Complainant : Hugo Boss AG
Respondents : Wenzhou Lucheng District Shangshu Sunbird Department Store and Zhao Ke Jian
Domain Name : (1) <boss.com.cn> and (2) <boss.cn>
Registrar : (1) Beijing Innovative Linkage Technology Ltd.
(2) Beijing Xinhai Technology Development Ltd.

1. Procedural History

The Complainant of this case is Hugo Boss AG, registered in Germany. Its address is at Dieselstrasse 12, Metzingen, Germany. Its authorised representative in these proceedings is Messrs. Stephenson Harwood & Lo of Hong Kong.

The respondents of this case are Wenzhou Lucheng District Shangshu Sunbird Department Store and Zhao Ke Jian. Their addresses are respectively at Shangshu county Kanshang village and Lucheng District Shangshu Secondary School of Wenzhou, Zhejinag Province, China. The authorised representative in these proceedings is Zhejiang Pingyu Law Firm.
The domain names in dispute are <boss.com.cn> and <boss.cn>. The Registrar of the domain name <boss.com.cn> is Beijing Innovative Linkage Technology Ltd. ("BILT") and its address is at Room 207 Gaode Building, No. 10, Huayuan East Road, Haidian District, Beijing; the Registrar of the domain name <boss.cn> is Beijing Xinhai Technology Development Ltd. ("BXTD") and its address is at Room 1858 New Century Hotel Office Tower, No. 6, Shouti Nalu Beijing.

On 20 October 2003, pursuant to the CNNIC Domain Name Dispute Resolution Policy ("the CNDRP") of 30 September 2002 of China Internet Network Information Center ("CNNIC"), the Rules for CNNIC Domain Name Dispute Resolution Policy ("the Rules") and Hong Kong International Arbitration Centre Supplemental Rules to China Internet Network Information Center Domain Name Dispute Resolution Policy ("the HKIAC Supplemental Rules"), the complainant submitted a complaint in Chinese to the Hong Kong International Arbitration Centre and elected this case to be dealt with by a one-person panel. On the same day, Hong Kong International Arbitration Centre sent to the complainant by email an acknowledgement of the receipt of the complaint and reviewed format of the complaint for complaisance with the CNDRP, the Rules and the HKIAC Supplemental Rules.

On 21 October 2003, HKIAC respectively requested BILT and BXTD requested CNNIC by email for the provision of information at their WHOIS database in respect of the domain names. On the same day, BILT confirmed that the domain name <boss.com.cn> was registered by it and the respondents, its registered organisation being Wenzhou Lucheng District Shangshu Sunbird Department Store and its registered user and billing contact being Zhao Ke Jian. On 27 October 2003, BXTD also replied to HKIAC and confirmed that the domain name in dispute <boss.cn> was registered by it and the registered person was Zhao Ke Jian. On 30 October 2003, in response to the change to the registered information in the CNNIC WHOIS database, HKIAC made further enquires with BILT regarding the
registered holder of the domain name <boss.com.cn>. On the same day, BILT informed HKIAC by email that the holder of that domain name is Wenzhou Lucheng District Shangshu Sunbird Department Store. According to this information from the registrar, HKIAC notified the Complainant the correct registered holder of the domain name and asked for corresponding amendments to be made to the complaint.

On 3 November 2003, HKIAC confirmed to the complainant by email that the format of the complaint and that the same had been forwarded to the respondents. The formal commencement date of the proceedings was on 3 November 2003. Also, HKIAC sent and/or transmitted by registered mail and email to the respondents the notice of commencement of proceedings, together with the complaint and associated materials, demanding the respondent to file a response within the scheduled time.

On 12 November 2003, via the email address, named Zhao Ke Jian, the respondents sent to HKIAC the updated email contact for communications. On the same day, HKIAC sent and/or transmitted by and email to the respondents the notice of commencement of proceedings, together with the complaint and associated materials, demanding the respondents to file a response within the scheduled time, i.e. 20 days from 3 November 2003. Thereafter, the respondents confirmed the receipt of the emails from HKIAC.

On 17 November 2003, the respondents indicated by email to HKIAC that panelists other than those from Hong Kong and Beijing should be appointed.

