

SINGAPORE DOMAIN NAME DISPUTE RESOLUTION SERVICE

Administrative Panel Decision

Case No. SDRP-2006/0001(L)

Laser-Technology (Singapore) Private Limited v E3 Management Services (now known as "E3 Business Solutions")

1. The Parties

- 1.1 The Complainant is Laser-Technology (Singapore) Private Limited, a Singapore company whose registered address is 77 High Street, #05-10 High Street Plaza, Singapore 179433 and whose principal place of business is at No. 28 Tuas Avenue 10, Singapore 639148
- 1.2 The Respondent is E3 Management Services (now known as "E3 Business Solutions"), a sole proprietorship registered under the laws of Singapore and having its place of business at Block 10 Pine Close #09-54, Singapore 391010.
- 1.3 In this decision, the Complainant and the Respondent will be referred to collectively as "the Parties".

2. The Domain Names and Registrar

- 2.1 The domain name at issue is laser-tech.com.sg ("the Domain Name").
- 2.2 The Registrar for the Domain Name is Webvisions Pte Ltd of 75 Science Park Drive, Cintech II, Singapore Science Park 1 #02-06/08, Singapore 118255.

3. Procedural History

- 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 via e-mail on 16 January 2006 and in hard copy on 17 January 2006. After checking the Complaint for administrative compliance with the Policy and the Rules, the Secretariat forwarded the Complaint, together with a covering minute and the prescribed Complaint Notification Instructions, to the Respondent on 18 January 2006.
- 3.3 The Respondent has not submitted a Response, the deadline for which expired on 10 February 2006.
- 3.4 The Secretariat notified the Parties of the appointment of the Administrative Panel on 14 February 2006, formally appointing Mrs Murgiana Haq as the

sole Panellist. The Panellist received the Complaint with supporting documents on 15 February 2006.

4. Factual Background

- 4.1 The domain name in issue is laser-tech.com.sg.
- 4.2 The Complainant was incorporated on 5 March 2002. Its principal activities relates to the business for laser alignment products and services. It has a website at www.laser-tech.com.sg.
- 4.3 The Respondent provides services relating to web hosting, web-design, web based support for e-mail, accounting, tax planning and other related consultancy services.
- 4.4 On or about 8 March 2002 the Complainant engaged the Respondent to register for them the domain name laser-tech.com.sg. Since its registration on 8 March 2002 the Complainant has been paying the annual fees through the Respondent. Until sometime in October 2005 the Complainant was under erroneous belief that the Respondent registered the domain name in the Complainant's name.
- 4.5 On discovering that the Respondent had registered the domain name under the Respondent's name on 18 October 2005 the Complainant wrote to the Respondent requesting the transfer of the ownership of the domain name. In response, the Respondent demanded that the Complainant pay S\$7000 for the transfer and administrative fees. Complainant is not willing to pay this amount as the costs of registering and maintaining the domain name was borne by them.

5. Complainant's Contentions

The Complainant contends that:

- (1) The domain name is identical to their company name, service mark and website.
- (2) The Respondent has no trade mark or service mark rights over the domain name nor is it commonly known by the domain name. The Respondent has no rights or legitimate interests in respect of the domain name.
- (3) The Respondent has not made any legitimate use of the domain name.
- (4) The domain name was registered in bad faith:
 - (i) The Respondent was engaged for a fee by the Complainant to register the domain name and had deceptively registered the domain name in the name of the Respondent.

- (ii) Since its registration the Complainant, believing that the domain name belonged to them, paid the Respondent the annual fees to maintain the registration.
- (iii) The Respondent demanded S\$7000 for the transfer of the domain name. The Respondent had registered the domain name primarily for the purpose of selling it and to disrupt the Complainant's business.

6. The Respondent

The Respondent did not file a Response to the Complaint.

7. Discussion and Findings

- 7.1 Paragraph 15(a) of the Rules requires the Panel to decide the Complaint "on the basis of the Statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of the law of Singapore as it deem applicable".

Accordingly in determining whether the Complainant has met its burden under paragraph 4(a) of the Policy, the Panel will look to the principles of the law of Singapore where applicable.

