1. Procedural History

The Complainants in this case are Chopard International SA, Chopard Holding SA and Chopard & Cie SA, all of which are registered in Switzerland. Their contact details are as follows:

Chopard International SA: Route de Promenthoux, CH-1197 Prangins, Switzerland

Chopard Holding SA: 55 Boulevard de Pérolles, CH-1700 Fribourg, Switzerland

Chopard & Cie SA: Rue de Veyrot 8, CH-1217 Meyrin 2, Genève, Switzerland

Their authorized representative in these proceedings is Cedric G. Lam of Perkins Coie, Solicitors & International Lawyers in Hong Kong.

The Respondent is Guangzhou Dong Shan Techford Trading Company. Its address is Room 101, 4/F, Staircase 13A, No. 1, Cai Yuan Dong, Dong Hua Dong Lu, Guangzhou, Guangdong Province, People’s Republic of China.

The domain name in dispute is <chopard.com.cn> (the “Disputed Domain Name”). The Registrar of the domain name is Computer Network Information Centre, Chinese Academy of Sciences.
On 21 October 2004, pursuant to the CNNIC Domain Name Dispute Resolution Policy (the “CNDRP”), the Rules for CNNIC Domain Name Dispute Resolution Policy (“the Rules”) and Hong Kong International Arbitration Centre Supplemental Rules to China Internet Network Information Centre Domain Name Dispute Resolution Policy (the “HKIAC Supplemental Rules”), the Complainant submitted a complaint in the English language to the Hong Kong International Arbitration Centre (“HKIAC”) and elected this case to be dealt with by a single-member panel. On the same day, the HKIAC also received a sum of Hong Kong Dollars 3000.00 as the Domain Name Dispute Complaint fee in connection with the present case.

On 23 October 2004, the HKIAC notified the Respondent by email that a Complaint had been filed against it.

On 23 October 2004, the HKIAC sent to the Complainant by email an acknowledgement of receipt of the Complaint and the Domain Name Dispute Complaint fee. On the same day, the HKIAC also requested Computer Network Information Centre, Chinese Academy of Sciences to confirm that the Disputed Domain Name is registered with it and if so, to provide the registrant’s contact information, administrative contact and the billing contact of the Dispute Domain Name.

On 1 November 2004, the HKIAC served a Notification of Commencement of Proceedings on the Respondent. The Notification stated that the Respondent had twenty (20) calendar days from 1 November 2004 to submit a response to the Complaint.

On 22 November 2004, the HKIAC informed the Respondent that a response from it had not been submitted within the time specified in the Rules, and that stated in the Notification of Commencement of Proceedings. Since the Respondent did not file a response in accordance with the time specified, the HKIAC appointed a Panel to proceed to render the decision.

On 3 December 2004, the HKIAC informed the single-member Panel, Michael Hwang of his appointment in this case. The Panel determines that the appointment was made in accordance with Article 26(i) of the Rules.

On 6 December 2004, the HKIAC transferred the files of this case to the Panel.

2. **Factual Background**

*For the Complainant*

The Complainants are members of a renowned manufacturing group in Switzerland, founded by Mr Louis-Ulysse Chopard in 1860 and which specialises in watches and
jewellery. The Complainants and their predecessors have, for almost 150 years, been trading under the name “CHOPARD” and have been using “CHOPARD” as their primary trade name and trademark in their chronograph, jewellery and accessories businesses worldwide.

The Complainants have also registered the “CHOPARD” trademark in many countries for a variety of luxury goods but principally for watches. Further, the Complainant had, as early as 1989, registered the “CHOPARD” trademark in China.

The Complainants’ claim that the brand name “CHOPARD” is one of the well-known brands of watches in China, and is regarded as one of the best-known brands of watches in the world. The Complainants’ claim that the “CHOPARD” brand of watches is widely recognized in China as a brand of high quality watches. The Complainants have spent a large amount of resources in promoting the “CHOPARD” brand using various advertising channels in China, including magazines for high-end watches. The Complainants therefore claim that the “CHOPARD” name and trademark is undeniably a famous trademark in China.