On 19 November 2003, the respondents indicated by email to HKIAC that, due to its changed email contact, the emails from HKIAC were not received in time and asked for an extension of time to file the response to 26 November 2003.
On 21 November 2003, HKIAC received by email the response from the respondents’ authorised representative and the HKIAC also confirmed the receipt of this by email. On 24 November 2003, the receipt of response in document form was also confirmed by email. According to the response, Wenzhou Lucheng District Shangshu Sunbird Department Store was the registered holder of the two domain names in dispute, i.e. <boss.com.cn> and <boss.cn>, and the response was filed for both these two domain names. Also, the response also indicated that the primary component of the email contact of the respondents was "zhaokejian" and this is also the new email address supplied by the respondents in the name of Zhao Ke Jian.

In the response, the respondents elected to use a 3-member panel and selected 3 panelists from Beijing. As such, HKIAC, gave notice to the potential candidate according to Article 25 of the Rules for the panelists Ms. Xue Hong and Mr. Andrew Law and the presiding panelist Mr. Gary Soo, requesting them to confirm whether they would accept the appointment as a panelist for this case, and if so, whether they could maintain impartiality and independence between the parties in this case. Thereafter, Ms. Xue Hong, Mr. Andrew Law and Mr. Gary Soo confirmed by email to HKIAC their agreement to accept the appointment and declared their being able to maintain their impartiality and independence in dealing with this case.

On 17 December 2003, HKIAC informed by email the complainant, the respondent and the panelists, Ms. Xue Hong, Mr. Andrew Law and Mr. Gary Soo, that the 3-member Panel of this case had been formed and they were appointed accordingly. Then, HKIAC transferred the files of this case to the Panel formally.

According to the Rules, the decision should be rendered within 14 days, i.e. on or before 4 January 2003, of the appointment of the Panel.
2. Factual Background

For the Complainant

The complainant was a Germany company established some 70 years ago. Its establisher is named "HUGO BOSS". The name and trademark used by the complainant was primarily associated with "BOSS" and the scope of use of the trademark "BOSS" is around the world. The "BOSS" trademark of the complainant was also registered in many countries including China. In Mainland China, since 1986, the complaint's "BOSS" trademark had during the passage of time been approved for registered for use in products, including garments, knitted garments, rain garments, leather garments, performance garments, sports garments, camera lights, camera flashes, timers, camera parts, projector facilities, video recorders, leathers, briefcases, wardrobes, leather card boxes, small leather packs, wallets, coin wallets, handbags, luggage bags, rucksacks, travel bags, umbrellas, sticks, handbags, note book leather covers, calendar leather covers, brief bags, leather key bags, travel utilities, shopping bags, sun glasses, glasses, contact lenses, shoes, hats, etc.. Apart from the "BOSS" trademark, the complainant also acquired the approval for the trademark registration and concerned international registration in Mainland China other trademarks, including "HUGO BOSS", "BOSS HUGO BOSS", "HUGO HUGO BOSS" and "Baldessarini HUGO BOSS". In addition, the complainant's "BOSS" trademark has also been included in the list of key protection trademark list of the China's National Trade and Industry Administration Bureau Trademark Bureau.

For the Respondent

The respondents respectively registered the domain names <boss.com.cn> and <boss.cn> on 16 October 2002 and 17 March 2003. For both domain names, the registered
organization was Wenzhou Lucheng District Shangshu Sunbird Department Store and the registered user and billing contact was both Zhao Ke Jian.

3. Parties' Contention

The Complainant

The complainant asserts legitimate rights over the "BOSS" mark. The complainant avers that, in the 70 odd years since it was established, the complainant was all along using primarily the "BOSS" mark in its name and trademarks in the business worldwide. The primary business places of the complainant were in Europe, America and Asia. From as early as 1986, the complainant's trademark was allowed various registrations in Mainland China. In recent years, the annual amount spent by the complainant in promotion in the world, including China, exceeds 100,000 thousands Deutsche Marks. Only in 2001, the complainant's total sales in China reaches 121,800 thousands Deutsche Marks. Since 1994, the complaint also opened theme shops in some 22 main cities in Mainland China, including at Wenzhou. The complaint also points out that the China's National Trade and Industry Administration Bureau also included the complaint's "BOSS" mark as key protection trademark and it can also be seen from the translated documents attached to the complaint that the complaint's "BOSS" mark was well-known and was protected worldwide by the courts, including District Court of Slazburg of Austria, High Court Republic of Austria, Higher Regional Court of Cologne of Germany, District Court of Brussels of Belgium, Beijing Higher People’s Court.

As such, the complainant asserts that its "BOSS" trademark is a well-known trademark around the world and it is also well known in Mainland China and that the domain names in
dispute are the same as or are confusingly similar to the "BOSS" trademark of which the complainant enjoys legitimate civil rights.

