1. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on April 12, 2013. On April 15, 2013, the Center transmitted by email to eName Technology Co., Ltd. (the Registrar of the domain names) a request for registrar verification in connection with the domain names at issue. On April 22, 2013, the Center requested the Complainant to further provide the Chinese translation of its Complaint, and confirmed receipt of the Chinese translation of Complaint on April 30, 2013. The Center verified that the Complaint satisfied the formal requirements of the CNNIC Domain Name Dispute Resolution Policy ("CNDRP") issued by the China Internet Network Information Center ("CNNIC") and becoming effective on 28 June 2012 and the Rules for CNNIC Domain Name Dispute Resolution Policy ("Rules of CNDRP") issued by the CNNIC and becoming effective on 28 June 2012, and the HKIAC Supplemental Rules for CNDRP and Rules of CNDRP ("Supplemental Rules"), issued by the Hong Kong International Arbitration Centre and becoming effective on 28 June 2012.

In accordance with the Rules, the Center attempted to formally notify the Respondent of the Complaint however no response was received, and the proceedings commenced on April 30, 2013. In accordance with Article 17 of the Rules, the due date for Response was May 20, 2013. The Respondent did not submit any response.

The Center appointed Matthew Murphy as the sole panelist in this matter on May 29, 2013. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence.

The Panel considered the request of the Complainant for the decision to be issued in the English language, and on the date of issue of this decision, the Panel agreed to issue this decision in English.
2. Factual Background

For the Complainants

The first Complainant - Mr. Ralph ANDERL claims that he is the managing director of ic! berlin brillen GmbH, and the owner or co-owner of several trademarks with respect to the signs “ic”, “ic!”、“ic! berlin” and “ic!-berlin” throughout the world – in China, there also exists trademark protection, and these trademarks are exclusively licensed to the second Complainant - ic! berlin brillen GmbH which claims that it is a manufacturer of designer spectacles and sunglasses sold under the brand “ic! berlin”, and it extensively uses the trademarks in connection with the design, development, make, sale and marketing of spectacles, sunglasses, spectacle frames, spectacle cases, spectacle glasses and spectacle temples.

The Complainants have provided the evidence to show one of the domain names at issue – <ic-berlin.com.cn> was used to be a website selling spectacle products marked with “ic! berlin”.

The Complainants have provided details of various registrations for its trademarks “ic!” and “ic!-berlin” – further, the Panel notes that in particular the Trademarks No.1670323 and No.3466723 which include “ic!” registered in China.

For the Respondent

The Respondent did not provide any submissions or evidence.

3. Parties’ Contentions

The Complainants

The Complainants asserts that the Respondent has no legitimate interests in respect of the disputed domain names, and that the domain names have been registered and used in bad faith.

The Respondent

The Respondent has not asserted any claims, defenses or contentions.

4. Findings

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 first Complainant has established that it is the owner of the trademarks “icl”, “icl berlin” and “ic!-berlin”. The validity and fame of these trademarks are beyond dispute in Europe, and possibly China. The Respondent’s domain names include the Complainant’s trademarks, with simple removal of “!” and addition to it “.com.cn” – no evidence or submissions to refute this claim has been provided by the Respondent. Internet users may easily understand the domain names to refer to the Complainants’ products and services, since the domain name includes the first Complainant’s marks and the marks themselves, are distinctive marks that highly attributable to the Complainants. Accordingly, the domain names are confusingly similar to the trademarks “icl berlin” and “ic!-berlin” owned by the first Complainant.

**Rights or Legitimate Interests of the Respondent**

There is no evidence that the Respondent had any right or legitimate interest whatsoever in respect of the trademarks “icl”, “icl berlin” and “ic!-berlin”, or that there was any association between the trademarks “icl”, “icl berlin” and “ic!-berlin” and its activities, before registering the domain names. Given that the Respondent has not provided any evidence to support a right or legitimate interest in the domain names, the Panel finds that the Respondent has no rights or legitimate interests in respect of the domain names.

**Bad Faith**

The trademarks “icl berlin” and “ic!-berlin” are well-known enough that it is presumable that the Respondent knew about their existence when registering the domain names (see Banca Sella S.p.A. v. Mr. Paolo Parente, WIPO Case No. D2000-1157; Expedia, Inc. v. European Travel Network, WIPO Case No. D2000-0137). No argument has been submitted by the defaulting Respondent in order to counter these findings. The Panel concludes that the domain names have been registered in bad faith.

As far as use of the domain names in bad faith is concerned, the Panel concludes that the Respondent’s holding of the domain names in this particular case satisfies the requirement that the domain name “is being used in bad faith” by the Respondent (see Telstra Corporation Limited v Nuclear Marshmallows, WIPO Case No. D2000-0003; Espirito Santo Financial Group S.A. v. Peter Colman, WIPO Case No. D2001-1214) - the Complainant’s trademarks have a strong reputation and is widely known, as evidenced by its substantial use and registration in various countries throughout the world, and the Respondent has provided no evidence of any actual or contemplated good faith use by it of the domain name. Further, evidence provided by the Complainants indicates that the Respondent used one of the domain names at issue to confuse consumers for improper benefit.
5. Decision

Pursuant to Article 14 of the CNDRP, this Panel orders that the domain names <ic-berlin.com.cn>
and <icberlin.com.cn> be transferred to the Complainants.

Matthew Murphey
Sole Panelist

Dated: 5 June 2013