- 7.2 Paragraph 4(a) of the Policy requires the Complainant to prove each of the following elements:
- (i) the Respondent's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
 - (ii) the Respondent has no rights or legitimate interests in respect of the domain name; and
 - (iii) the Respondent's domain name has been registered or is being used in bad faith.
- 7.3 If the Complainant successfully proves all three elements on the balance of probabilities in respect of the domain name, the Complainant shall be entitled to either cancellation of the domain name or its transfer to the Complainant as provided in paragraph 4(i) of the Policy.
- 7.4 *Identity and Confusing Similarity*
- 7.4.1 The first question is whether the Complainant has rights to the name "laser-tech". The word "rights" in paragraph 4(a)(i) of the Policy is broad enough to cover rights arising from a name, trade mark or service mark and under common law.
- 7.4.2 The Complainant must have the rights as at the date of commencement of the Administrative Proceedings, if not earlier, as shown by the use of the words "*has*" and "*is being used*" in paragraph 4(a)(i) and (iii) respectively.

7.4.3 The relevant date here is therefore 18 January 2006.

7.4.4 The Complainant's rights accrue from its company name registration since 5 March 2002. It also operates an active website at www.laser-tech.com.sg. The Complainant's company name rights precede the date of registration of the domain name which was 8 March 2002 and accrued well before the date of commencement of these proceedings. This Panel finds that the Complainant has discharged its burden of proof under paragraph 4(a)(i) of the Policy.

7.5 Rights or legitimate interests

7.5.1 Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the domain name. According to paragraph 4(c) of the Policy such rights may be demonstrated by showing that:

- (i) before any notice of this dispute, the Respondent used, or demonstrably prepared to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
- (ii) the Respondent has been commonly known by the domain name, even if it 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 in issue.

7.5.2 As the Respondent has not filed a Response there is no evidence of any use or preparation to use before this Panel (*Phone-N-Phone Service (Bermuda) Ltd v Schlomi (Salomon) Levi (WIPO Case No. D2000-0040)*). According to this Panel is unable to find that the Respondent has rights or legitimate interests in the domain name.

7.6 "Bad faith"

7.6.1 Paragraph 4(a)(iii) of the Policy requires the Complainant to prove that the domain name was registered or is being used in bad faith. Paragraph 4(b) of the Policy sets out the follow circumstances which shall be evidence of bad faith:

- (i) the Respondent registered the domain name primarily for the purpose of selling, renting or otherwise transferring the registration to the Complainant or its competitor for a consideration in excess of the Respondent's out-of-pocket costs directly related to the name;
- (ii) the Respondent registered the domain name in order to prevent the Complainant from reflecting the mark in a corresponding domain name, provided the Respondent has engaged in a pattern of such conduct;

- (iii) the Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
 - (iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his site, by creating a source, sponsorship, affiliation or endorsement of the Respondent's site or of a product on his site.
- 7.6.2 The above conditions are not exhaustive and merely a guide as shown in the phrase "*in particular but without limitation*" in paragraph 4(b). So it follows that other circumstances may also indicate bad faith when all the circumstances of the case are taken into account.
- 7.6.3 This Panel finds that there is evidence of bad faith in this case. The Complainant alleges that the Respondent was willing to transfer the domain name for (S)\$7000, a sum in excess of the Respondent's out of pocket expenses.
- 7.6.4 Bad faith is also shown by the Respondent's conduct. The Respondent was engaged to register the domain name for the Complainant. The Respondent breached the trust placed by the Complainant by registering the domain name for itself. The Complainant, being unaware, paid the annual maintenance fees through the Respondent since 2002.
- 7.6.5 In the absence of a satisfactory explanation or evidence to rebut the Complainant's allegation, this is a clear act of bad faith. This Panel concludes that the domain name was registered by the Respondent in bad faith.

8. Conclusion

This Panel finds that the Complainant has discharged the burden of proving all the elements in paragraph 4(a) of the Policy and requires the domain name to be transferred to the Complainant.

Murgiana Haq
Sole Panellist

16 February 2006