As to the right or legitimate interest in respect of the domain names or major part of the domain names of the respondents, the complainant points out that the names of the respondents, i.e. Wenzhou Lucheng District Shangshu Sunbird Department Store or Zhao Ke Jian, are not related to the "BOSS" mark and the complainant has not authorised the respondents to use the "BOSS" trademark. Also, as the complainant had set up several exclusive theme shops in Wenzhou and is applying for well-known trademark registration in Wenzhou, the complainant considers that the respondents were with knowledge of this "BOSS" trademark.

Accordingly, the complainant considers that the respondents did not have any right or legitimate interest in respect of the domain names or major part of the domain names in issue.

The complainant further considers that the registration of the domain names by the respondents was with bad faith. This is based on the following reasons:-

First, the respondents was with knowledge of the well-known nature of the "BOSS" trademark in Mainland China and worldwide when applied for the registration of the domain names in dispute. The complainant points out that it has business in the major cities in Mainland China, including Wenzhou.

Second, it was not until the respondents had received the letter of the complainant's authorized representative demanding the cancellation of the domain name <boss.com.cn> when that domain name was linked to a webpage www.boss.cn/zhaopin, titled "Wenzhou Employment Agency Net", while there was no linkage of that domain name to any webpage beforehand. The complainant regards this as a cover-up. For this, the complainant
highlights that the content of that "Wenzhou Employment Agency Net" indicates that it belongs to the corresponding webpage of www.ActiveEdu.net that was registered by one "DNS Support" of Hong Kong and that there was no links at all as regards, trademark, name or contents, between the "Wenzhou Employment Agency Net" and the respondents.

Third, the respondents did not have intention to put the domain names in dispute into practical use. The complainant avers that this can be seen from the fact the respondents' subsequent linking www.boss.cn/zhaopin to a blank webpage.

Forth, the respondents likewise linked the domain name to a webpage titled "YiLei Multimedia Workshop" on 14 October 2003 and that webpage contains no trademark, name or context that could be seen to be linked to the respondents. The complainant says that this is for cover-up purposes of the respondents.

Fifth, the respondents' conduct in registering the <boss.com.cn> and <boss.cn> domain names that include the "BOSS" mark shows that the respondents was with intention and bad faith to store domain names of well-known trademarks. Apart from this, the complainant also points out the respondents intentionally prevented the complainant to use the "BOSS" trademark so as to cause confusion to Internet users, misleading that the respondents are in connection or cooperation with the claimant.

Based on the above reasons, the complainant urged the Panel to render a decision canceling or transferring to the complainant the domain names in dispute.

The Respondent

According to the response, the respondents' name is Wenzhou Lucheng District Shangshu Sunbird Department Store and it registered the domain names <boss.com.cn> and <boss.cn>.
The respondents assert that the domain names <boss.com.cn> and <boss.cn> that are in dispute are not the same as or of confusing similarity with the trademarks of which the complainant has rights, i.e. "BOSS", "HUBO BOSS", "BOSS HUGO BOSS" or "HUGO HUGO BOSS" etc. The respondents aver that those trademarks are only known to a certain degree among a very small population at the high spending ends of the whole community and, hence, are not well-known brand. The respondents also indicate that, when the word BOSS is mentioned, people would not necessarily think of "HUGO BOSS". To support this, the respondents also provide documents to show that in the years between 1790 and 1930, the US Federal Population Census recorded the number of people with BOSS as family name was 11,098. Apart from this, the respondents consider that to the most of the Chinese, when the first thing that comes to their mind when the Chinese characters for "HUGO" are seen should be the French literary man Victor Hugo. For the word BOSS, the respondents present the research of its origins and points out that this gave the meaning of "employer" to people, rather than the complainant's product. Also, the respondents do not admit that the complainant's trademarks are well known marks and further indicate that they do not know whether the concerned trademarks of the complainant are well-known trademarks in Mainland China.

