

SINGAPORE DOMAIN NAME DISPUTE RESOLUTION SERVICE

Administrative Panel Decision

Case No. SDRP-2010/0002(F)

Domain Names: "nationalcar.sg"; "nationalcar.com.sg"

1. The Parties

- 1.1 The Complainant is Vanguard Trade Mark Holdings USA LLC, a limited liability company organized and existing under the laws of the State of Delaware, United States of America, with a principal place of business at 600 Corporate Park Dr, St Louis, Missouri 63105 USA.
- 1.2 The Respondent is National Car Rentals (Private) Limited, a company incorporated in Singapore, with its registered address at 392 Havelock Road #01-07, Singapore 169663.

2. The Domain Names and Registrar

- 2.1 The domain names in issue are "nationalcar.sg" and "nationalcar.com.sg" ("the Domain Names").
- 2.2 The Registrar of the Domain Names is IP Mirror Pte Ltd, a company incorporated in Singapore, with a registered address at 47 Duxton Road, IP Mirror Techhaus, Singapore 089511.

3. Procedural History/Chronology of Events

- 3.1 The Complainant submitted this complaint ("The Complaint") pursuant to the Singapore Domain Name Dispute Resolution Policy ("The Policy") and the Rules for the Singapore Domain name Dispute Resolution Policy ("the Rules").
- 3.2 The Secretariat for the Singapore Domain Name Dispute Resolution Service ("the Secretariat") received the Complaint on 16 September 2010.
- 3.3 The administrative proceedings officially commenced on 27 September 2010. The Respondent was duly served notification of the Complaint by the Secretariat on 27 September 2010, and was informed that the deadline for filing a Response was 5.00pm, 18 October 2010.
- 3.4 The said deadline for filing a Response was not adhered to. To date, the Respondent has not submitted a Response to the Complaint.
- 3.5 The Sole Panellist was appointed on 25 October 2010.
- 3.6 There are notable matters to highlight in this Chronology. It appears that the parties did enter into discussions for a possible settlement.

- 3.7 It also transpired that the Domain Names were allowed by the Registrant to lapse. The said registrations were not renewed (reference is made to the emails between David Haarz of the Complainant and Adrian Yeo of the Respondents dated 26 October 2010). In Adrian Yeo's email dated 26 October 2010, it was written:

"Hi David

Sorry I was away on conference last week.

The domains nationalcar.sg; nationalcar.com.sg have expired last month and we have not renewed them so they are not under our ownership anymore. I did a check on the IP registrar and it shows that the domains are expired.

So I think your client can just register them directly.

Let me know if there are problems?"

- 3.8 The above email also made reference to SGNIC WHOIS search results which showed the Domain Names as having expired on 27 September 2010. Their current status is "DELETED".

- 3.9 On 27 October 2010 the Complainant emailed the Secretariat, and posed the following query:

"...It is my understanding that under the Singapore Domain Name Dispute Resolution Policy, SGNIC will not cancel, transfer, activate, deactivate or otherwise change the status of any domain name during the pendency of the Administrative Proceeding.

Since the current owner of the nationalcar.sg and nationalcar.com.sg has allowed them to expire and clearly has not further interest in these domains, what is the procedure so that these domain names can be secured by Vanguard Trademark Holdings USA LLC as requested in the Complaint filed in this proceeding.

Your direction with regard to this matter will be greatly appreciated."

- 3.10 On 28 October 2010, the Secretariat replied to the Complainant as follows:

"Dear Mr Haarz

Thank you for your email. As to the procedure for securing the domain names in light of the expiry, we would have to refer you to SGNIC for further information on the effects of the expiry. Their email address is michelle@sgnic.sg. Kindly advise us thereafter as to whether you intend to continue with these administrative proceedings."

3.11 On 4 November 2010, the Complainant wrote the following email to the Secretariat:

"Dear Ms Mitakidis

Having sent an inquiry to SGNIC as you suggested and having received no response, we wish to proceed with the administrative proceeding, although we do suggest that the appointed expert be advised that the Respondent has allowed the domain names at issue to expire.

If you need anything additional from me, please advise."

