1. Procedural History

On June 29, 2017, the Complainants submitted a Complaint in English language in respect of the domain names <standardaberdeen.com.cn> & <standardaberdeen.cn> ("Disputed Domain Names") to Hong Kong International Arbitration Centre ("HKIAC") and elected the case to be dealt with by one single panelist according to the CNNIC ccTLD Dispute Resolution Policy ("Policy") implemented by CNNIC on 21 November 2014.

On June 30, 2017, HKIAC sent a New Case Notification to Registrar to the Registrar to verify and confirm registration information. On the same day, HKIAC transmitted the Receipt of Complaint to the Complainants.

On July 4, 2017, the Registrar replied HKIAC to confirm that the registrant of the Disputed Domain Name is same as the Respondent. The Registrar also confirmed that the Policy shall apply.


On July 12, 2017, HKIAC transmitted the Complaint to the Respondent by email and informed the Respondent of the 20-day period to file a Response. However, no Response has been filed.

On August 2, 2017, HKIAC informed the Complainants and copied the Respondent on the Respondent’s default to respond to the Complaint.
On August 14, 2017, HKIAC informed the parties of the appointment of Mr. William Law as the sole panelist and the decision would be rendered on or before August 28, 2017.

All the communications dispensed by HKIAC to the concerned parties are both in Chinese and English during the whole proceeding.

Language of proceedings

In relation to the language of the proceeding, the Complainants mainly contended that (1) the Respondent is conversant in English and had communicated with the Complainants by email in English; (2) “standard aberdeen” has no literal meaning in Chinese; and (2) the high cost of translation that will result substantial expense to the Complainants.

HKIAC has been candid enough that all the correspondences to the Respondent and Complainants were sent in both Chinese and English. Had the Respondent contested and requested the Complaint and the present proceeding be maintained in Chinese, the Panelist would have no doubt to adhere to Chinese. However, the Respondent defaulted in filing a Response. I have also considered the language of the content on the website of the Disputed Domain to look for some direction of the underlying services or goods provided but there is simply no content on the websites. The WHOIS record however shows the registrant’s address is in China.

The Policy does allow panelists to take a broad view in deviating the language of the proceedings from Chinese, which is the language of the proceedings under the Policy. The Complainants provided email communication with the Respondent in English, which implies that the Respondent is able to understand the language. In addition, it would be quite inconvenient for the Complainants to translate the Complaint into Chinese. I cannot rule out a possibility that the default is due to that the Respondent, with address in China, does not understand the Complaint which is written in English. However, if this is the case, the Respondent would have raised to HKIAC in the bilingual email communication and notifications. The evidence before me tells that it was the case which the Respondent failed to file any response despite the various notifications sent by HKIAC. I also looked at the earlier WIPO decision D2017-1114 which involved the same parties and same domain names except that they are gTLD. I therefore rule that this proceeding and the decision shall be conducted in English, notwithstanding the Policy; and I do not see how the Respondent’s right will be detrimental or prejudiced had the proceedings been conducted in either Chinese or English.

2. Factual background

The Complainant brand and reputation

There are two Complainants bringing forward this complaint. Standard Life Employee Services Limited (the “First Complainant”) and Aberdeen Asset Management PLC (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 “standardaberdeen.com” and the registered owner of the trademark “STANDARD ABERDEEN” and “THE STANDARD”. The First Complainant has granted to the Second Complainant to be the owner of the disputed Domain Names and the First Complainant is in the process of updating the ownership of all their domain names to Aberdeen. The First and Second Complainant have merged and the ABERDEEN trademarks will be absorbed the First Complainant. Since the Chinese trademarks and International trademark registrations for ABERDEEN are yet to have been transferred to the First Complainant it is necessary to rely on the respective trademarks to fulfil the first criteria, namely creating a standing under the first pre-requisite in showing civil rights in the name, see Annex 3 for articles about the merger and announcement on March 6, 2017.