For the domain names in dispute, the respondents avers that, at Wenzhou where the respondents situate, the economy is built up from individual and self-employed mode of family workshop and that being one's own boss is a Wenzhou tradition. After the respondents (Zhao Ke Jian) graduated from university, he set up the Wenzhou Lucheng District Shangshu Sunbird Department Store and became his own boss. The respondents also assert that when applying for the registration of the domain names <boss.com.cn> and <boss.cn>, the initial prime purpose was to develop online shopping business. Yet, due to various reasons, this idea does not become materialized. Thus, the domain names <boss.com.cn> and <boss.cn> are used as an employment agency webpage. However, as there is already a "Wenzhou Employment Agency Net" webpage in Wenzhou, the webpage of the respondents is not continued. As to linking <boss.cn> to a "YiLei Multimedia
Workshop" webpage, the respondents used this for multimedia production for others. In addition, the respondents assert that the department store, job referral and multimedia businesses are different from the glasses and garments fashion businesses of the complainant and points out that they have no notice of the complainant's litigation in Beijing.

As to the legitimate rights over the domain names of the respondents, the respondents point out that in the case involving the domain name <boss.com.tw> of the Taiwan Network Information Centre, *Hugo Boss AG v. Taiwan Asia Color Manufacture Holding Ltd.* (Case No. STL001-02), the complaint in that case was rejected. The respondents avers that the factual situations of that case are very similar to the present one.

The respondents also indicate not having bad faith in the registration and use of the domain names in dispute. According to the respondents, the purpose for registering the domain names in dispute is not for selling, renting or otherwise transferring the domain name to obtain unjustified benefits and the respondents does not register other well-known marks as domain names or prevent others from reflecting their legitimate marks in the corresponding domain names. The respondents (Zhao Ke Jian) states that he is just a young man aged 25 keen and willful in creating his own business and being his own boss, who registered the domain names <boss.com.cn> and <boss.cn> for self-encouragement and motives for continuous improvement. The respondents consider that the business of miscellaneous items for living does not damage the normal business activities of the complainant.

4. Findings

From the documents attached to the complaint, the registered user's name for the disputed domain names <boss.com.cn> and <boss.cn> in the WHOIS database for .cn is Zhao Ke Jian and the registered organization for both domain names is Wenzhou Lucheng District
Shangshu Sunbird Department Store. The billing contact for both disputed domain names is also Zhao Ke Jian. In the email from BILT on 27 October 2003, the registered holder for the disputed domain name <boss.cn> is Zhao Ke Jian; and, on 30 October 2003, BXTD indicated by email that the registered holder of the disputed domain name <boss.com.cn> is Wenzhou Lucheng District Shangshu Sunbird Department Store. However, in the response submitted by the respondents for both the disputed domain names <boss.cn> and <boss.com.cn>, while the respondents do not specify the relationship between Zhao Ke Jian and Wenzhou Lucheng District Shangshu Sunbird Department Store, or the legal status of Wenzhou Lucheng District Shangshu Sunbird Department Store, the respondents on the one hand indicate that Wenzhou Lucheng District Shangshu Sunbird Department Store is the registered holder of the domain names and on the other hand express (when describing graduation from university of the respondents) that the registered holder of disputed domain names. In the circumstances, the Panel considers that there is sufficient evidence to show that the de facto holder of the domain names <boss.com.cn> and <boss.cn> is Zhao Ke Jian.

Accordingly, although on the face of the response, it indicates that the holder of the two disputed domain names is Wenzhou Lucheng District Shangshu Sunbird Department Store and the complainant has not responded further or amended the complaint accordingly, after taking into account of the fundamental objects of the CNDPR and Article 31 of the Rules conferring power on the Panel to "conduct the proceedings in such manner as it considers appropriate according to these Rules", with reference to the case of Hewlett-Packard Company v. Mohammad Hossein Erfani and the Kotobi Group (Case No. DCN-0300005), the Panel decides that the respondents in this case should be an entity of unknown legal status, Wenzhou Lucheng District Shangshu Sunbird Department Store, and an individual, Zhao Ke Jian.

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 complaint 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 is being used 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 respondents respectively registered the disputed domain names <boss.com.cn> and <boss.cn> on 16 October 2002 and 17 March 2003. The complainant is a Germany company established some 70 years and "BOSS" formed a major part of its name and trademark. This "BOSS" trademark is used around the world and had been registered in many countries including China. Since 1986, the complainant's "BOSS" trademark series had been registered in Mainland China. In the response, the respondents do not dispute that the complainant has civil rights over the "BOSS" mark but further admit that this mark is known to a certain extent in the high-end spending consumers in Mainland China. The Panel considers that the complainant is in possession of the civil rights against the “BOSS” mark or name as required under the Article 8(i) of CNDRP.

