search result is the

Complainant's domain name "juliusbaer.com" to provide tour programs with JULIUSBAER/JULIUSBAR services and products.

To conclude, the Respondent has no rights or legitimate interests in respect of the disputed domain name for the purposes of the paragraph 4(a)(ii) of the Policy.

f. The disputed domain name was registered and being used in bad faith.

As introduced above, the Complainant and its "JULIUS BAER" series trademarks have gained high reputation among consumers worldwide in the field of private banking services through consistent and extensive commercial activities and uses for decades. The Complainant has also been operating on the Internet via the websites established at "juliusbaer.com". The Complainant's "JULIUS BAER" marks have been registered and are being used in China and worldwide long before the registration of the disputed domain names (the disputed domain name <juliusbaer.cc> was registered on July 2, 2019, at least 25 years after The Complainant's prior trademark registrations). The Respondent should be fully aware of the Complainant's JULIUS BAER registered trademarks and should have taken all necessary measures to prevent using identical or similar marks in its business practice to avoid consumer confusion. However, the Respondent is proactively seeking consumer confusion by registering the disputed domain name that is identical or confusingly similar to the Complainant's distinctive and well-known JULIUS BAER trademarks without the Complainant's knowledge or consent. These acts clearly show the Respondent's bad faith in registering the disputed domain name.

Passive holding of the disputed domain names posts substantial threats to the Complainant's normal business activities and should not prevent a finding of bad faith registration and use. The Respondent is capable of making use of the disputed domain name now and later. Once the Respondent uses the disputed domain name on the Internet, it would be highly likely confusing with the Complainant's "JULIUS BAER" series trademarks and the Complainant's official website established at "juliusbaer.com". Therefore, the Respondent's registration and holding of the disputed domain name do not conceive of any legitimate purposes and pose the serious threat to the Complainant's legitimate trademark interest over "JULIUS BAER".

Paragraph 4(b) recognizes that inaction (e.g. passive holding) in relation to a domain name registration can, in certain circumstances, constitute a domain name being used in bad faith. In the current case, the Complainant's trademarks have high distinctiveness and fame, there is no evidence proving that the disputed domain names have been put into actual or contemplated good-faith use, and the Respondent tried to conceal its identity in Whois databases. These all indicate that there were no plausible active uses that would be legitimate. Respondent clearly has the bad faith to free-ride the goodwill of Complainant and JULIUS BAER series trademarks by leading the consumers to its websites and creating confusion to implement fraudulent

conducts as mentioned above. Therefore, this Complaint satisfies the requirements of paragraph 4(a)(iii).

Furthermore, the disputed domain name was specifically listed by foreign financial conduct regulators as part of Respondent's fraudulent acts for scamming consumers. On October 28, 2019, the Financial Conduct Authority (FCA), the conduct regulator for financial services firms and financial markets in the UK, published a warning notice pointing out that Respondent created a "clone" of the Complainant's authorized affiliated firm in the UK and used the websites <https://juliusbaer.cc> as part of its tactics to scam people in the UK. This clearly shows that the Respondent was fully aware of the goodwill of the Complainant and the Complainant's JULIUS BAER series trademarks. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's JULIUS BAER series trademarks as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

To sum up, the disputed domain name is identical or confusingly similar to the Complainant's JULIUS BAER series trademarks, the Respondent has no rights or legitimate interest in the disputed domain name, and the disputed domain name was registered and being used in bad faith. This Complaint satisfies the requirements of paragraph 4(a).

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

B. The Respondent

The Respondent did not reply to the Complainant's contentions.

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.

Respondent in Default

The Policy and the Rules provides that “[i]f a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.” The Panel finds that no exceptional circumstances exist. Accordingly, the Panel will decide the dispute based upon the Complaint and the evidence submitted therewith.

A. Identity or Confusing Similarity

In the present case, the preliminary issue is whether the Complainants has protectable rights in the mark to which it contends Respondent's domain name are confusingly similar.

The Panel confirms that the Complainant is trademark owner of the mark “JULIUS BAER”, in the present administrative proceedings. The Panel notes that according to the evidence provided, the Complainant is entitled to claim trademark rights in the mark “JULIUS BAER” in any UDRP proceedings against alleged trademark infringer. Hence, the Panel concludes that the Complainant has satisfied the threshold requirement of being eligible to claim rights in the trademark “JULIUS BAER”.

In this regard, the Panel confirms the Complainant owns numerous trade mark registrations for or incorporating “JULIUS BAER” in a wide range of categories, in the People's Republic of China ("PRC") and elsewhere. The Panel finds that the Complainant has rights in the “JULIUS BAER” mark acquired through registration. The Complainant is a leader for private banking services.

The disputed domain name <juliusbaer.cc> reproduces entirely the Complainant's

“JULIUS BAER” trademark and the gTLD suffix “.cc”. The gTLD “.cc” is without legal significance in the present case since the use of a TLD is technically required to operate a domain name.

Therefore, the gTLD suffix “.cc” does not have the capacity to distinguish the disputed domain name from the Complainant’s “JULIUS BAER” registered trademarks and is disregarded when comparing the disputed domain names with the Complainant’s trademarks. See *Volkswagen AG v. Todd Garber*, WIPO Case No. D2015-2175; *Dassault (Groupe Industriel Marcel Dassault) v. Ma Xiaojuan*, WIPO Case No. D2015-1733; *Lego Juris A/S v. Chen Yong*, WIPO Case No. D2009-1611; *Dr. Ing. H.c. F. Porsche AG v. zhanglei*, WIPO Case No. D2014-0080; *Cummins Inc. v. DG Lanshan Mechanical Electrical Equipment Co., Ltd.*, ADNDRC Case No. HK-1000286.

