ADMINISTRATIVE PANEL DECISION
Case No. DCN-1800853

Complainant: The Standard Bank of South Africa Limited
Respondent: Yang Zhi 楊智
Domain Name: <stanbicibtcbank.cn><stanbic.com.cn>
Registrar: Zhejiang Sheng Network Co., Ltd 浙江貳貳网络有限公司

1. Procedural History

The complaint filed by the Complainant on 6 September, 2018 is made against the Respondent at the Hong Kong International Arbitration Centre (HKIAC), a domain dispute resolution service provider authorized by China Internet Network Information Center (CNNIC), in accordance with the CNNIC cc TLD Dispute Resolution Policy (CNDRP) issued by the CNNIC on 21 November, 2014.

By filing a complaint with the HKIAC, the Complainant confirms that it shall comply with and be bound by the relevant provisions under the CNDRP, the CNNIC cc TLD Dispute Resolution Policy Rules (CNDRP Rules) issued by the CNNIC and become effective on 21 November, 2014 and the HKIAC Supplemental Rules for the CNDRP and the CNDRP Rules (Supplemental Rules), issued by the HKIAC and become effective on 21 November, 2014.

The CNDRP has been automatically incorporated as part of the domain registration agreement between the Respondent and the domain registrar. Pursuant to the CNDRP, should any third party (the Complainant) files with the HKIAC any complaint in respect of a domain registered under the Respondent, the Respondent shall be obliged to take part in the administrative proceedings.

The Registrar for the Disputed Domains <stanbicibtcbank.cn> and <stanbic.com.cn> is Zhejiang Sheng Network Co., Ltd 浙江貳貳网络有限公司.
In response to the HKIAC’s notification of 10 September, 2018, the Registrar confirms that the Respondent is the holder of the Disputed Domains, the CNDRP is applicable and provides the Whois information of the Disputed Domains.

The Complainant in these proceedings is: The Standard Bank of South Africa Limited. Its place of registration and principal place of business are in South Africa. The authorized representative of the Complainant in these proceedings is: Lexsynergy Limited c/o Daniel Greenberg.

The Respondent in these proceedings is Yang Zhi 楊智. He is named based on the Whois record of the Disputed Domains. The Whois database of the Disputed Domains was captured on 1 February, 2017 and 18 June, 2018 (updated on 8 September, 2018), see Annexure 1, pp1-5. A copy of the website of the Disputed Domains was captured on 1 February, 2017 and 18 June, 2018, see Annexure 2, pp1-2.

After completing its preliminary examination of the statement of complaint filed by the Complainant and is satisfied it has complied with the formal requirements on statement of complaints under the CNDRP and the CNDRP Rules, the HKIAC transmitted to the Respondent on 3 October, 2018 a proceedings commencement notice and a copy of the confirmed statement of complaint. According to the requirements of the CNDRP Rules, the Respondent shall submit a response to the complaint of the Complainant within 20 days ie on or before 23 October, 2018 from the formal commencement of the proceedings.

Having received no response from the Respondent, the HKIAC transmitted to the parties a notification of the Respondent’s default on 25 October, 2018.

The Complainant requests that the HKIAC to consolidate the dispute before a single-member Panel. In accordance with the CNDRP, the CNDRP Rules and the Supplemental Rules, the HKIAC appointed Mr Peter Cheung as a single-member Panel on 7 November, 2018.

2. Factual Background

The Complainant

The Complainant is a company duly incorporated in accordance with the laws of the Republic of South Africa. The Complainant is a subsidiary of Standard Bank Group Limited (formerly known as Standard Bank Investment Corporation Limited), see Annexure 5, p12. The Complainant is the trade mark owner of its registered trade mark in China, see Annexure 5, p10. The Complainant is one of the largest banks in South Africa and is considered to be a leader in banking products and related financial services in South Africa, see Annexure 9, pp1-2.