In the disputed domain name, <boss.com.cn>, “.cn” is the country code domain name, “.com” is the secondary generic domain name; in the disputed domain name <boss.cn>, ".cn" is the country code. The remaining part, after taking out the “.cn” country code domain name and/or the “.com” secondary generic domain name, is identical to, or confusingly similar to, the “BOSS” mark that the complainant has civil rights. The Panel
does not accept the assertion of the respondents that the concerned trademarks of the complainant are only known in a tiny sector of the community population of high spending consumers. The ability to buy and the knowledge over a particular brand of consumer products are two different things and cannot be mixed up. As to the assertion of the respondents that most Chinese will think of the French literature man Victor Hugo when seeing the Chinese characters of "HUGO", the Panel considers that this is irrelevant to the "BOSS" mark under consideration and as such does not take that into account.

Although the face meaning of the word 'boss' is employer, as in the appeal judgement of the case attached to the complaint, i.e. Hugo Boss AG v. Beijing Cinet Ltd. (2002) Supreme Civil Final No. 283, after approval for registration by the China's Trademark Bureau, the complainant's "BOSS" trademark has, by its use in China and all the world as trademark for the manufacture, sales and promotion of goods such as fashion, turned the "BOSS" trademark into well-known among the public at large. Also, from the documents submitted by the complainant, the "BOSS" trademark is also a famous brand in the world receiving protection worldwide and is a well-known mark. Thus, the Panel considers that, although the word 'boss' has the meaning of employer, through the long-term use of the "BOSS" trademark in the complainant business, the word 'boss' has disassociated itself from the face meaning and becomes a specific, distinct business identifier with special connection with the complainant.

As such, the Panel decides that the complain fulfills the condition in Article 8(i) of CNDRP.

Rights or Legitimate Interests of the respondents

From the complaint, the response and the attached documents, the respondents' names have no connection with "BOSS". At the same time, the respondents have not adduced evidence to show their association with the business of complainant or the authorized trademark
owners. Also, the complainant clearly states that it has not authorized the respondents to use the "BOSS" mark or name for domain name or otherwise.

The respondents only registered the disputed domain names in 2003 and 2003. As to the stated initial purpose of registering the domain names <boss.com.cn> and <boss.cn> for prepared use for developing online shopping business, the respondents have not adduce any documents to support their case. The respondents do not explain what are the "various reasons" that prevent such a use becoming materialized. As to the use of the disputed domain names for jobs referral webpage, the respondents do not response to the complainant's assertion that it was only after receipt of the letter of the complainant's lawyer of 8 April 2003 demanding the cancellation of the disputed domain name <boss.com.cn> that the respondents hyperlinked the domain name <boss.com.cn>, which was not linked to any webpage before, to the webpage at www.boss.cn/zhaopin, with the name of "Wenzhou Employment Agency Net" for covering up. The respondents do not adduce any evidence showing their connection with the Hong Kong "DNS Support" that registered the www.ActiveEdu.net webpage. Further, the respondents states that, there being already in existence a similar webpage in Wenzhou, the use for the "Wenzhou Employment Agency Net" is not continued. As to the linking of the disputed domain name of <boss.cn> to "Yilei Multimedia Workshop", the respondents also have not explained the connection between the respondents or the "BOSS" mark with Yilei Multimedia Workshop. Moreover, from the documents printed on 14 October 2003 of the complainant, the content of that "Yilei Multimedia Workshop" webpage show that it is for job referral rather than for multimedia business. And, this in any case is conduct after the letter of 8 April 2003 demanding the cancellation of the domain name registration. In addition, with the well-known extent of the "BOSS" trademark, the Panel does not accept that the respondents may assert legitimate rights over the disputed domain names by the mere wish or fact of being his own boss and registering them for self-encouragement and motives for self-improvement. Furthermore, this is not consistent with the initial purpose of registering the disputed domain names. Also, the respondents have not explain why the disputed domain
names <boss.com.cn> and <boss.cn> needed to be registered one after another. In any case, even if the respondents use the disputed domain names for online shopping in the name of the Wenzhou Lucheng District Shangshu Sunbird Department Store, based on the well-known nature of the "BOSS" trademark and the extent of product that it applies, the Panel does not accept that the respondents can assert legitimate rights over the disputed domain names for this reason.

As to the case concerning <boss.com.tw> of the Taiwan Network Information Centre, Hugo Boss AG v. Taiwan Asia Color Manufacture Holding Ltd. (Case No. STLC001-02) mentioned by the respondents, its basis of decision is the Taiwan Network Information Center Domain Name Dispute Resolution Policy and its associated regulations. The domain name registered holder had finished preparation for the use of the domain name in a webpage for e-commerce and information system of phonetically similar to "BOSS", named "Doctor Net". The Panel considers that the circumstances in that case are different from the present one and, as such, it is of not much reference value.