3.12 On the same day the Secretariat responded to the Complainant and informed it that it would continue with the administrative proceeding.

3.13 The above-quoted emails were not privileged communications, nor were they communications to which any privilege had been asserted by any of the parties.

3.14 The Panel has not had sight of any communications (whether email or otherwise) between the Parties and SGNIC. It also remains unclear why SGNIC did not respond to the Complainant's inquiries.

3.15 In the situation where the Respondent omits to submit a response to the Complaint, the Panel to consider if the dispute should be decided based upon the Complaint, as provided under section 5(f) of the Rules. Section 5(f) provides:

"If the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint."

3.16 The Panel still has to consider the merits of the Complaint, and at the same time, consider whether there are 'exceptional circumstances' that may prevent a decision of the dispute based upon the complaint.

3.17 What the Panel is unable to do, based on the Policy and the Rules, is to summarily resolve the registration of the disputed domain name in favour of the Complainant without a proper adjudication of the merits of the Complaint. This approach has been adopted by other Panellists in earlier SDRP decisions. See *Unilever PLC v Fuzhou Zhongsikong Network Service Co Ltd* Case No. SDRP – 2009/0002(F) at [3.6] and the cases mentioned therein.

4. Factual Background and the Complainant's Claim to Rights

4.1 The Complaint states the following.

4.2 The Complainant, Vanguard Trademark Holdings USA LLC, is the owner of the NATIONAL and NATIONAL CAR RENTAL marks which it licenses to National Car Rental. Started in 1948, National Car Rental is a premium, internationally recognized brand serving the daily rental needs of the frequent airport business traveler throughout the United States, Canada, Mexico, the Caribbean, Europe, Latin America, Asia and the Pacific Rim. Complainant's licensee operates an on-line car rental site at **nationalcar.com**.

4.3 The Complainant is the owner of the following registration for the relevant mark in Singapore: Registration No. T91020006C publication of acceptance date 20 December 1996 for NATIONAL CAR RENTAL & Design for "automobile rental and leasing services" in Class 39.

4.4 Apart from its registrations in Singapore, the Complainant has also stated that it has registered the NATIONAL CAR RENTAL trade mark for vehicle rental services in many foreign countries, including the European Community and the United States.

5. Complainant's Contentions

5.1 The following section is, *in extenso*, reproduced (albeit in edited verbatim) from Part V of the Complaint. The Complainant contends that:

5.1.1 Confusing Similarity:

The domain names **nationalcar.sg** and **nationalcar.com.sg** are confusingly similar to Complainant's registered NATIONAL CAR RENTAL mark. The domain names at issue, **nationalcar.sg** and **nationalcar.com.sg**, include Complainant's NATIONAL CAR RENTAL mark, while omitting the space between the words of the mark, removing the word "rental," and adding the country-code top-level domains ("ccTLD") ".sg." and ".com.sg." The Complainant submitted that none of these alterations sufficiently distinguishes the disputed domain names from the mark under the SDRP, and that therefore the disputed domain name is confusingly similar to Complainant's mark under the SDRP. Decisions rendered under the similar usTLD Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP") with regard to similar domain names have determined that there is a likelihood of confusion.

5.1.2 Claim to rights or legitimate interests in the Domain Names:

In light of the long-standing registration of the NATIONAL CAR RENTAL mark in connection with vehicle rental services in Singapore, the Respondent cannot have any legitimate rights in the Domain Names.

The Respondent's web pages for the disputed domain names are neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use pursuant to the SDRP. The fact that the web pages to which the disputed domain names resolve exclusively feature vehicle rental services, constitutes clear evidence that the Respondent was well aware of the existence of Complainant and its rights in the NATIONAL CAR RENTAL mark in connection with vehicle rental services.

Not only does the Respondent not have any legitimate rights or interests in either of the disputed domain names, but it is extremely unlikely that the Respondent could ever successfully make such a claim with respect to either domain name.

The Complainant has been using the NATIONAL CAR RENTAL mark in the United States since 1948 and its registration for that mark in Singapore upon which this action is based issued in 1996 and pre-dates the registration of the Domain Names in 2006 by ten years.