The Complainant was established on 15 October, 1862 as a limited liability company. As a global bank, it has operations in countries outside the African continent. It has a presence in 21 African countries and 11 countries outside the African continent including China (Hong Kong included),
United Kingdom, United States of America, Kenya, Jersey, Argentina, Uganda, United Arab Emirates, Namibia, Zambia, Botswana and Zimbabwe, see Annexure 10. The Complainant trades under the company name Standard Advisory (China) Limited in China, forming part of the Group, see Annexure 11. The Complainant has launched on WeChat to engage with Chinese customers, see Annexure 12. The Group is listed on the Johannesburg Securities Exchange. It employs more than 55,000 people across all territories. Its market capitalization at 31 December, 2017 was R317 billion (approximately USD 28 billion), see Annexure 13, pp1-4. The Complainant trades under the name STANBIC IBTC and STANBIC IBTC Bank in Nigeria. Stanbic IBTC Holdings PLC (Stanbic IBTC), forming part of the Group, was formed as a result of a merger between Stanbic Bank Nigeria Limited and IBTC Chartered Bank Plc in 2007. Stanbic IBTC provides specialist services with regards to stockbroking, trustee, asset management and pension services. Stanbic IBTC trades on the Nigeria Stock Exchange, see Annexure 14. The Complainant is listed as one of the top ten pension companies in Nigeria, see Annexure 15. The Complainant owns the STANBIC trade mark in a significant number of countries worldwide, see Annexures 5, 6 and 7. The Complainant has used STANBIC and STANBIC BANK names and trade marks in connection with banking and financial goods and services since 1967.

Trade Mark/Trade Name/Domain

The Complainant holds Chinese trade mark registration no. 7550004 dated 7 December, 1993 for the word mark STANBIC in class 36 in relation to “Insurance, financial and banking services”, see Annexure 5, pp1-7. The Complainant also holds trade mark registrations or applications for the STANBIC and STANBIC BANK marks in numerous countries worldwide, including but not limited to China, European Union, Germany, Ghana, Hong Kong, Japan, Kenya, Nigeria, Ivory Coast, Singapore, South Africa, Tanzania, United Arab Emirates, United Kingdom and the United States of America, see Annexure 6, pp1-22. The Complainant holds trade mark registrations of STANBIC IBTC in Nigeria, see Annexure 7, p1. The Complainant trades under the name STANBIC BANK in Botswana, Ghana, Kenya, Tanzania, Uganda, Zambia and Zimbabwe, see Annexure 8, pp 1-4. The Complainant owns the STANBIC trade mark in all the countries in which it operates or conducts business with the result that it has filed the STANBIC word mark and stylized marks in over 42 countries worldwide, see Annexure 6, pp1-22.

The Complainant has also registered numerous domains that are identical to and/or incorporated its STANBIC and STANBIC BANK trade marks and STANBIC IBTC trade marks. The earliest domain registrations is listed below, all of which predate the Disputed Domains. An extract of the Whois for each domain name is appended at Annexure 16, pp1-25.

<table>
<thead>
<tr>
<th>Domain</th>
<th>Top Level Domain</th>
<th>Registration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>stanbic.co.za</td>
<td>South Africa</td>
<td>24 November 1996</td>
</tr>
<tr>
<td>stanbic.com</td>
<td>Generic</td>
<td>13 October 1998</td>
</tr>
<tr>
<td>stanbic.info</td>
<td>Generic</td>
<td>5 March 2002</td>
</tr>
<tr>
<td>stanbicbank.com</td>
<td>Generic</td>
<td>25 June 2004</td>
</tr>
</tbody>
</table>
The Complainant, trading under the Stanbic IBTC name has customized websites for its main services:

a. Stanbicibtc.com – Main website;
b. Stanbicibtcassetmanagement.com – Asset management services and
c. Stanbicibtcpension.com – Pension services.

Each of the Complainant’s websites prominently displays the STANBIC IBTC trademark in the top left-hand corner of its homepage, see Annexure 17, pp1-4. The Complainant’s websites generate a significant number of visitors per year. The total numbers of unique visitors to each website is listed below and a breakdown of the statistics is appended at Annexure 18, pp1-5.