For the Respondent

The Respondent registered the Disputed Domain Name on 22 October 2002.

3. Parties’ Contention

The Complainant

The Complainants claim that they have civil rights and interests in “Chopard” and that the Respondent has no legitimate rights and interests in the Disputed Domain Name which is identical to the Complainants’ trade name and trademarks.

The Complainants claim that they have widely used and registered the “CHOPARD” trademark around the world, including China.

The Complainants claim that since 1989, they have registered the “CHOPARD” trademark with the PRC Trademark office in seven different classes of goods (Classes 3, 9, 14, 16, 18, 25 and 34 of the International Classification of Goods) and have obtained five trademark registrations incorporating the word “CHOPARD” and registered two [xiao bang] “CHOPARD” trademarks in simplified Chinese characters.

The Complainants claim that they had, as early as 22 November 1995, registered <chopard.com>, and has been using <chopard.com> as the domain name for its official worldwide website to promote its businesses. The Complainants also assert that they have registered country-specific third-level domain names such as <chopard.com.sg>, <chopard.co.jp> and <chopard.co.uk> as well as many country-specific domain names around the world, including <chopard.at>, <chopard.ch>, <chopard.de> and <chopard.hk>. 
The Complainants claim that the country-specific domain names have become very important on-line addresses for its consumers around the world to reach the Complainants.

The Complainants assert that there is a close resemblance between <chopard.com> which belongs to the Complainants, and <chopard.com.cn> which is registered by the Respondent. Accordingly, the Disputed Domain Name will very likely mis-direct consumers who wish to gain access to on-line information about the “CHOPARD” brand of products in China to the Respondent’s web page thereby creating confusion for consumers worldwide.

The Complainants assert that the operative part of the Disputed Domain Name is identical to its trade name and the “CHOPARD” trademarks registered by the Complainants in China and other jurisdictions.

The Complainants assert that the Respondent has no legitimate rights and interests in the Disputed Domain Name. The Complainants claim that the corporate name of the Respondent is “Guangzhou Dong Shan Techford Trading Company”, which is unrelated to the operative part of the Disputed Domain Name. The Complainants also claim that the Respondent’s business, which is the sale of handicrafts, furniture and artefacts (excluding gold and silver artefacts), general merchandise, electronic products, telecommunication equipment and household electronic products is not in any way related or associated with the Disputed Domain Name. The Complainants also assert that the Respondent does not have any relevant trademark registrations in China, and has not been given any licence to use any of the “CHOPARD” trademarks. The Complainants state that according to a company information report (Administration for Industry and Commerce of Guangzhou Report) dated 1 September 2004, the business license of the Respondent was revoked by the Administration for Industry and Commerce of Guangzhou on 30 October 2003 for failing to comply with annual inspection requirements and that therefore, the Respondent ceased to exist as a legal entity with effect from 30 October 2003.

The Complainants assert that the “CHOPARD” trademark is one of the most well-known brand names for luxury watches and related products in China at the time the Respondent registered the Disputed Domain Name in October 2002. Accordingly, the Complainants claim that the Respondent should have known of the Complainants’ rights when it registered the Disputed Domain Name.

The Complainants assert that the Disputed Domain Name is currently linked to a website called “ChinaWe”, and the ChinaWe website offers e-business solutions and information to investors. The Complainants observe that the contact details and contents of the ChinaWe website do not in any way relate to the word “CHOPARD”, and that the ChinaWe website can in fact be accessed more directly through the domain names <chinawe.com> and <chinabusiness.net>. The Complainants further claim that the services and information offered by the ChinaWe website are completely unrelated to the Respondent’s scope of business. The Complainants believe that the link between the Disputed Domain Name and the ChinaWe website is merely an attempt by the
Respondent to cover up the fact that the Disputed Domain Name has not been put to use in any practical sense.