Furthermore, the mark “JULIUS BAER” is inherently distinctive mark which will attract Internet users’ attention. The evidence provided by the Complainant also shows that the “JULIUS BAER” mark has accumulated a considerable reputation by 2019 when the Respondent first registered the disputed domain name. Reproduction of the Complainant’s “JULIUS BAER” trademark in its entirety in the Domain Name in itself establishes that the Domain Name is confusingly similar to the Complainant’s trademarks. See *EAuto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. D2000-0047.

The Panel therefore finds that the disputed domain name <juliusbaer.cc> is confusingly similar to the Complainant’s registered marks. Accordingly, the Complainant has proven the element required by the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests of the Respondent

The Panel accepts that the Complainant has amply demonstrated that the Respondent lacks any rights or legitimate interests, and by virtue of its default, the Respondent has failed to come forward with any evidence to rebut that finding (including the examples listed in paragraph 4(c) of the Policy).

The Respondent has not used or made preparations to use the disputed domain name in connection with a *bona fide* offering of goods and services.

The Respondent was never commonly known as “JULIUS BAER.” A Google search turns up no results relating to the Respondent. On the other hand, Google results turn up many hits related to the Complainant, who owns the trademark in “JULIUS BAER”.

There is similarly no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied the second condition under paragraph 4(a)(ii) of the Policy.

C. Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

I. circumstances indicating that the respondent has registered or the respondent has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain names 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 names; or

II. the respondent has registered the domain names 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 names primarily for the purpose of disrupting the business of a competitor; or

IV. by using the domain names, 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 the respondent's website or location or of a product or service on its website or location.

The Complainant owns several trademark registrations for "JULIUS BAER" in Mainland China. Furthermore, according to the Complainant, the disputed domain name was specifically listed by foreign financial conduct regulators as part of the Respondent's fraudulent acts for scamming consumers. On October 28, 2019, the Financial Conduct Authority (FCA), the conduct regulator for financial services firms and financial markets in the UK, published a warning notice pointing out that the Respondent created a "clone" of the Complainant's authorized affiliated firm in the UK and used the websites <https://juliusbaer.cc> as part of its tactics to scam people in the UK.

The evidence contained in this case file leads the Panel to conclude that the Respondent was fully aware of the Complainant and had the Complainant's trademarks "JULIUS BAER" in mind at the moment of registering the disputed domain name, a requisite for a finding of registration of a domain name in bad faith (see WIPO Case No. D2011-1455 *supra*; *Real Madrid Club De Futbol v. Michele Dinoia*, WIPO Case No. D2010-0261; and *Advance Magazine Publishers Inc. v. Pablo Palermao*, WIPO Case No. D2008-0026).

The Respondent has attempted to create the impression amongst Internet users that the website to which the disputed domain name resolves is related to the Complainant and its trademarks, presumably with the purpose of generating income for the

Respondent through illicit means (see *LeSportsac, Inc. v. Yang Zhi*, WIPO Case No. D2013-0482; and *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. D2014 0365). This is proof of a bad faith registration and use of the disputed domain names under the Policy.

Internet users looking for the Complainant could be misled as to the origin of the disputed domain name and its content, as well as its possible association to the Complainants' parent office.

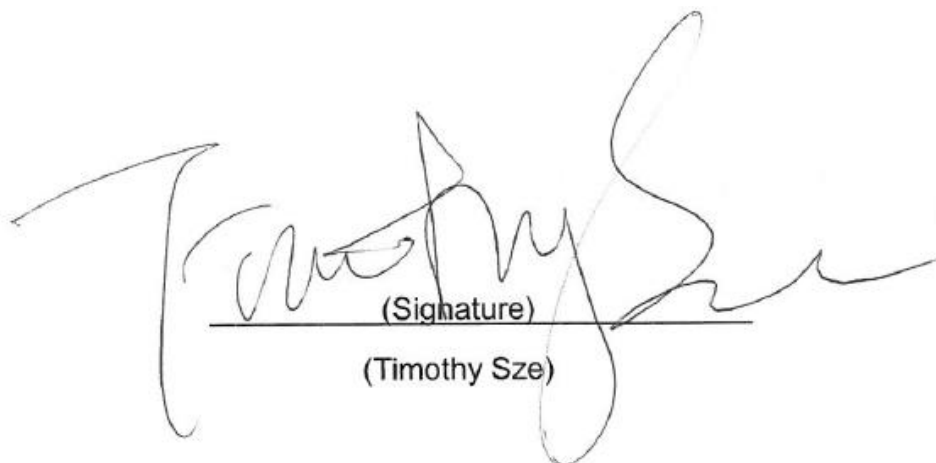
The third element of the Policy is fulfilled. The Panel therefore holds that this is sufficient to establish bad faith under paragraph 4(a) (iii) of the Policy.

5. Decision

Based on the above analysis, the Panel decides that:

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

Accordingly, pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel decides that the Disputed Domain Name "juliusbaer.cc" should be transferred to the Complainant Julius Baer Group Ltd. (Julius Bär Gruppe AG).



(Signature)

(Timothy Sze)

Dated: 2 March, 2020