<table>
<thead>
<tr>
<th>Website</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>stanbic.com.gh</td>
<td>146,702</td>
<td>187,101</td>
<td>457,264</td>
<td>475,058</td>
</tr>
<tr>
<td>stanbicibtcbank.com</td>
<td>1,148,726</td>
<td>834,928</td>
<td>1,905,107</td>
<td>1,427,582</td>
</tr>
<tr>
<td>stanbicibtc.com</td>
<td>N/A</td>
<td>190,314</td>
<td>515,993</td>
<td>418,131</td>
</tr>
<tr>
<td>stanbicibtcpension.com</td>
<td>N/A</td>
<td>121,495</td>
<td>873,086</td>
<td>1,069,443</td>
</tr>
<tr>
<td>stanbicibtcassetmanagement.com</td>
<td>N/A</td>
<td>N/A</td>
<td>184,842</td>
<td>428,093</td>
</tr>
</tbody>
</table>

The first page of research results for the terms “STANBIC” and “STANBICIBTC” on Baidu.com and Google.com all relate to the Complainant’s business, see Annexure 19, pp1-4.

The extracts of the Complainant’s annual total income accounts from 2012 to 2017 at Annexure 20, p2, is listed below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Income (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>R 47 281 (approximately $4 398)</td>
</tr>
<tr>
<td>2013</td>
<td>R 51 736 (approximately $5 027)</td>
</tr>
<tr>
<td>2014</td>
<td>R 57 217 (approximately $4 919)</td>
</tr>
<tr>
<td>2015</td>
<td>R 61 305 (approximately $4 135)</td>
</tr>
</tbody>
</table>
The Complainant has been targeted by domain registrants who have been based in China. The Complainants and its brands are clearly familiar in China. There are two representative UDRP decisions in respect of standardbankinternetbanking.com and standardbank.cc in which the Complainant prevailed, see Annexure 21, pp1-13.

The Complainant has a track record of offering services to increasing numbers of its Chinese clients. In July, 2016, a few months before the Disputed Domains were registered, the Complainant became the first bank in Kenya to make the Yuan currency available to facilitate trade between China and Kenya, see Annexure 22, pp1-4.

Furthermore, the Complainant offers an Africa China Banking Centre which is specifically designed for Chinese businesses operating in Kenya and Kenyan companies trading with China. The services offered are written in the Chinese language, see Annexure 22, pp5-6.

**Disputed Domains**

The Disputed Domains were registered on 21 September, 2016 and 17 September, 2016, see Annexure 1, pp1-3. On 3 February, 2017, the Complainant’s representative sent an English cease and desist email to the Respondent setting out the Complainant’s trade mark rights, the nature of the infringement and requesting the transfer of standbicibtcbank.cn, see Annexure 23, pp1-5.

On 3 February, 2017, the Respondent replied inviting the Complainant to purchase the domain for $3000, see Annexure 23, p6. On 7 February, 2017, the Complainant’s representative sent a reply to the response from the Registrant repeating the bad faith nature of the Respondent’s registration of stanbicibtcbank.cn, see Annexure 23, p7. On 7 February, 2017, the Respondent responded stating “We offer $3000 for this domain. Free? Impossible!”, see Annexure 23, p7. On 9 February, 2017, the Complainant’s representative indicated that the Complainant does not negotiate with domain squatters, see Annexure 23, p10. On 9 February, 2017, the Respondent responded stating “You can choose UDRP, which is your client’s authority. Friendly to solve the premise is 1500USD to buy this domain name”, see Annexure 23, p14. On 24 April, 2017, the Complainant sent a follow-up communication to the Respondent as they had received no response to another cease and desist communication sent on 30 January, 2017 in respect of stanbic.com.cn to which no response was received, see Annexure 23, pp19-24.

3. **Parties’ Contentions**

   A. The Complainant

   The Complainant has made the following contentions:
The dispute in this case is within the scope of jurisdiction of the CNDRP, and the Panel has competent jurisdiction to decide on the disputed matter. The CNDRP has been incorporated into and become a part of the domain registration agreement whereby the Disputed Domains are registered. The disputed name <stanbicibtcbank.cn> was registered on 21 September, 2016 at 11:23:08 and <stanbic.com.cn> on 17 September, 2016 at 07:00:48, see Annexure 1. A copy of the domain registration agreement in Chinese is appended at Annexure 3. Pursuant to Article 6 of the CNDRP, the Panel has a discretion to make a determination that English be the language of the proceedings without prejudice to the liberty of the Centre to communicate with the Parties in both Chinese and English. No agreement has been entered into between the Complainant and the Respondent to the effect that the language of these proceedings should be English. The Complainant therefore formally requests that these proceedings be conducted in English for the following reasons:

(1) The Complainant is a South African Company based in Johannesburg and conducts its business primarily in the English language. One of the fundamental purposes of this administrative process is to facilitate a mechanism which allows the parties involved in such disputes, a fair and expedient means of obtaining a resolution to the dispute without having to go through a lengthy court process. Should translations be required, this would lead to undue delay and would increase the overall cost of these proceedings. This would impose a relatively significant burden and would be unfair and prejudicial to the Complainant. In Groupe Auchan v xmxzi, WIPO Case No. DCC2006-0004 (A UDRP complaint of a disputed domain registered in Chinese), it was stated that: “The panel’s discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case.”

(2) The Complainant suggests that allowing the complaint to proceed in Chinese goes against the spirit behind the creation of this dispute resolution service which was introduced in the interest of speed and low cost, see Accor Societe Anonyme v Aymen Fassi DCN-0300004 in which the complainant’s local language of French was accepted. There is flexibility for a panel to conduct the proceedings under Articles 8 and 31 of the CNDRP Rules. It is the duty of the Panel to avoid any unneeded or excessive burden on the Parties taking into account all relevant circumstances of a case. Relevant case authorities are SALOMON SAS v 杭州爱名网络有限公司/林成业 (the complaint was heard in English), NVIDIA Corporation v 鹿延 DCN-1400582 (the complaint was heard in English); and Sasol Limited v JiaShiKang Trading Co., Ltd. (深圳市佳实康商贸有限公司) DCN-1600688 (a CNDRP complaint was heard in English).

(3) The Complainant asserts that no prejudice would be caused to the Respondent in accepting the complaint in English as the Disputed Domains are registered in ASCII characters using the Roman alphabet and comprising English words. In circumstances where there is no legitimate use present, there is no justification as to why these proceedings should be
conducted in Chinese rather than English. The Respondent appears to have an understanding of English in order to register domains within the English version of the Chinese Country Code Top Level Domain.

(4) The Trade Mark has no meaning whatsoever in the Chinese language.

(5) Upon receipt of the Complaint, the Respondent has been given the opportunity to challenge the Complainant’s language request. If the Respondent has any intention of filing a substantive response, then the Respondent should be allowed to make its response in Chinese. As no response has been received and if the language of these proceedings were to remain Chinese, this would place an unnecessary burden on the Complainant and further frustrate these proceedings.

(6) The Respondent received the cease and desist communications in English and responded in English, see Annexure 23, p.6. The Respondent has registered over 6000 domains, a large portion of which make use of English words. The Respondent would not register such words if he/she did not understand the English language. A sample of Whois extract of some of the Respondent’s domains are: adsorb.cn; afforditnow.cn; africanpride.cn; seabottle.cn; selectedpeople.com.cn; and strokeofbeauty.cn, see Annexure 4A.

The Complainant therefore submits that English should be used as the language in these proceedings.

The manner on which the domain is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights

ii. The Complainant relies on its registered trade mark rights. The Complainant, by virtue of its extensive trading and marketing activities, has acquired a substantial reputation and goodwill in the marks of STANBIC, STANBIC BANK and STANBIC IBTC, in China and globally, such that it is recognized by the public as distinctive of the Complainant’s banking, financial and insurance services. The Complainant relies on the fact that the Respondent’s activities presuppose that the Complainant’s business was known and identified by the name and mark STANBIC and/or STANBIC IBTC.

iii. The domain stanbic.com.cn is identical to the Complainant’s STANBIC trade mark. The domain stanbicibbtcbank.cn wholly contains the Complainant’s STANBIC trade mark and is identical to the Complainant’s STANBIC IBTC trade mark. The addition of the generic word “BANK” as a suffix does not serve to distinguish the domain from the Complainant’s STANBIC trade mark and does not mitigate the risk of confusion arising but rather increases the likelihood of confusion and suggests that the disputed domain name is associated with or registered to the Complainant. The term “STANBIC” remains the dominant feature of both domains. See, eg Sony Kabushiki Kaisha v Inja, Kil D2000-1409 (WIPO Dec. 9, 2000) (a finding that neither the addition of an ordinary descriptive word nor the suffix “.com” detract from the overall impression of the dominant part of the name in each case).
iv. The addition to a trade mark of a cc TLD extension is disregarded as insignificant for purposes of determining the similarity between the domain and the trade mark, because the TLDs are functionally necessary to operate the domain, see Missoni S.p.A. v Colin Zhao, DCC2010-0004 (WIPO July 21, 2010).