The First Complainant is an investment company employing 6,300 people – through operations in the UK, Europe, North America, Asia and Australia. Standard Life is a world-class investment company and has around 1.2 million shareholders around the world, and they continue to grow globally. Standard Life look after the investment needs of customers and clients in 45 countries including in China where the Respondent resides. Complainant’s joint venture in China, Heng An Standard Life, operates out of Tianjin. On March 6, 2017, the merger between Standard Life and Aberdeen Asset Management plc was announced. The group will be called Standard Life Aberdeen. The “Standard Life” and the "Standard Life" logo are registered trademarks of Standard Life Employee Services Limited and forms part of the Standard Life group, see Annex 4 for extracts about the Complainant.

The First Complainant is the owner of several trademark registrations including but not limited to the following: The UK trademark reg. no UK00003216635 for the wordmark STANDARD ABERDEEN registered on May 26, 2017 and applied for on March 4, 2017. The UK trademark was applied for only two days prior to the Registration of the Domain Name. The First Complainant also holds the Standard Life trademark designated and granted to China (IR trademark reg. 1142057A. The First Complainant also has a national trademark registration designated China for the word mark STANDARD LIFE registered on July 14, 2012, see Annex 5 for trademarks registered the First Complainant.

The First Complainant has also through its affiliated company Standard Life Investments Limited registered a number of domain names under generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD") containing the term “Standard Aberdeen” see for example, <standardaberdeen.com> (created on March 4, 2017) <standardaberdeeninvestment.com> (created on March 6, 2017), standardaberdeenam.com (created March 7, 2017) <standardaberdeen.co.uk> (created
on March 4, 2017), and <aberdeenstandard.co.uk> (created on March 4, 2017), see Annex 6.

The Second Complainant is the owner of the International trademark registration for ABERDEEN with registration no. 1063252 registered November 18, 2010. The Second Complainant also holds the Chinese trademark registration for the Chinese word mark 安本 which is the Chinese word for Aberdeen, see Annex 7 for trademark extracts. The Second Complainant also holds several domain name registrations containing the term “Standard Aberdeen” see for example, <standard-aberdeen.cn> (created on May 12, 2017) <standard-aberdeen.com.cn> (created on May 12, 2017). <standard-aberdeen.cn> (created on May 11, 2017) <standard-aberdeen.com.cn> (created on May 11, 2017), see Annex 6.

Overview of relevant registered trademarks

<table>
<thead>
<tr>
<th>Trademark</th>
<th>Date of Registration</th>
<th>Registration number</th>
<th>Type of registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>STANDARD LIFE</td>
<td>20120714</td>
<td>9114211</td>
<td>Chinese national</td>
</tr>
<tr>
<td>STANDARD ABERDEEN</td>
<td>26 May 2017 (filing date March 4, 2017)</td>
<td>UK00003216635</td>
<td>UK</td>
</tr>
<tr>
<td>STANDARD LIFE</td>
<td>19.07.2012</td>
<td>1142057A</td>
<td>International Registration (designated China)</td>
</tr>
<tr>
<td>ABERDEEN</td>
<td>18.11.2010</td>
<td>1063252</td>
<td>International Registration (Designated China)</td>
</tr>
<tr>
<td>安本 (Aberdeen)</td>
<td>20150314</td>
<td>13994273</td>
<td>Chinese national</td>
</tr>
</tbody>
</table>

3. Parties’ Contentions

A. Complainants

The Complainant’s contentions may be summarized as follows:
i) The Disputed Domain Name is identical to Complainant’s Marks

The domain names standardaberdeen.com.cn, standardaberdeen.cn ("hereinafter referred to as the Domain Names) directly and entirely incorporates Complainant’s trademark. The Domain Names would be perceived by internet users as descriptive of a website where they could find information about the Complainant’s services. See as an example the HKIAC Case No. DCN-1600715 where the Panel held that the Disputed Domain Name iarssonandjennings.cn, at the relevant second tier, is identical or confusingly similar to trademark. The same circumstances are at hand in the current case as the domain name incorporates the STANDARD and ABERDEEN trademark in its entirety. Also see International Business Machines Corporation v. Sledge, Inc. / Frank Sledge WIPO Case No. D2014-0581 where the Panel stated that “In addition, it is generally accepted that the addition of country code top-level suffix in the domain name (e.g., ".com") is to be disregarded under the confusing similarity test”. Also see HKIAC Case No. DCN-1500631 Bayer AG v. HUO Gai Zhen where the Panel didn’t elaborate further on the actual .com.cn extension and regarded the disputed domain name to be identical to the Complainant’s mark. Based on the above, the Domain Name is regarded to be identical to Complainant’s registered trademark.