As to the assertion of legitimate rights over the disputed domain names, the Panel does not accept this. Hence, the Panel finds that the respondents do not have right or legitimate interest in respect of the domain name or major part of the domain name.

Bad Faith

Article 9 of CNDRP provides that in any of following circumstances, the conduct of the holder of the domain name that is subject to the complaint amounts to registration or 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 Panel is of the view that, based on the use of "BOSS" mark by the complainant in product sales and business promotion in China, the complainant's "BOSS" mark is quite well-known among the consumer products business and market of China when the respondents register the disputed domain names. Since 1994, the complainant has set up some 22 theme shops in major cities of China, including Wenzhou. The China's National Trade and Industry Administration Bureau also included the complainant's "BOSS" mark in the national list of protection of key trademarks. The complainant's "BOSS" trademark involves consumers' products such as garments, knitted garments, rain garments, leather garments, performance garments, sports garments, camera lights, camera flashes, timers, camera parts, projector facilities, video recorders, leathers, briefcases, wardrobes, leather card boxes, small leather packs, wallets, coin wallets, handbags, luggage bags, rucksacks, travel bags, umbrellas, sticks, hand bags, note book leather covers, calendar leather covers, brief bags, leather key bags, travel utilities, shopping bags, sun glasses, glasses, contact lenses, shoes, hats, etc.. The respondents are situated at Wenzhou where the complainant has operated its theme shops. The name or organisation of the respondents is one in the business of consumer products as Wenzhou Lucheng District Shangshu Sunbird Department Store. At the time of registration, the respondents are minded to develop large-
scale online shopping business. Hence, the Panel did not accept that the respondents register the disputed domain names without notice or knowledge of the complainant's "BOSS" trademark. In Wal-Mart Stores, Inc. v. Thomson Hayner d/b/a Wireless Revolution d/b/a Latin Technologies (WIPO Case No.DAS2002-0001), the complainant’s mark was a well-known mark in the country where the respondent situated and the Panel in that case accordingly found that the respondent was with knowledge of the complainant’s mark when it registered the domain name.

Apart from that, the Panel finds that the respondents have received the letter of 8 April 2003 from the complainant's lawyer demanding the cancellation of the disputed domain name <boss.com.cn> when the respondents linked the domain name <boss.com.cn>, which has no link to any webpage before, to the webpage at www.boss.cn/zhaopin, named as "Wenzhou Employment Agency Net". In Telstra Corporation Limited v. Nuclear Marshmallows (WIPO Case No.D2000-0003), the respondent’s non-action after registration was adequate to found bad faith in special circumstances. The Panel in that case, in deciding bad faith use and registration on the part of the respondent, took into account the fact that the respondent registered the domain name with knowledge of the complainant’s right and that the respondent had not used the domain name in any way at all after registration. Also, in this case, whether for "Yilei Multimedia Workshop" or "Wenzhou Employment Agency Net", the contact details or content of the webpages show no connection with the registered domain names of the respondents. Also, the respondents cannot satisfactorily explain why it is necessary to register the 2 domain names containing "BOSS" as is major part, one after another.

In all the special circumstances, the Panel decides the respondents are with bad faith when using and registering the disputed domain names.

*Appropriate Remedy*
The complainant asks for the Panel's decision directing the cancellation or transfer of the disputed domain names. Although it is noticed that in directing a cancellation necessarily means that there is no exclusion of others potential entities to apply for the registration of the concerned domain names, on taking into account the "first-come-first-register" principle, the Panel decides that the transfer of the disputed domain names to the complainant is the appropriate remedy.

5. Decision

Based on the above analysis, the Panel decides that: (1) the disputed domain names, <boss.com.cn> and <boss.cn> are identical with or confusingly similar to the complainant's name or mark in which the complaint has civil rights or interests; (2) the respondent has no right or legitimate interest in respect of the disputed domain names or major part of that domain names; (3) the respondent has registered or is using the domain names in bad faith. Accordingly, the Panel decides that the disputed domain names, <boss.com.cn> and <boss.cn>, should be transferred to the complainant.

Presiding Panelist : Gary Soo
Panelist : Xue Hong
Panelist : Andrew Law

3 January 2004 Hong Kong