The disputed domain names contain the relevant "NATIONAL CAR" portion of Complainant's "NATIONAL CAR RENTAL" mark under which the Complainant provides its vehicle rental services. The Complainant has never authorized the Respondent to utilize the NATIONAL CAR RENTAL mark or any other mark confusingly similar thereto, in conjunction with the specific services which the Complainant provides under that mark, nor does the Complainant have any relationship or association whatsoever with the Respondent. As a result, any use to which the Respondent were to put "National Car Rental" or a mark confusingly similar thereto -- which certainly includes the disputed domain names, in connection with vehicle rental services, would directly violate the exclusive trademark rights now residing with the Complainant.

It is eminently clear that the Respondent, in choosing the disputed domain names, is intentionally seeking to use confusingly similar domain names that opportunistically exploit internet user confusion by diverting, through re-direction and diversion, internet users away from the Complainant's web sites to the Respondent's corresponding web sites for the Respondent's own pecuniary benefit. While the SDRP recognizes that an individual or business has a right to use his(her) name in connection with a domain name, that right is not unfettered. Instead, it is circumscribed by the prior trademark rights to prevent the use of that name in connection with specific goods and services, as is certainly the case here.

A party alleging, under paragraph 4(c)(ii) of the SDRP, as the Respondent will no doubt attempt to do here, that it is commonly known by a particular name, must make a sufficient showing of legitimate rights and interest in a domain name that contains that particular name and must provide adequate extrinsic proof that a corresponding group of consumers, e.g., Internet users, who are likely to access that party's web site, associates that domain name with that party rather than with the trademark owner.

Otherwise an infringer could simply avoid liability under the SDRP by incorporating under a name that includes a trademark (such as Raffles, Tiffany, Louis Vuitton, Nike, etc.) and then claim that it is commonly known as Raffles, Tiffany, Louis Vuitton, Nike, etc. notwithstanding the long-standing prior rights of the owners of those trademarks. While the Respondent may have a corporate name of National Car Rentals (Private) Limited, this in and of itself is clearly insufficient to establish the Respondent is "commonly known" by that name consistent with paragraph 4(c)(ii) of the SDRP in order to successfully counter the rights of the Complainant trademark owner. Lest there be any doubt regarding the fallacy of any claim by the Respondent that it is commonly known as "National Car," it can be proven conclusively by the content of the web pages at **nationalcar.sg** and **nationalcar.com.sg**.

Certainly, if the Respondent were commonly known as "National Car" the web pages for the disputed domain names would resolve to a "National Car Rental" web site.

Instead of the domain names at issues resolve to a web page for Avis Car Rental Singapore, the Complainant has not licensed or otherwise permitted Respondent to use its NATIONAL CAR RENTAL marks in connection with car rental services or any other goods or services or to apply for any domain name incorporating the NATIONAL CAR RENTAL marks.

In addition, due to the commercial nature of the web sites to which the **nationalcar.sg** and **nationalcar.com.sg** domain names resolve, the Respondent is clearly not making any legitimate noncommercial or fair use of "NATIONAL CAR."

Thus, notwithstanding any protestations by Respondent to the contrary, Respondent has no rights or legitimate interests in the contested domain names under the SDRP.

5.1.3 The Domain Names were registered and used in Bad Faith:

The Respondent, by using the Domain Names, has intentionally attempted to attract, for commercial gain, Internet users, to the Respondent's websites, as well as other on-line locations, by creating a likelihood of confusion with Complainant's NATIONAL CAR RENTAL mark registered for vehicle rental services in Singapore, as to the source, sponsorship, affiliation or endorsement of the **nationalcar.sg** and **nationalcar.com.sg** websites and/or of services offered via the websites at **nationalcar.sg** and **nationalcar.com.sg**.

In light of the content at the websites at the **nationalcar.sg** and **nationalcar.com.sg** domain names, it is virtually impossible to imagine any legitimate reason for Respondent's current use of the **nationalcar.sg** and **nationalcar.com.sg** domain names other than to attract Internet users to the **nationalcar.sg** and **nationalcar.com.sg** websites by creating a likelihood of confusion with the NATIONAL CAR RENTAL mark for vehicle rental services.