v. The Complainant’s trade mark rights to STANBIC have previously been established in 11 UDRP decisions, see Annexure 24.

The Respondent has no rights or legitimate interests in respect of the domain that is the subject of the complaint

vi. The Complainant asserts that it has made a prima facie case that the Respondent should be considered as having no rights or legitimate interests in the Disputed Domains and that the burden shifts to the Respondent, see G.D. Searle v Martin Mktg., 118277 (NAF, Oct. 23, 2002) (where the complainant has asserted that the respondent has no rights or legitimate interests it was incumbent on the respondent to come forward with concrete evidence rebutting the assertion because the information is uniquely within the knowledge and control of the respondent).

Whether, before any notice to the Respondent of the dispute, the Respondent’s use of, or demonstrable preparations to use the Disputed Domains or names corresponding to the Disputed Domains are in connection with a bona fide offering of goods or services

vii. The Complainant has no association with the Respondent and has never authorized or licensed the Respondent to use its trade marks.

viii. The Respondent has clearly registered the Disputed Domains to potentially attract and profit from internet users seeking the Complainant. Such use of the Disputed Domains could not be said to be “bona fide”.

Whether the Respondent has been commonly known by the Domain Names

ix. There is no evidence that the Respondent has been commonly known by the name comprised in the Disputed Domains.

Whether the Respondent is making a legitimate non-commercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade marks or service marks at issue

tax. The main reason for the Respondent’s registration of the Disputed Domains were of commercial gain and/or to potentially tarnish the Complainant’s trade marks as well as to frustrate the business operation of the Complainant.
The domain should be considered as having been registered and being used in bad faith – the Respondent has registered the Disputed Domains in order to prevent the owner of the trade mark or service mark from reflecting the mark in corresponding domains

xi. The Disputed Domains have been registered in bad faith because they were registered in a manner that, at the time the registration took place, took unfair advantage of and was unfairly detrimental to the Complainant’s rights.

xii. The Respondent could only have registered the Disputed Domains for the purpose of damaging the Complainant’s reputation, disrupting the Complainant’s normal business operation or creating confusion between him/her and the Complainant to mislead the public.

xiii. The Complainant’s Chinese STANBIC trade mark predates the registration of the Disputed Domains. The Complainant has also made substantial use of the STANBIC brand in relation to targeting current and prospective customers in China as evidenced in Annexure 22 which means that the Respondent must have been aware of the Complainant. A basic search of the internet on Baidu.com or Google.com would have revealed the presence of the Complainant.

xiv. In addition, the Respondent has made use of the Complainant’s STANBIC trade mark with the intention to create confusion that the Disputed Domain Names are associated, authorized and/or part of the Complainant’s business.

xv. A reverse Whois search on the Respondent’s email address identified additional domains registered by the Respondent, which correspond to well-known trade marks such as Airbnb with the registrations of airbnb.org.cn and airbnbplus.cn, and Dunlop with the registration of dunlop.cn, see Annexure 25, pp1-3. The Respondent has had a previous CNDRP (case no. CND-2017000035-C) for anastasiabeverleyhills.com.cn decided against him/her, see Annexure 26, pp1-12.

xvi. The Respondent has listed the Disputed Domains on the domain auction service Sedo.com with the minimum offer set at $90USD, see Annexure 27, pp1-7. The Sedo.com platform will allow the Respondent to sell the Disputed Domains via an auction process. The Sedo.com sales pages for the Disputed Domains mentioned that the Respondent has been an active seller of domains since 2008. The Respondent is clearly well versed in the value of domains and has the intention to profit from the Complainant by selling them back at an inflated price, which the Respondent set at $1500 for one of the Disputed Domains.