The Complainants refer to the decision in Case No. DCN-0300008 which involved the domain names <boss.cn> and <boss.com.cn> and where the panel found that a respondent who knew of the complainant’s rights in a trade name or trademark but yet registered a domain name containing the complainant’s trade name or trademark and linking the domain name to a website having no connection with the domain name acted in bad faith.

The Respondent

The Respondent did not file a Response within the stipulated time.

4. Findings

A. Respondent in Default

Article 31 of the Rules states that:

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

Further, Article 34 of the Rules states that:

“In the event that a party, in the absence of exceptional circumstances, does not comply with any of the provisions established by these Rules or any of the time periods fixed by the Panel, the Panel shall proceed to a decision on the complaint.”

The Panel finds no exceptional circumstances existing, and it will proceed to determine the dispute based upon the Complaint.

B. The Language of the Proceedings

Article 6 of the CNDRP states that:

“The language of the domain name dispute resolution proceeding shall be Chinese, unless otherwise agreed by the parties or determined by the Panel.”

Article 8 of the Rules states that:

“Unless 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.”

In the present case, the Disputed Domain Name is in the English language, the communications between the HKIAC and the Panel, Complainant and Respondent were
all in the English language. The Complaint was also in the English language. The Panel finds that the above facts constitute a sufficiently exceptional case, and the Panel determines that the language of the proceedings shall be English.

C. The Merits

Article 8 of the CNDRP states that:

Support of a Complaint against a registered domain name is subject to the following conditions:

1. the disputed domain name is identical with or confusingly similar to the Complainant’s name or mark in which the Complaint has civil rights or 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 is 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.

Article 31 of the Rules provides that:

“The Panel shall conduct the proceedings in such manner as it considers appropriate according to these Rules, and decide a complaint on the basis of the statements and documents submitted and in accordance with CNNIC DRP, as well as any rules and principles of law which it deems applicable.”

Based on the Complaint and the supporting documents submitted by the Complainants, the CNDRP and the Rules, this Panel finds as follows:

1) Identical or Confusing Similarity

The Respondent registered the Disputed Domain Name on 22 October 2002. However, the Complainants have been using the “CHOPARD” trade name and trademark for over 144 years. The Complainants have also registered the “CHOPARD” trademark around the world and have, since 1989, registered the “CHOPARD” trademark with the PRC Trademark Office in seven different classes of goods. The Complainants have also registered five other trademarks incorporating the word “CHOPARD” (“CHOPARD GENEVE”, “CHOPARD MADNESS”, “CHOPARD HAPPY BRIDE”, “CHOPARD GRAN TURISMO” and “CHOPARD HEAVEN”) and registered two other trademarks of the CHOPARD trademark in simplified Chinese characters. In addition, the Complainants have registered <chopard.com> as its official worldwide website as well as country-specific third-level domain names such as <chopard.com.sg>, <chopard.co.uk> and <chopard.co.jp> and many other country-specific domain names such as
<chopard.at>, <chopard.fr>, <chopard.ch>, <chopard.jp>, <chopard.hk> for its consumers around the world to gain access to information about CHOPARD and its brand of products.

The Respondent has failed to submit a response objecting that the Complainant has civil rights or interests in the “CHOPARD” trade name or trademark as required under Article 8(i) of the CNDRP.

In the Disputed Domain Name, the “.cn” is the country code domain name while “.com” is the secondary generic domain name. The Panel finds that the remaining part of the Disputed Domain Name, after taking out the “.cn” country code domain name and the “.com” secondary generic domain name, is identical to the Complainants’ trade name and trademarks.

Accordingly, the Panel finds that the Complainants have satisfied the first condition under Article 8 of the CNDRP.

2) Rights or Legitimate Interests of the Respondent

The Respondent only registered the Disputed Domain Name on 22 October 2002. In contrast, the Complainants have been using the “CHOPARD” trademark in China for more than 14 years before the Respondent registered the Disputed Domain Name.

