1. Procedural History

The Complainant filed the Complaint with the Hong Kong International Arbitration Centre (HKIAC) on 5 June 2019, in accordance with the CNNIC ccTLD Dispute Resolution Policy (the "CNDRP") issued by CNNIC on 21 November 2014.

On 6 June 2019, the HKIAC confirmed receipt of the Complaint, and then sent an email to the Registrar of the Domain Name requesting verification in connection with the relevant information of the Domain Name at issue.

On 6 June 2019, the Registrar of the Domain Name confirmed that the Respondent is 黄丽君 (Huang Lijun) and the Domain Name is registered with 成都西维数码科技有限公司 (Chengdu Xiwei Digital Technology Co., Ltd.).

On 15 July 2019, the HKIAC sent the Respondent a written notice of complaint which involved a notification that a complaint concerning the Domain Name <bulgarihotelshanghai.cn> was submitted against the Respondent and a requirement to submit a Response within 20 days from 4 August 2019, and forwarded the Complaint (along with its Annexes) to the Respondent pursuant to the CNDRP, the CNNIC ccTLD Dispute Resolution Policy Rules (the “Rules”) and the HKIAC Supplemental Rules for CNNIC CNDRP (the “Supplemental Rules”). The formal date of the commencement of the administrative proceeding on was 15 July 2019.

On 15 August 2019, the HKIAC confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the Domain Name within the required period.

On 2 September 2019, the HKIAC appointed Dr Yijun TIAN as the sole Panelist for this Domain Name dispute, and the case files were transferred to the Panelist, on the same day.

2. Factual background
Complainant, Bulgari S.p.A, is a company incorporated in Rome, Italy. Founded in 1884, Complainant is a world leading company operating in the luxury goods and hotels markets. Some of Complainant’s high-end goods include rings, watches, necklaces and fragrance products (Annex 7 to the Complaint). Complainant has more than 230 retail locations worldwide. Complainant also owns several hotels since 2001. Its hotels can be found in places such as London, Bali, Beijing and Milan and are soon to launch new hotels in Shanghai, Dubai and Moscow (Annex 8 to the Complaint). All hotels are recognized as high-quality establishments and regularly receive five-star reviews on booking websites (Annex 9 to the Complaint).

Complainant has exclusive rights in the BVLGARI trademark globally. Complainant is the exclusive owner of well-known registered trademark BVLGARI in many countries, including BULGARI trademark registration in the United States (US) (since 1982, with registration number 1184684), BVLGARI trademark registration in the US (since 2002, with registration number 876690), and international trademark registration covering China (since 2010, with registration number 1065701) (see Annex 6 to the Complaint). Complainant has also registered the trademark BVLGARI as a domain name under many gTLDs and ccTLDs worldwide, among these: <bulgari.com> (created on February 17, 1998) and <bulgarihotels.com> (created on December 13, 2000) (Annex 6 to the Complaint).

Respondent is 黄丽君 (Huang Lijun) of Guangzhou, Guangdong province, China. The disputed domain name <bulgarihotelshanghai.cn> was registered on November 19, 2018, long after the BVLGARI trademark became internationally well-known (Annex 9 to the Complaint).

3. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

Complainant contends that the disputed domain name <bulgarihotelshanghai.cn> is identical with or confusingly similar to its trademark BVLGARI/ BULGARI. The addition of generic words “hotel” and “Shanghai” is not sufficient to eliminate the similarity.

Complainant contends that Respondent does not have any rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name holder has registered or has been using the domain name in bad faith.

Complainant requests that the disputed domain name <bulgarihotelshanghai.cn> be transferred to it.

B. Respondent

Respondent did not reply to Complainant’s contentions.
4. Discussion and Findings

4.1. Language of the Proceeding

The language of the registration agreement for the disputed domain name is Chinese. Article 8 of the Rules provides that, “[u]nless otherwise agreed by the Parties or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese.” This Rule does allow the Panel in some circumstances to determine that a language other than Chinese shall be the language of the proceedings. See, for example, *Standard Life Employee Services Limited and Aberdeen Asset Management Plc v 申中朝*, HKIAC Case no. DCN-1700750.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceedings should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceedings for the following reasons:

a) Respondent can read and understand English, which is supported by the content of the disputed domain name. The content is both written in English and Chinese language (Annex 4 to the Complaint).

b) In addition to the content, Respondent has a portfolio of over 80 domain names, many of which feature English words, including but not limited to <countrygardenqingyuan.cn>, <onehomeartshanghai.cn>, and <marriottapartmentsshanghai.cn> (Annex 5 to the Complainant). The website’s content of those domain names is very similar in the layout than the disputed domain name and contents are also available in both English and Chinese language.

c) The fact that Respondent’s domains portfolio features English words, and that all contents are available in English, supports the fact that Respondent understands or is at the very least, competent, with the English language.

d) Translating this Complaint in Mandarin or Chinese will lead to undue delay and substantial expenses which go against the spirit of the Policy.