xvii. The Complainant contends that the Respondent’s only true interest in the Domain Names is to disrupt the Complainant’s business, cause confusion in the mind of people and/or businesses (including the Complainant’s clients and/or potential clients) into believing that the Disputed Domains are registered to, operated or authorized by, or otherwise connected with the Complainant; maliciously prevent the Complainant from using the Disputed Domains for a legitimate business purpose; and financially gain from the Disputed Domains by ransoming them back to the Complainant as evidenced by the Respondent’s responses to the communications sent by the Complainant’s representative prior to filing the compliant.
xviii. As far as the Complainant is aware, the Respondent has no registered trade mark rights to the Disputed Domains. The Complainant’s registered trade mark rights predate the Disputed Domains by at least 23 years in China. The Respondent’s demand for money for the transfer of one of the Disputed Domains in this matter fits in line with the squatting tactic and evidences bad faith.

xix. Given the Complainant’s reputation it is highly improbable that the Respondent would have independently thought up the combination of the marks STANBIC and STANBICIBTCBANK which match the Complainant’s marks without being aware of their business. There can be no possible legitimate basis for the Respondent owning or using the Disputed Domains given the Complainant’s established rights in the STANBIC and STANBICIBTCBANK trade marks. The Respondent is located in China where the Complainant has a local business presence and trade mark rights.

B. The Respondent

The Respondent did not submit a reply to the Complainant’s contentions.

4. The Panel’s Opinion

This complaint is decided in accordance with the provisions under the CNDRP, the CNDRP Rules and the Supplemental Rules.

Preliminary Issue: Language of Proceedings

Article 6 of the CNDRP provides that: “The language of the domain name dispute resolution proceedings shall be Chinese, unless otherwise agreed by the parties or determined by the Panel.” The Panel notes the language of the registration agreement of the Respondent is Chinese and no agreement has been entered into between the Complainant and the Respondent to the effect that the language of these proceedings should be English.

Considering (1) the object and purpose of the administrative process is to facilitate the resolution of disputes, (2) a fair and expedient means should be conducive to that, (3) the Complainant is a company conducting its business primarily in the English language, (4) the Disputed Domains are registered in ASCII characters using the Roman alphabet and comprising English words, (5) the Respondent received the cease and desist communications in English and responded in English, and (6) the Disputed Domains have been listed for sale on an English website (Sedo.com), the Panel exercises his discretion judicially, fairly and justly and decides to allow these proceedings to be conducted in English - a language other than in the language of the registration agreement (ie Chinese), as the language ruling would not be prejudicial to either parties.

Substantive Issues
Article 8 of the CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

(1) The disputed domains are identical with or confusingly similar to the Complainant’s name or mark in which the Complainant has civil rights and interests;
(2) The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;
(3) The disputed domain name holder has registered or has been using the domain name in bad faith.

Article 7 of the 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 annexures, the Panel of these proceedings considers that:

A. Domains Identical and/or Confusingly Similar

The Complainant holds Chinese trade mark registration no. 7550004 dated 7 December, 1993 for the word mark STANBIC in class 36 in relation to “Insurance, financial and banking services”. The Complainant also holds trade mark registrations or applications for the STANBIC and STANBIC BANK marks in numerous countries worldwide. The Complainant trades under the name STANBIC BANK in African countries. The Complainant owns the STANBIC trade mark in all the countries in which it operates or conducts business with the result that it has filed the STANBIC word mark and stylized marks in over 42 countries worldwide.

The domain stanbicibtcbank.cn wholly contains the Complainant’s STANBIC trade mark and is identical to the Complainant’s STANBIC IBTC trade mark. The addition of the generic word “BANK” as a suffix does not serve to distinguish the domain from the Complainant’s STANBIC trade mark and does not mitigate the risk of confusion arising but rather increases the likelihood of confusion and suggests that the disputed domain name is associated with or registered to the Complainant. The term “STANBIC” remains the dominant feature of both domains. The Panel shares the view that the addition of cc TLD extensions are disregarded as insignificant for purposes of determining the similarity between the Disputed Domains and the trade mark or trade name, because the TLDs are functionally necessary to operate the domain. The Complainant’s trade mark rights to STANBIC have previously been established in 11 UDRP decisions. The Panel takes the view that the domain stanbicibtcbank.cn is confusingly similar to the Complainant’s name or mark and the domain stanbic.com.cn is identical to the Complainant’s STANBIC trade mark.