From the Respondent's web page it is clear that Respondent has set up the **nationalcar.sg** and **nationalcar.com.sg** website with a view to commercial gain from attracting to its Avis Car Rental Singapore site, Internet users looking for the National Car Rental site from internet users who type "**nationalcar.sg** and **nationalcar.com.sg**", trying to reach Complainant's Singapore vehicle rental site.

The very essence of registering and using the **nationalcar.sg** and **nationalcar.com.sg** domain names and using those domain names to resolve to the Avis Car Rental Singapore website must be that it does result in commercial gain by drawing Internet users to Respondent's website for Avis Car Rental

Singapore through the **nationalcar.sg** and **nationalcar.com.sg** "portals" by creating a likelihood of confusion with Complainant's NATIONAL CAR RENTAL mark.

Clearly, Respondent does not operate a legitimate vehicle rental business known as "National Car" nor, to the best of Complainant's knowledge, does it advertise under the designation "National Car". The Complainant's licensee operates a web site **nationalcar.com** and a copy of the home page from the National Car Rental home page at **nationalcar.com** is provided at Annex 4 (of the Complaint).

The Respondent's use of **nationalcar.sg** and **nationalcar.com.sg** in this manner is a commonly known business plan whereby entities register domain names that are confusingly similar to well-known companies that have websites that draw significant traffic and then profit from the traffic generated when Internet users looking for the "real" website type in an internet address that the user thinks is operated by the well-known company or click on the results of a search engine listing the confusingly similar site.

The use of this technique involving the registration of domain names confusingly similar to a well-known mark in a specific market segment, such as the NATIONAL CAR RENTAL mark in the vehicle rental business, takes unfair advantage of Complainant's rights in the NATIONAL CAR RENTAL mark by drawing away internet users who intended to visit the Complainant's website but is also detrimental to those rights, since at least some visitors who had intended to visit Complainant's website will instead be drawn to a competitor's site as a result of its confusing similarity to Respondent's **nationalcar.sg** and **nationalcar.com.sg** domain names and the websites at those domain names.

Clearly, the **nationalcar.sg** and **nationalcar.com.sg** domain name are confusingly similar to the NATIONAL CAR RENTAL mark registered and used for vehicle rentals, Respondent has no legitimate rights in **nationalcar.sg** and **nationalcar.com.sg** and those domain names are clearly being used by the Respondent in bad faith.

6. The Respondent

- 6.1 The Respondent did not file or submit any response within the period required under paragraph 5(a) of the Rules.

7. Basis for the Panel's evaluation of the Complaint

- 7.1 As framed in Part V of the Complaint, the Complaint is based on paragraphs 4(a) of the Policy.
- 7.2 The Panel will proceed to evaluate the Complaint based on each of the grounds set out in paragraph 4(a) of the policy (see below).

7.3 If the Complainant provides that each of the three elements of paragraph 4(a) of the Policy is present, it shall be entitled to the remedies set out in paragraph 4(i) of the Rules. Paragraph 4(i) of the Rules provide for the cancellation of the Registrant's domain name or transfer of the Registrant's domain name registration to the Complainant.

7.4 The Panel notes that in Part VI of the Complaint, the Complainant has opted for the transfer of the Domain Names.

8. Paragraph 4(a) of the Policy

8.1 Under paragraph 4(a) of the Policy, the Complainant must prove that it has satisfied the three conditions to be entitled to the remedy under paragraph 4(i) of the Policy, that is a transfer of the Domain Names, which the Complainant has requested for in the Complaint. The conditions are set forth as follows:

(1) The registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;

(2) The registrant has no rights or legitimate interests in respect of the domain name; and

(3) The registrant's domain has been registered or is being used in bad faith.

8.2 All 3 conditions have to be adjudged affirmative in order to justify a transfer of the Domain Names. This adjudication will have to be made notwithstanding any expiry of the Domain Names in question, or any intimation by the Respondent that it does not intend to renew the Domain Names on their expiry. The conditions are but thresholds that a Complaint must cross, when submitting to SDRP adjudication.

8.3 Each of the conditions will be evaluated in turn.

9. First Condition

9.1 Under the first condition the Complainant must first establish that it has rights to the name "National Car Rental". The second threshold is an evaluation that the Domain Names are identical or confusingly similar to the name National Car Rental.

