



ADMINISTRATIVE PANEL DECISION Case No. DCN-1600715

First Complainant:	Andrew Simon Pastouna Jennings
Second Complainant:	Larsson & Jennings Ltd.
Respondent:	王志刚
Domain Name:	< larssonandjennings.cn >
Registrar:	厦门易名科技股份有限公司 (Xiamen Yi Ming Technology Co., Ltd.)

1. Procedural History

The First Complainant, Andrew Simon Pastouna Jennings, is a natural person whose address is Flat 3, 190 Drury Lane, London WC2B 5QD, United Kingdom. The Second Complainant, Larsson & Jennings Ltd., is a U.K. company, whose address is 7-8 Langley Court, London WC2E 9JY, United Kingdom.

The First and Second Complainants are represented in these administrative proceedings by Sangiorgi Vinciguerra Studio Legale, whose address is 1401 China Insurance Group Building, 141 Des Voeux Road Central, Hong Kong SAR, P.R. China.

The Complaint was filed with the Hong Kong International Arbitration Centre ('Centre') on 23 November 2016 in relation to the disputed domain name. On 23 November 2016, the Centre transmitted by email to the Registrar, 厦门易名科技股份有限公司 Xiamen Yi Ming Technology Co., Ltd. (or, also, eName Technology Co., Ltd.), whose address is Unit 603, Wanghai Road 19, Fujian Province Software Park, Xiamen City, China 361005, a request for verification of the registered particulars of the Disputed Domain Name < larssonandjennings.cn >.

On 23 November 2016, the Registrar replied to the Centre and identified the Respondent, 王志刚, whose email address is: wzgwxq-123@163.com, as the Registrant of the disputed domain name.

The Centre confirmed that the Complaint satisfied the formal requirements of the *CNNIC ccTLD Dispute Resolution Policy* ('**CNDRP**') issued by the China Internet Network Information Center ('**CNNIC**'); the *CNNIC ccTLD Dispute Resolution Policy Rules* ('**Rules of the CNDRP**'); and the *HKIAC Supplemental Rules for CNDRP and Rules of CNDRP* ('**Supplemental Rules**') issued by the Centre; respectively, each of which became effective on 21 November 2014.

On 25 November 2016, in accordance with Articles 5 and 14 of the Rules of the CNDRP and Article 5(3) of the Supplemental Rules, the Centre formally notified the Respondent of the Complaint. These proceedings commenced. In accordance with Article 17 of the Rules of the CNDRP, the due date for the Respondent's Response was 19 December 2016.

No Response was submitted to the Centre by the Respondent in relation to the disputed domain name, whereupon, the Centre sent a Notice of Default to the parties by email on 20 December 2016.

The Centre appointed Mr David L. Kreider as the sole panelist in this matter on 22 December 2016. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Centre to ensure compliance with Article 9(2) of the Supplemental Rules.

Language

The Complainants request that English be used as the language of these proceedings. The Complainants' entire argument in support of its application recites:

"The Complainants, considering the fact that they both are conversant in English and not in Chinese and do not expect any response to this complaint from the Respondent, would ask the Panel that English be accepted as language of the procedure."

The clear implication of the Complainants' abbreviated argument is that Complainants, their legal representatives, or both, not being conversant in Chinese, would be inconvenienced were these administrative proceedings required to be conducted in Chinese, whereas a defaulting Respondent could not be heard to allege prejudice to it were Complainants' application to be granted and English permitted to be used.

The Respondent, 王志刚, has, in fact, defaulted in these proceedings and, the Panel finds, will suffer no prejudice if English is used as the language of these proceedings. Conversely, however, it may further be supposed that any prejudice to Complainants or their Hong Kong-based legal representatives would be minimal if Chinese were required to be used as the language of these proceedings, as Chinese and English are both official languages, with equal status, in the Hong Kong Special Administrative Region, pursuant to the Official Languages Ordinance, 1997 (Cap. 5).

On balance, and particularly in view of the Respondent's default and failure to interpose timely a Response after *having received the required notice of these proceedings in the Chinese language from the Centre*, the Panel decides, as an exception to the general mandate of Article 6 of the CNDRP and Article 8 of the Rules of the CNDRP, that the present proceedings shall be conducted in English, rather than in the Chinese language, as requested by Complainants. The Panel will not require Complainants to re-submit their Complaint in Chinese.

2. Factual background

There are two Complainants bringing forward this complaint. One is an individual, Mr. Andrew Simon Pastouna Jennings (the “First Complainant”) and the other one is a United Kingdom private limited company named Larsson & Jennings Limited (the “Second Complainant”)(collectively the “Complainants”). Their respective interests in bringing forward this complaint are shared and convergent. The First Complainant is the owner of the domain name “larssonandjennings.com” and the registered owner of the trademark “Larsson & Jennings” (the “Trademark”). The First Complainant has granted to the Second Complainant a licence to use the Trademark. The First Complainant is also a founder member and the director of the Second Complainant. For reasons of such relationship between the two Complainants, both share the same interest in the domain name “larssonandjennings.cn” and are therefore jointly interested in this complaint.

The registration of the Disputed Domain Name was made on 29 November 2014.

The Respondent's principal place of business or domicile is not known.

3. Parties’ Contentions

A. Complainant

The Complainants’ contentions may be summarized as follows:

The Complainants tried to register the domain name “larssonandjennings” with the top level domain “.cn”, when they found out that such domain name was already registered by the Respondent and was offered for sale online with a starting bid of GBP 10,000. As of the date the Complaint was filed, the disputed domain name was still being offered for sale online.