ii) Respondent Has No Legitimate Interest in the Disputed Domain Name

First of all, there is no bona fide offering of goods or services where the Domain Names incorporate a trademark which is not owned by Respondent, nor is the Respondent known by the name “Standard Aberdeen”. The legal entity displayed in the whois record is “申中朝”. The distinctive name "Standard Aberdeen" is not a name one would legitimately choose as a domain name without having specific rights to such name. This name is certainly not a descriptive term serving to indicate specific characteristics of any goods or services. The registrations by the Respondent of the Domain Names on the very day the merger between the Complainants was announced was an opportunistic act by the Respondent which sought to disrupt the Complainant’s business by preventing them from using Domain Names which would reflect their new corporate name and mark. The Respondent probably registered the Domain Name in the expectation of selling it to the Complainants. Persons, worldwide, accessing the Domain Names will be bound to think that the Domain Names have a connection with the merged entity. That timing indicates a desire on the part of the Respondent to register the names before the Complainant itself did so.

There is no evidence that the Respondent has a history of using, or preparing to use, the Domain Names in connection with a bona fide offering of goods and services. It is clear that the Complainants have become a distinctive identifier associated with the term
“standard aberdeen” and that the intention of the Domain Names is to take advantage of an association with the business of the Complainant. Past panels have found that a lack of authorization combined with a lack of WHOIS information to show being known by a domain name can show that a respondent is not commonly known by a domain.

iii) **Respondent Registered and is Using the Domain Names in Bad Faith**

If we make a comparison to the WIPO Overview 3.0 it sets out that when a domain name is registered before a trademark right is established, the registration of the domain name was not in bad faith because the registrant could not have contemplated the complainant’s non-existent right. However, in certain situations, when the respondent is clearly aware of the complainant, and it is clear that the aim of the registration was to take advantage of the confusion between the domain name and any potential complainant rights, bad faith can be found. This often occurs after a merger between two companies, before the new trademark rights can arise, or when the respondent is aware of the complainant’s potential rights, and registers the domain name to take advantage of any rights that may arise from the complainant’s enterprises. Considering the circumstances under which the Respondent registered the Domain Names, just shortly after the announcement and two days prior to the Complainant filing its UK trademark registrations it would seem impossible to come to a different conclusion other than that Respondent registered the Domain Names fully conscious of what "business" he could make out of mistakenly being affiliated with the Complainant. It is clear that the Respondent knew or should have known of the Complainant’s rights or future rights in the name when registering the Domain Names. It therefore strains credulity to believe that the Respondent had not known of the Complainant or its merger when registering the Domain Name. Similar circumstances are at hand in the WIPO Case No. d2003-0112 where the Respondent registered the domain name konicaminolta.net on the same day as the merger was announced. There is no positive action being undertaken by Respondent in relation to the Domain Names. Thus, what matters is not if the Respondent is undertaking a positive action in bad faith in relation to the Domain Names, but if whether, in all the circumstances of the case, it can be said that the Respondent is acting in bad faith. In any event, the First and Second complainant’s Chinese trademark registrations predate the Domain Name registration with several years.

Pattern of abusive registrations:
A pattern of conduct can involve multiple UDRP cases with similar fact situations or a single case where Respondent has registered multiple domain names which are similar to trademarks. So far from what the Complainant could find, the Respondent has been subject to several domain name disputes. See for example:

The Respondent is also currently involved in another domain name dispute where the First Complainant has disputed the domain names standard-aberdeen.com aberdeen-standard.com see WIPO Case No. D2017-1114. This means that the Respondent has registered in total 4 domain names that infringes on the Complainants trademark rights. After the filing of the WIPO proceeding Case No. D2017-1114 the Respondent replied in English directly to the Complainant wanting to find a “settlement” and offered the domain name for sale, see Annex 10. Respondent also claimed to have a registered trademark but never presented any certificates to support its claims. It is evident that the Respondent has merely registered all names to capitalize on the name “Aberdeen standard”.

