1. Procedural History

The Complaint was filed with the Hong Kong International Arbitration Center (the “Center”) on April 13, 2015. On April 13, 2015, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 15, 2015, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 20, 2015 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 21, 2015.

In its email of April 20, 2015, the Center also requested the Complainant to file a Chinese language translation of the Complaint, or alternatively, a request that the language of the proceeding be English. On April 20, 2015, the Complainant submitted its request that the language of the proceeding be English by email to the Center.

On April 22, 2015, the Center sent an email communication to the parties advising of the Complainant’s language request and inviting the Respondent to submit comments regarding the Complainant’s language request for consideration by the Panel. The Respondent did not submit any comments on the language of the proceeding.

The Center has verified that the Complaint satisfies the formal requirements of the CNNIC Domain Name Dispute Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Center’s Supplemental Rules.

In accordance with the Rules, the Center formally notified the Respondent of the Complaint, and the proceeding commenced, on April 22, 2015. In accordance with the Rules, the due date for the Response was May 12, 2015.

No Response was received by the Center.
The Center appointed Sebastian Hughes as the Panelist in this matter on May 20, 2015. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

2. **Factual background**

   A. **Complainant**

   The Complainant is a company incorporated in France and the owner of registrations in numerous jurisdictions worldwide for the trade mark SALOMON (the “Trade Mark”), including several registrations in China.

   B. **Respondent**

   The Respondent is apparently a company incorporated in China.

   C. **The Disputed Domain Name**

   The Respondent registered the disputed domain name on June 23, 2014.

   D. **The Website at the Disputed Domain Name**

   The disputed domain name has not been used and is resolved to a parking website.

3. **Parties’ Contentions**

   A. **Complainant**

   The Complainant’s contentions may be summarized as follows:

   i. The Complainant is a well-known sports equipment manufacturing company based in France and founded in 1947;
   ii. The Trade Mark is a famous mark;
   iii. The disputed domain name is identical to the Trade Mark;
   iv. The Respondent has no rights or legitimate interests in respect of the disputed domain name;
   v. The disputed domain name has been registered or used in bad faith; and
   vi. The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant and in order to deprive the Complainant of its intellectual property rights.

   B. **Respondent**

   The Respondent did not reply to the Complainant’s contentions.
4. Findings

1. Identity of the Respondent

In its email to the Center of April 15, 2015, the Registrar claimed that the registrant of the disputed domain name is an individual named 林成业 and not the company named 杭州爱名网络有限公司. In its email to the Center of April 21, 2015, the Complainant noted that, according to the current WHOIS search results for the disputed domain name, the registrant of the disputed domain name is 杭州爱名网络有限公司. Absent any evidence to confirm that the registrant is 林成业, and given the current WHOIS search results indicate the registrant is 杭州爱名网络有限公司, the Panel is satisfied that the correct Respondent herein is 杭州爱名网络有限公司.

In the event the registrant of the disputed domain name is in fact 林成业, the Panel requests that the Registrar take steps to effect the transfer of the disputed domain name to the Complainant in any event, in accordance with the decision below.

2. Language of the Proceeding

Pursuant to Article 6 of the Policy, the language of the proceeding shall be Chinese, unless otherwise agreed by the parties, or determined by the Panel. No agreement has been entered into between the Complainant and the Respondent to the effect that the language of the proceeding should be English.

Article 31 of the Rules provides the Panel with a broad discretion with respect to the conduct of the proceeding. It is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes.

The Complainant has requested that English be the language of the proceeding for several reasons, including:

i. The term "SALOMON" in the disputed domain name <salomon.cn> is registered in ASCII characters using the Roman alphabet;

ii. The Trade Mark has no meaning whatsoever in Chinese language;

iii. The Complainant is located in France and has no knowledge of Chinese;

iv. In order to proceed in Chinese, Complainant would have had to retain specialised translation services at a cost very likely to be higher than the overall cost of this proceeding; and

v. The use of Chinese in this proceeding would therefore impose a burden on the Complainant which must be deemed significant in view of the low cost of this proceeding.

The Respondent did not file any submissions with respect to the language of the proceeding and did not file a Response.
In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs.

The Panel is obliged by virtue of Article 31 of the Rules to ensure that the proceeding takes place with due expedition.

The Panel notes all communications from the Center in this proceeding have been sent to the parties in both Chinese and English language, and the Respondent has been given the opportunity to file submissions regarding the language of the proceeding.

The Respondent has chosen to take no part in this proceeding and, therefore, in all the circumstances, the Panel finds it is not foreseeable that the Respondent would be unduly prejudiced, should English be adopted as the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

3. Decision

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; and

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 finds as follows:

**Identical or Confusing Similarity**

The Complainant has rights in the Trade Mark acquired through use and registration which predate the date of registration of the disputed domain name by almost 70 years.

The disputed domain name is identical to the Trade Mark.

The Panel therefore holds that the Complaint fulfills the first condition of Article 8 of the Policy.
Rights or Legitimate Interests of the Respondent

Article 10 of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to the Respondent of the dispute, the Respondent’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; or
(ii) the Respondent (as an individual, business, or other organisation) has been commonly known by the domain name even if the Respondent has acquired no trade mark or service mark rights; or
(iii) the Respondent 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.

There is no evidence that the Complainant has authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Complainant has prior rights in the Trade Mark which precede the Respondent’s registration of the disputed domain name by almost 70 years. There is therefore a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has made no use of the disputed domain name.

The Respondent has failed to show that it has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name is used in connection with a bona fide offering of goods or services.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish rights or legitimate interests in the disputed domain name.

Bad Faith

Under Article 9 of the Policy, the following conduct may amount to evidence of registration and use in bad faith:
“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.”

Given the repute of the Trade Mark, and as the disputed domain name is identical to the Trade Mark, the Panel has no hesitation in concluding, in all the circumstances, that the Respondent's registration and passive use of the disputed domain name amounts to bad faith for the purposes of the Policy.

The Panel therefore finds the requisite element of bad faith has been satisfied.

4. Decision

For all the foregoing reasons, in accordance with Article 14 of the Policy and Article 37 of the Rules, the Panel orders that the disputed domain name <salomon.cn> be transferred to the Complainant.

Sebastian Hughes
Sole Panelist
Dated: June 3, 2015