The disputed domain name consists of two names (“Larsson” and “Jennings”, the latter being the family name of one of the founders and the director of the Company, the First Complainant), linked together by the word “and”. The two said names also form the name of the Second Complainant. “Larsson & Jennings” is also a trademark registered (also in China) by the First Complainant and the use of which is licensed to the Second Complainant.

It appears evident that the disputed domain name is very similar, if not identical (especially if one considers that the special character “&” and spaces are not allowed to be part of a domain name), to the name of the Second Complainant, the Trademark and is perfectly identical to the domain name owned by the First Complainant, coupled with the top level domain “.com”.

The Complainants are not aware that the person appearing as the holder of the disputed domain name (i.e. the Respondent) has any legitimate rights or interest over the disputed domain of any part of the name. Similarly, they are not aware of any other third party

who may have or claim rights or interests over the disputed names, given that the combination of the two names clearly identifies the Company and the Trademark.

The Complainants are not aware of any use of the name or mark “Larsson & Jennings” and the domain name “larssonandjennings” in China, other than the mere re-direction to the web page offering for sale the same domain name with top level domain “.cn”.

The fact that when clicking on the web address “www.larssonandjennings.cn” one is immediately and automatically re-directed to a web page where the same domain name is offered for sale, is in our view, sufficient to infer that the relevant registration was made for that precise purpose. In the absence of any use or any activity related to the disputed domain name, it therefore appears prima facie that such registration was made in bad faith by the Respondent.

In addition to the foregoing, the registration of the disputed domain name by the Respondent is prejudicial to the Complainants' interests to increase and further develop their business (and any opportunity to market it through the Internet with a “.cn” website) in China, in that it prevents a legitimate interest of the Complainants to benefit of a website with a domain name having a “.cn” top level domain, thereby also damaging the commercial growth and development of the Company in China.

Also, registration of the disputed domain by a person who is not related, associated or connected to or with any of the Complainants is very likely to create confusion between the relevant websites and the operations associated to the same.

Finally, a search carried out in the Whois database shows that there are 296 domain names registered with an Owner's Name “WANG Zhigang” (English transliteration of 王志刚) and 47 domain names registered indicating the email address “wzgwqx-123@163.com”, i.e. the email address of the Respondent. All of those domain names were not verified one by one, but from a random check of the list provided by the Whois database, it results that the domain name “wangzijian.net”, which is registered and shows the same email address as the Respondent, is also offered for sale.

B. Respondent

The Respondent's contentions may be summarized as follows:

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

4. Findings

Complainants' evidence reflects that the First Complainant registered the domain names: “larssonandjennings.co.uk”, “larssonandjennings.com”, “larssonjennings.com” and “larssonjennings.co.uk” on 9 November 2011.

An Internet search of the term “larsson and jennings” on Baidu, a popular search engine in China, by the Panel on 24 December 2016, yielded 226,000 relevant results, many of

which re-directed the Panel to the First Complainant's website <www.larssonandjennings.com>.

As to the case, Article 8 of CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

- i. The disputed domain name is identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests;
- ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;
- iii. The disputed domain name holder has registered or has been using the domain name in bad faith.

Article 7 of CNDRP states that the complainant and the respondent shall bear the burden of proof for their own claims. With reference to the complaint and the attached documents, the Panel of this case considers that:-

Identical or Confusing Similarity

The Panel finds that the Disputed Domain Name, at the relevant second tier, is identical or confusingly similar to the First Complainants' trademark, which was registered in China with effect from 14 November 2013, more than one year before the Respondent registered the Disputed Domain Name on 29 November 2014. Further, the Panel accepts the Complainants' assertion that the Second Complainant is a proper party to these administrative proceedings and enjoys civil rights or interests as the First Complainant's licensee of the mark, pursuant to a licence dated 24 May 2016. The Second Complainant's business interests stand to be directly effected by these proceedings.

Rights or Legitimate Interests of the Respondent

The Complainants' evidence establishes prima facie that Respondent has no right or legitimate interest in respect of the Disputed Domain Name. Complainants' having met their burden, the duty thereupon shifts to the Respondent to produce evidence that Respondent had a right or legitimate interest in the Disputed Domain Name. The Respondent has defaulted and makes no showing in these presents.

Bad Faith

The First Complainant's trademark is highly distinctive and was registered in China more than one year before Respondent registered the Disputed Domain Name, moreover, the watches and other items sold and distributed under Complainants' brand are well known to consumers in China, as in other world markets.

Viewed against the above factual background, including the Respondent's offering the Disputed Domain Name for sale on an English language "parking" website for the price of GBP 10,000, this Panel finds the conclusion inescapable that the Respondent registered or is using the Disputed Domain Name in bad faith, to prevent Complainants, the owner and

licensee of the Trademark, respectively, from reflecting the Trademark in corresponding domain names, or to obtain other unfair advantage, or both. The Respondent was, at the very least, “willfully blind” to the civil rights or interests of the Complainants, which would have become clear had the Respondent conducted even the most cursory of inquiries.

5. Decision

The Panel orders that the disputed domain name <larssonandjennings.cn> be transferred to the First Complainant.

A handwritten signature in black ink, appearing to read 'David L. Kreider', is written above a horizontal line.

Panelist: David L. Kreider

Date: 30 December 2016