9.2 I find that the Complaint has demonstrated that it has rights to the name National Car Rental for the following reasons:

9.2.1 As early as 1 March 1991, the Complainant applied to register the trade mark of "National Car Rental" and device in class 39 for "automobile rental and leasing services". (Annex 3 of the Complaint) ("the Trade Mark")

9.2.2 The Trade Mark was published in 20 December 1996 and registered thereafter.

9.2.3 The Complaint's licensee (National Car Rental) operates an on-line car rental site www.nationalcar.com. It was not clear as to when this website was launched.

- 9.2.4 According to the Complaint, National Car Rental has been providing car rental services in multiple countries (including the United States, Canada, Mexico, the Caribbean, Europe, Latin America, Asia and the Pacific Rim since 1948.
- 9.3 The finding of a Complainant's antecedent rights of use as well as its earlier registration of the Trade Mark would, in the ordinary course, be sufficient to establish sufficient rights under the first condition.
- 9.4 The second threshold lies in the determination of whether the Domain Names could be said to be confusingly similar to the Trade Mark. In terms of aural, visual and conceptual similarity, I find that the Domain Names are similar to the Trade Mark. The determination of confusing similarity is also satisfied. The Complainant has correctly set out in his Complaint that the addition of a country code top level domain name (ccTLD) suffix (".sg") adds little if anything to distinguish the Domain Names. ([5.1.1]) Also of relevance would be the Complainant's own licensed use of the domain name www.nationalcar.com, because it establishes the Complainant's use of the words "nationalcar" as a website.
- 9.5 One point which could have been made by the Respondent, if it submitted a response would be the fact the Complainant's own trade mark registration disclaims exclusive rights to the words "car rental". (see Annex 3 to the Complaint) An argument could have been advanced to the effect that given the disclaimer to exclusive use of the words indicated, the effective trade mark rights only resided in the word "national" and the device, and so this could potentially negate any preliminary findings of confusing similarity. It could also have been argued that the Trade Mark consisted of a combination of a word and distinctive device (described in the registration record as 'wavy stripes') Unfortunately, the point was never taken up before the Panel, since a Response was never filed.
- 9.6 The Panel's finding of confusing similarity is further augmented by precedents that accompanied the Complaint. The most relevant, for the purposes of the present discussion is *Vanguard Trademark Holdings USA LLC v Dave Write d/b/a FinestNames.com* (National Arbitration Forum March 23, 2009) (Claim No. FA 0901001245321). This was a contested US administrative proceeding where the Complainant successfully obtained a transfer of the nationalcar.us domain name from the Respondent. The basis of the US administrative proceeding is not at all dissimilar to the SDRP Policy and Rules. In finding that confusing similarity existed between the word mark "National Car Rental" and domain name under dispute, the Panel remarked:
- "Respondent's disputed domain name includes Complainant's NATIONAL CAR RENTAL mark, while omitting the space between the words of the mark, removing the word "rental" and adding the country-code top level domain ("ccTLD") ".us"/ The Panel finds that none of these alterations sufficiently distinguishes the disputed domain name from the mark under the Policy, and that therefore the disputed domain name is confusingly similar to Complainant's mark under the Policy."
- 9.7 I was also referred to the following authorities: *Dollar Rent A Car Systems Inc v Lee Jongho*, (National Arbitration Forum September 11, 2000) FA 95391 (which found that the domain name dollarcar.net was confusingly similar to the complainant's DOLLAR RENT A

CAR trade mark); *Enterprise Rent-A-Car Company v David Bedford* (National Arbitration Forum May 21 2008) FA 1176573 (which found that the domain names enterprisecar.biz and enterprisecar.org were confusingly similar to the complainant's ENTERPRISE mark for car rental services; and *Enterprise Rent-A-Car Company v Pino Tedesco* (National Arbitration Forum June 2, 2008) FA 117920 (which found that the domain name enterprisecar.info was confusingly similar to the complaint's ENTERPRISE mark for car rental services). They were instructive in outlining the different interfaces of confusingly similarity between various domain names and trade marks. The most relevant precedent is still the FA decision which involved the Complainant. (discussed in [9.6])

9.8 For these reasons, I conclude that the first condition has been satisfied.

10. Second Condition

10.1 Under the second condition, the Complainant has to demonstrate that the Registrant has no rights or legitimate interests in respect of the domain name.