Respondent did not make any submissions with respect to the language of the proceedings and did not object to the use of English as the language of the proceedings.

Article 31 of the Rules requires the Panel, inter alia, to “ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case” and to “ensure that the proceedings take place with due expedition”.

The Panel has taken into consideration the facts that Complainant is a company from Italy, and Complainant will be spared the burden of working in Chinese as the language of the proceedings. The Panel has also taken into consideration the facts that the disputed domain name <bulgarihotelschanghai.cn> includes Latin characters “bulgari” and particularly English words “hotel” and “shanghai”. (*Compagnie Gervais Danone v. Xiaole Zhang*, WIPO Case No. D2008-1047).
On the record, Respondent appears to be a Chinese resident and is thus presumably not a native English speaker, but the Panel finds adequate grounds in the present proceeding to accept Complainant’s request and to proceed in English. In particular, the Panel notes that, based on the evidence provided by Complainant, (a) the disputed domain name <bulgarihotelsshanghai.cn> is registered in Latin characters, and particularly English words, rather than Chinese script; (b) Complainant has sent the cease and desist letter in English, and Respondent has never answered, neither to reply to the issues raised in the letter, nor to state that he does not understand the content (Annex 19 to the Complaint); (c) the website at the disputed domain name is a mainly English-based website, containing both English and Chinese version options (Annex 4 to the Complaint); (d) the Center has notified Respondent of the proceedings in both Chinese and English, and Respondent has indicated no objection to Complainant’s request that English be the language of the proceedings; (e) the Center informed Respondent that it would accept a Response in either English or Chinese.

Considering these circumstances, the Panel finds the choice of English as the language of the present proceeding is fair to both parties and is not prejudicial to either one of the parties in his or her ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines that English shall be the language of the proceeding, and the decision will be rendered in English.

4.2. Discussion and 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 Complainant has rights in the BVLGARI and BULGARI trademarks acquired through registration. The BVLGARI and BULGARI trademark has been registered worldwide including international trademark BULGARI covering China, and Complainant has a widespread reputation a world leading company operating in the luxury goods and hotels markets.
The disputed domain name <bulgarihotelshanghai.cn> comprises the BULGARI trademark in its entirety. The disputed domain name only differs from Complainant’s trademark by the addition of the characters and English words “hotel” and “shanghai” to the trademark BULGARI. This does not seem to eliminate the similarity between Complainant’s registered trademark and the disputed domain name.

Generally, a respondent may not avoid likely confusion by appropriating another’s entire mark and adding descriptive or non-distinctive matter to it. (The Argento Wine Company Limited v. Argento Beijing Trading Company, WIPO Case No. D2009-0610; PCCW-HKT DataCom Services Limited v. Yingke, ADNDRC Case No. HK0500065).

The mere addition of the descriptive terms “hotel” and “shanghai” suffixes to Complainant’s trade mark fails to distinguish to the Panel the disputed domain name from Complainant’s trademark. By contrast, it may increase the likelihood of confusion. Internet users who visit “www.bulgarihotelshanghai.cn” are likely to be confused and may falsely believe that “www.bulgarihotelshanghai.cn” is an online hotel booking website operated by Complainant for offering hotel booking service in Shanghai. Thus, the Panel finds that the addition is not sufficient to negate the confusing similarity between the disputed domain name and the BVLGARI trademark.

The Panel therefore holds that the Complaint fulfils the first condition of Article 8 of CNDRP.

Rights or Legitimate Interests of the Respondent

Complainant is the exclusive owner of famous and well-known registered trademark BULGARI and/or BVLGARI and in many countries, including BULGARI trademark registration in the US (since 1982, with registration number 1184684), BVLGARI trademark registration in the US (since 2002, with registration number 876690), and international trademark registration covering China (since 2010, with registration number 1065701) (see Annex 6 to the Complaint), which long precedes Respondent’s registration of the disputed domain name (November 19, 2018).

According to Complainant, Complainant owns several hotels since 2001. Its hotels can be found in places such as London, Bali, Beijing and Milan and are soon to launch new hotels in Shanghai, Dubai and Moscow (Annex 8 to the Complaint). All hotels are recognized as high-quality establishments and regularly receive five-star reviews on booking websites (Annex 9 to the Complaint).

