



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Kabushiki Kaisha Raibudoa v. Kubota, A

Case No. D2001-0817

1. The Parties

The Complainant is Kabushiki Kaisha Raibudoa, (English name: livedoor, Inc.), MAR'S Minami Aoyama Building 6F, 9-19, Minami Aoyama 5-chome, Minato-ku, Tokyo 107-0062, JAPAN.

The Respondent is Kubota, A, Higashi-cho, OSAKA, Osaka, JAPAN.

2. The Domain Name and Registrar

The disputed Domain Name is <ライブドア.com>(bq—gdu2jvwjui) and the Registrar is Network Solution Inc. of the United States of America.

3. Procedural History

This is an administrative proceeding pursuant to the Uniform Domain Name Dispute Resolution Policy ("the Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on August 26, 1999, in accordance with the Rules for the Policy, approved by ICANN on October 24, 1999, ("the Rules") and the Supplemental Rules for the Policy ("the Supplemental Rules") of the WIPO Arbitration and Mediation Center ("the Center").

The Complaint was received by the Center by email on June 21, 2001 and in hard copy on June 25, 2001. The Center acknowledged receipt on June 22, 2001 and sought registration details from the Registrar on June 26, 2001. On July 19, 2001 the Center received the confirmation from the Registrar that, among others, the Respondent is the current registrant.

On July 20, 2001, the Center satisfied itself that the Complainant had complied with all formal requirements of the Rules, including payment of the prescribed fee, and notified the Respondent by post/courier, facsimile and email of the Complaint and of the commencement of this administrative proceeding. The formal date of the

commencement of the proceeding was accordingly July 20, 2001. The last day specified in the notice for a response was August 9, 2001.

The communications by any means failed to reach the Respondent. On August 10, 2001, no response having been filed, the Center notified the Respondent of its default.

On August 27, 2001, the Center notified the parties of the appointment of Masato Dogauchi as the Administrative Panel, after receiving the Statement of Acceptance and Declaration of Impartiality and Independence from Masato Dogauchi. The Center notified that the Panel was required, absent exceptional circumstances, to forward its decision to the Center by September 10, 2001.

The language of the proceeding was English.

The Panel is satisfied that the Complaint was filed in accordance with the requirements of the Rules and Supplemental Rules; payment was properly made; the Panel agrees with the Center's assessment concerning the Complaint's compliance with the formal requirements of the Rules; the Complaint was properly notified to the Respondent in accordance with paragraph 2(a) of the Rules; no Response was filed within the time specified by the Rules and the single-member Administrative Panel was properly constituted.

4. Factual Background

Since the Respondent failed to furnish its response, the Panel proceeds to consider the following facts submitted by the Complainant:

The Complainant is a company incorporated under Japanese law and is wholly owned by "livedoor Group Inc." in the United States. It has its business base in Japan for the Internet related business using Japanese language. "Kabushiki Kaisha Raibudoa(株式会社ライブドア)" is registered as the official company name of the Complainant with a legal affairs bureau in Tokyo, Japan. The term "ライブドア", which is pronounced "Raibudoa" in Japanese, is correspondent with "livedoor" in English. The Complainant applied for trademark registration of "ライブドア" to Japanese Patent Office on November 1, 1999. Such application was approved on February 9, 2001 and has since been the owner of the registered trademark of "ライブドア" under Japanese law, specifying services including, in particular, agency for advertising in communications by computer terminals and communications by computer terminals.

The disputed domain name <ライブドア.com> was registered by the Respondent. According to the information registered at the WHOIS database of the Registrar (Document F-9 submitted by the Complainant), the record on this domain name was created on November 10, 2000. There is no evidence that shows the activity of the Respondent using this domain name.

5. Parties' Contentions

A. Complainant

The Complainant asserts in essence as follows:

- (1) The disputed domain name <ライブドア.com> is identical or confusing similar to the registered trademark of the Complainant under Japanese law;
- (2) The brand “ライブドア” has reached its current level of recognition after multi million dollar investment in far reaching PR/Marketing campaign and universally associated with the Complainant's service;
- (3) The Respondent should be considered as having no rights or legitimate interests in respect of the dispute domain name;
- (4) The disputed domain name was registered in bad faith in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name.

With regard to the item (4) above, the Complainant introduces the following evidences showing the Respondent's bad faith in its registration:

- The Respondent's registered address, “Higashi-cho, OSAKA, Osaka, JAPAN”, is fictitious and incomplete;
- The Respondent's phone and facsimile numbers, “+81-00-000-0000” and “123-123-1234” respectively, are fictitious and invalid;
- The Respondent's name, “Kubota, A”, is also incomplete.
- The Respondent has acquired 19 multilingual domain names on the same date and through the same registrar using the same fictitious and incomplete addresses, one of which is the disputed domain name;
- The Complainant cannot find where and how the Respondent is using the disputed domain name.

The Complainant accordingly requests a decision that the disputed domain name be transferred to the Complainant.

B. Respondent

There was no response filed.

6. Discussion and Findings

In accordance with Paragraph 4(a) of the Policy, for the complaint to be granted, the Complainant must prove each of the following:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- The Respondent has no rights or legitimate interests in respect of the domain name; and
- The disputed domain name has been registered and is being used in bad faith.

These requirements will be verified respectively.

Identical and Confusing Similarity

It is clear from the record that the disputed domain name <ライブドア.com> includes identical term “ライブドア” with the essential part of the Complainant’s company name and with its registered trademark under Japanese law. Absent the rebuttal from the Respondent, there is no reason to deny the finding that the first requirement is satisfied.

Legitimate Interests

According to the complaint, the Complainant could not find where and how the Respondent is using the disputed domain name. As the Respondent has not argued any rights or legitimate interests in respect of the disputed domain name, it is inevitable to conclude that the second requirement is also satisfied.

Bad Faith

As stated above, the Complainant pointed out several facts in order to prove that the disputed domain name was registered in bad faith. With regard to the information of the identification and location of the Respondent registered in the record of the Registrar, the Center also could not reach the Respondent using such information. Furthermore, in consideration of the fact that such information is identical in 19 multilingual domain names, one of which was the disputed one in this case, registered by the Respondent on the same date and through the same registrar using the same identification, it is obvious that the Respondent intentionally registered such fictitious or incomplete data in order to evade pursuit from anyone who would claim its rights or interests in its registered domain names. As the Respondent has not argued to the contrary, the third requirement can be admitted to be satisfied.

Accordingly, all three cumulative requirements as provided for in Paragraph 4(a) of the Policy are determined to be satisfied.

7. Decision

In accordance with Paragraphs 4(i) of the Policy and 15 of the Rules, the Panel decides that the disputed domain name <ライブドア.com>(bq—gdu2jvwjui) registered by the Respondent (Kubota, A.) to be transferred to the Complainant (Kabushiki Kaisha Raibudoa).

Masato Dogauchi
Sole Panelist

Dated: September 2, 2001