10.2 The Complainant submitted that it had been using the Trade Mark in the US since 1948, and its Singapore trade mark registration dates back to 1996/7, which pre-dates the Respondent's registration of the domain names by ten years. The Complainant also clarified that the Respondent has never been permitted nor licensed to use the NATIONAL CAR RENTAL marks in connection with car rental services or any other goods or services.

10.3 It would have been imperative for the Respondent to submit a response substantiating its claim to rights and legitimate interests to use the name. The Complainant expected the Respondent to do so, and surfaced the possibility of an argument that the Respondent was commonly known by a particular name ie. the Domain Names (at [5.1.2]). But for this argument extrinsic proof should be proffered to show that a group of internet users would associate a particular domain name with the Respondent. In the event, the Complainant heavily pre-empted an argument that was never made, given that no response was filed by the Respondent.

10.4 What caused some concern was Annex 5 of the Complaint, which exhibited webpages that were published (in obviously mirror sites) under the Domain Names (whilst they still remained in force). It is actually a website advertising car rentals for 'AVIS'. The AVIS mark appears prevalently in the webpage. The AVIS website, operated under the Domain Names, would also appear to be used for commercial purposes ie. car rental services.

10.5 Not having received any submissions from the Respondent, the Panel would find it difficult to disagree with the Complainant that "...due to the commercial nature of the web sites to which the nationalcar.sg and nationalcar.com.sg domain names resolve, Respondent is clearly not making any legitimate non-commercial or fair use of "NATIONAL CAR"."

10.6 Paragraph 4(c) of the Policy illustrate that the following, if proven, shall demonstrate the Respondent's rights to or legitimate interests in the Domain Names under the second condition:

- 10.6.1 Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
 - 10.6.2 The Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trade mark or service mark rights; or
 - 10.6.3 The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.
- 10.7 By not filing a response, the Respondent has deprived itself of the opportunity to establish one or more of the above grounds in support of legitimate use. This Panel has also remarked elsewhere, in relation to another SDRP decision, that if a Respondent does not submit a response, the Panel is entitled to draw an adverse inference from the failure to do so, and find, in particular, that the Respondent is unable to establish any rights or legitimate interests in the Domain Name.
- 10.8 The chronology of events also supports this conclusion. The failure or decision by the Respondent not to renew the registration of Domain Names is also most telling, and this conduct is not consonant with a party who wishes to establish rights and legitimate interests to use the Domain Names.
- 10.9 For the above reasons, I conclude that the second condition has also been satisfied. The Respondent has no rights or legitimate interests in respect of the Domain Names.

11. Third Condition

- 11.1 The third condition of paragraph 4(a) of the Policy requires the Complainant to prove that the Respondent's Domain Names had been registered or is being used in bad faith. Paragraph 4(b) of the Policy further states that the following circumstances in particular, but if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:
- 11.1.1 Circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trade mark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name;
 - 11.1.2 The Registrant has registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct;

11.1.3 The Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

11.1.4 By using the domain name, the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or located or of a product or service on the Registrant's website or location.

11.2 Based on the observation that the Domain Names were used as internet addresses for an AVIS website (Annex 5 to the Complaint), which appeared to be a full fledged car rental website, and the confusing similarity between the Domain Names and the Trade Mark, the Panel would consider it difficult to resist the conclusion that the Domain Names were registered to attract for commercial gain, internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's name or mark as to source, affiliation or endorsement of the Respondent's website. The basis set out in para 11.1.4 above has been satisfied.

12. Conclusion

12.1 By reason of the aforesaid, the Complainant has established to the Panel's satisfaction the three conditions under paragraph 4a of the Policy.

12.2 The Panel concludes that the Complainant is entitled to the transfer of the Domain Names under the Policy and the Rules.

Dr Stanley Lai, SC
Allen & Gledhill LLP
Sole Panellist
9 November 2010