It is evident from Respondent’s previous use that Respondent has targeted companies that have recently merged or entered into a joint venture. This is also apparent when reviewing the Respondent’s domain name registrations, see Annex 11 for a reverse whois report and yellow highlighted domain names. Domain names that the respondent has in its portfolio are among others:

ahlstrom-munksjo.net, ahlstrommunksjo.net
The merger between Ahlström and Munksjö was announced on November 7, 2016 (http://www.munksjo.com/ahlstrommunksjo/)

baowu-jfe.com, baowujfe.com
In March 2017 it was announced that steelmaker JFE and Baosteel formed a JV. http://www.steeltimesint.com/news/view/jfe-in-powdered-steel-jv-with-chinese-steelmaker

kwangjin-kiekert.com, kwangjinkiekert.com
“Kiekert AG Opens New Joint-Venture Plant in South Korea with KwangJin Sanggong Company Ltd”

This historical and current behaviour further supports the lack of good faith registrations by Respondent. To summarize, Complainant is a well-known in the financial sector in including in China where the Respondent is located. It is highly unlikely that Respondent was not aware of the rights Complainant has in the trademarks and the value of said trademark, at the point of the registrations. Additionally, the Respondent has been involved in several UDRP proceedings, has a systematic behavior of targeting mergers or
joint ventures and securing domain names that would be to most use to the merged company and not a third party.

B. Respondent

The Respondent did not file any submission within the prescribed time.

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 distinctive part of <standardaberdeen.com.cn> & <standardaberdeen.cn> is “standard aberdeen”, which is identical to the registered trademarks of the Complainants in China and worldwide. The prior date of the China trademark registrations pre-date the date of registration of the Disputed Domain Names (March 6, 2017). Although the Disputed Domain Names are combination of two separate trademarks owned by two separate parties, it is a common trade practice that after merger of two companies or business they will adopt a combined tradename or trademark. The word “standardaberdeen” is highly distinctive and has been marketing through the websites of the Complainants. “.cn” or “.com.cn” is a common ccTLD and it does not make the domain names in dispute more distinctive. As such, with no evidence to the contrary, I am satisfied that the Complainants have civil rights or interests in the combined mark, “standardaberdeen” and that the distinctive part of the Disputed Domains are identical to such mark.

Rights or Legitimate Interests of the Respondent
The Complainants, as the registrant of various trademark registrations, submitted that it has never licensed or authorized the Respondent to use any of its intellectual property. The Respondent has the burden of proof to establish that he has rights or legitimate interests in the Disputed Domain. However, since the Respondent defaulted in contesting the Complainant's allegations, with no evidence to the contrary, I accept the that:

(1) the Respondent's use of the Disputed Domain is not in connection with a bona fide offering of goods or services;

(2) the Respondent has not been commonly known by the Disputed Domain Name, but the Complainants; Further there has been no evidence to show that the Respondent has acquired any trademark or service mark rights and/or reputations in connection with the mark.

I am therefore satisfied that the Respondent has no rights or legitimate interest to register and use the Disputed Domain.

**Bad Faith**

I accept that the Complainants' “standardaberdeen” mark is well-established marks among the relevant public. The fact that these two domain names in dispute were registered within 48 hours of the announcement of the merger of two companies can infer that the Respondent is well aware of the financial news and the business of the Complainants and decided to register these domain names.

In the circumstance where a name is not a common given name or carry any literal meaning, it is likely that the Respondent was well aware of the Complainants and its combined tradename and trademark and nevertheless, chose to register the Disputed Domain Names. As such, without evidence to the contrary, I found that the Respondent has registered the Disputed Domain Names in bad faith with the view to capitalize on or otherwise take advantage of the Complainants’ new business venture.

5. **Decision**

In conclusion, the Complainants have satisfied all the 3 grounds laid down in Article 8. I therefore order that the Disputed Domain Names be transferred to the Second Complainant - Aberdeen Asset Management Plc.

综上所述，专家认为本案投诉符合<解决办法>第八条规定的三个条件，即“被投诉的域名与投诉人享有民事权益的名称或者标志相同，或者具有足以导致混淆的近似性；被投诉的域名持有人对域名或者其主要部分不享有合法权益；被投诉的域名持有人对域名的注册或者使用具有恶意”。”
专家组决定支持投诉人的投诉请求，本案争议域名转移给投诉人二 -- Aberdeen Asset Management Plc。

Panelist: William Law

Date: August 17, 2017