The Respondent is a company named “Guangzhou Dong Shan Techford Trading Company”, a name which has no connection with the operative part of the Disputed Domain Name. The Complainants claim that the Respondent has no relevant trademark registrations in China and has not been given any licence to use any of the “CHOPARD” trademarks in China. The Complainants also claim that the Respondent’s scope of business, which includes sale of handicrafts and artefacts, furniture and electronic products, is not in any way related to the word “CHOPARD”, and that the Respondent’s business licence has been revoked since 30 October 2003.

To these assertions, the Respondent has failed to submit a Response to deny them, or adduced any evidence to show that it has legitimate rights and interests in the Disputed Domain Name.

Accordingly, the Panel finds that the Complainants have satisfied the second condition under Article 8 of the CNDRP.

3) Bad Faith

Article 9 of the CNDRP states that:

*Any of the following circumstances may be the evidence of the registration and use of a domain name in bad faith:*


i. the disputed domain name holder has registered or acquired the domain name for the purpose of selling, renting or otherwise transferring the domain name to obtain unjustified benefits;

ii. the disputed domain name holder registered the domain name in order to prevent the owners of the name or mark from reflecting the name or the mark in a corresponding domain name, provided that the domain name holder has been engaged in a pattern of such conduct;

iii. 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;

iv. other circumstances which may prove the bad faith.

The Complainants make the following assertions in support of the requirement of bad faith. First, the Complainants assert that they are a well-known brand of luxury watches and related products in China well before the Respondent registered the Disputed Domain Name in October 2002. Accordingly, the Respondent registered the Disputed Domain Name with the knowledge of the Complainants’ rights.

Second, the Complainants state that the Disputed Domain Name is linked to a website called “ChinaWe”, which offers e-business solutions and information to investors. Accordingly, the Complainants argue that the contact details and contents of the ChinaWe website have no connection with the word “CHOPARD” and that the scope of business of the Respondent does not include the offering of e-business solutions and information to investors. The Complainants assert that the ChinaWe website can be accessed more directly through the domain names <chinawe.com> and <chinabusiness.net>, and that the linking of the Disputed Domain Name to the ChinaWe website is only an attempt to hide the fact that the Disputed Domain Name is not being put to use in the practical sense.

The Panel finds that in the absence of a response from the Respondent, the Complainants have made out a case of bad faith on the part of the Respondent. First, the Panel agrees with the Complainants, that the Respondent must have known of the Complainants’ rights in the “CHOPARD” trade name and trademark when it registered the Disputed Domain Name in October 2002. Second, there is no obvious connection between the word “CHOPARD” which is the operative part of the Disputed Domain Name and the Respondent’s scope of business or the contents of the website (ChinaWe) to which it is linked. In the circumstances, the Panel finds that the Respondent must have made the linkage in order to show that the Disputed Domain Name has in fact been put to use. Notwithstanding this, the Panel finds that the Disputed Domain Name has not been put to use in a practical sense. In light of all the circumstances, the Panel finds that the Respondent registered the Disputed Domain Name in bad faith.

Accordingly, the Panel finds that the Complainants have satisfied the third condition under Article 8 and Article 9(iv) of the CNDRP.
5. Decision

Based on the above analysis, the Panel finds that:

(1) the Disputed Domain Name is identical to the Complainants’ trade name or trademarks in which the Complainants have civil rights or interests;
(2) the Respondent has no right or legitimate interest in respect of the Disputed Domain Name or major part of the domain name;
(3) the Respondent has registered the domain name in bad faith.

Accordingly, pursuant to Article 13 of the CNDRP, the Panel decides that the Disputed Domain Name <chopard.com.cn> should be transferred to Chopard International SA (Complainant 1) as requested by the Complainants.

3 January 2005       Sole Panelist: Michael Hwang