The Panel also accepts the Complainant’s contention that by virtue of its extensive trading and marketing activities, the Complainant has acquired a substantial reputation and goodwill in civil rights and interests in the marks of STANBIC, STANBIC BANK and STANBIC IBTC, in China and globally, such that it is recognized by the relevant sector of the public as distinctive of the Complainant’s banking, financial and insurance services.
Accordingly, the Panel rules that the Disputed Domains are identical with or confusingly similar to the Complainant’s name or mark in which it has civil rights and interests. The Panel concludes that the Complainant’s complaint of the Disputed Domains under Article 8.1 of the CNDRP is substantiated.

B. Holder’s Right or Legitimate Interest

The Panel accepts the Complainant’s assertion that it has made a prima facie case that the Respondent should be considered as having no rights or legitimate interests in the Disputed Domains and it is incumbent on the Respondent to come forward with concrete evidence rebutting the assertion because the information is uniquely within the knowledge and control of the Respondent.

The Panel shares the view that the registration of the Disputed Domains which is administrative in nature does not of itself confer upon the registrant rights or legitimate interests in them, or all registrants would have such rights or interests and no complainant could succeed on a claim of abusive registration.

There is no evidence suggesting that the Respondent is commonly known by the Disputed Domains, or has used, or prepared to use the Disputed Domains in connection with bona fide offering of any goods or services.

Accordingly, the Panel ruled that the Respondent as holder of Disputed Domains has no right or legitimate interest in respect of the Disputed Domains or major parts of them. The Panel concludes that the Complainant’s complaint of the Disputed Domains under Article 8.2 of the CNDRP is substantiated.

C. Registration or Use in Bad Faith

Article 9 of the CNDRP provides that any of the following circumstances may be the evidence of the registration and use of a domain name in bad faith:

(a) The purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits;

(b) The disputed domain name holder, on many occasions, registers domain names in order to prevent owners of the names or marks from reflecting the names or the marks in corresponding domain names;

(c) The disputed domain name holder has registered or acquired the domain name for the purpose of damaging the Complainant’s reputation, disrupting the Complainant’s normal business or creating confusion with the Complainant’s name or mark so as to mislead the public; and

(d) Other circumstances which may prove bad faith.
The Respondent has listed the Disputed Domains on the domain auction service Sedo.com with the minimum offer set at $90USD. The Respondent is clearly well versed in the value of domains and has the intention to profit from the Complainant by selling them back at an inflated price, which the Respondent set at $1500 for one of the Disputed Domains.

The Panel notes that a reverse Whois search on the Respondent’s email address identified additional domains registered by the Respondent which correspond to other well-known trade marks.

The Complainant’s Chinese STANBIC trade mark predates the registration of the Disputed Domains by at least 23 years in China. The Complainant has no association with the Respondent and has never authorized or licensed the Respondent to use its trade marks.

And there is no evidence that the Respondent has been commonly known by the name comprised in the Disputed Domains. It is reasonable to infer that the Respondent has registered the Disputed Domains to potentially attract and profit from internet users seeking the Complainant.

Having considered all the circumstances, the Panel accepts the Complainant’s contention that the Disputed Domains have been registered in bad faith, taking unfair advantage of and was unfairly detrimental to the Complainant’s rights, damaging the Complainant’s reputation, disrupting the Complainant’s normal business operation or creating confusion between him/her and the Complainant to mislead the public.

Accordingly, the Panel ruled that the Respondent as holder of Disputed Domains has registered or has been using the Disputed Domains in bad faith. The Panel concludes that the Complainant’s complaint of the Disputed Domains under Article 8.3 of the CNDRP is substantiated.

5. Decision

For the foregoing reasons, in accordance with Article 14 of the CNDRP, the Panel orders that the disputed Domain Names <stanbicibtcbank.cn> and <stanbic.com.cn> be transferred to the Complainant.

Sole Panelist: Peter Cheung
Date: 20 November, 2018