Moreover, Respondent is not an authorized dealer of BVLGARI/BULGARI-branded products or services. Complainant has therefore established a prima facie case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (The Argento Wine Company Limited v. Argento Beijing Trading Company, supra; Do The Hustle, LLC v. Tropic Web, WIPO Case No. D2000-0624; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:
(a) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of the word “bulgari” in its business operation or the use of the BULGARI trademark and design on its website (without disclaimer or other clarifying details). There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the BULGARI/BVLGARI trademark or to apply for or use any domain name incorporating the BULGARI/BVLGARI trademark;

(b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name <bulgarihotelshanghai.cn> on November 19, 2018. The disputed domain name is identical or confusingly similar to Complainant’s BULGARI/BVLGARI trademark.

(c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. By contrast, according to the information provided by Complainant, the disputed domain name <bulgarihotelshanghai.cn> is connected to the homepage of a hotel called “Bulgari Hotel Shanghai”, which may appear to some Internet users as an official hotel booking website endorsed or sponsored by Complainant (Annex 4 to the Complaint), when in fact the Respondent is not an authorized dealer of BULGARI/BVLGARI-branded products or services.

The Panel finds that Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain name in light of Complainant’s prima facie case. The Panel therefore holds that Complaint fulfills the second condition of Article 8 of CNDRP.

**Bad Faith**

Article 9 of CDNRP provides certain examples of circumstances that may be evidence of the registration and use of a domain name in bad faith. The third circumstance is as follows:

“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”.

The Panel concludes that the third circumstances referred to in Article 9 of CDNRP is applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith.

a) Registered in Bad Faith

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1 See also https://booking.hotelincn.com/483285/en/booking.html?ver=Av1&sap=
The Panel finds that Complainant has a widespread reputation in the BULGARI/BVLGARI trademark with regard to its products. Complainant has registered its BULGARI/BVLGARI trademark internationally, including international registration covering China (since 2010). Moreover, Respondent’s homepage (resolved by the disputed domain name) may appear to some Internet users as an official hotel booking website endorsed or sponsored by Complainant (Annex 4 to the Complaint). Respondent would likely not have advertised itself on its homepage as “Bulgari Hotel Shanghai” if it was unaware of Complainant’s reputation.

In other words, it is not conceivable to the Panel that Respondent would not have had actual notice of Complainant’s trademark right at the time of the registration of the disputed domain name. The Panel therefore finds that the BULGARI/BVLGARI trademark is not one that traders could legitimately adopt other than for the purpose of creating an impression of an association with Complainant. (The Argento Wine Company Limited v. Argento Beijing Trading Company, supra).

Moreover, Respondent has chosen not to formally respond to Complainant’s allegations. According to the panel’s decision in The Argento Wine Company Limited v. Argento Beijing Trading Company, supra, “the failure of Respondent to respond to the Complaint further supports an inference of bad faith”. (See also Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc., WIPO Case No. D2002-0787). Thus, the Panel concludes that the disputed domain name was registered in bad faith with the intent to create an impression of an association with Complainant’s BULGARI/BVLGARI-branded products.

b) Used in Bad Faith

Given the widespread reputation of the BULGARI and BVLGARI trademark (as well as the content on the website mentioned above), the Panel finds that the public is likely to be confused into thinking that the disputed domain name has a connection with Complainant, contrary to the fact. There is a strong likelihood of confusion as to source, sponsorship, affiliation or endorsement of the website to which the disputed domain name is resolved (Annex 4 to the Complaint). In other words, Respondent has through the use of a confusingly similar domain name and webpage contents created a likelihood of confusion with the BULGARI/BVLGARI trademark. Noting also that apparently no clarification as to Respondent’s relationship to Complainant is made on the homepage of the disputed domain name, potential Internet users are likely led to believe that the website at <bulgarihotelshanghai.cn> is either Complainant’s site or the site of official authorized agents of Complainant, which it is not. Moreover, Respondent has not responded to the Complaint. The Panel therefore concludes that the disputed domain name was used by Respondent in bad faith.

In summary, Respondent, by choosing to register and use a domain name which is confusingly similar to Complainant’s trademark, intended to ride on the goodwill of Complainant’s trademark, disrupt the Complainant’s normal business, and create confusion with the Complainant’s name or mark so as to mislead the public. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain
name and the conduct of Respondent as far as the website on to which the disputed
domain name resolves is indicative of registration and use of the disputed domain name in
bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of Article 8 of
CNDRP.

5. Decision

For all the foregoing reasons, the Panel finds that the Complainant has satisfied all three
elements laid down in Article 8 of CNDRP. Therefore, the Panel supports the Complaint and
orders that the disputed domain name <bulgarihotelshanghai.cn> be transferred to
Complainant.

Panelist: Yijun Tian
Date: October 21, 2019