



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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<b>Case No.</b>	<b>HK-2401860</b>
<b>Complainant:</b>	<b>Gree Electric Appliances Inc. of Zhuhai</b>
<b>Respondent:</b>	<b>Tom Cruise</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;董明珠.com&gt;</b>

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### 1. The Parties and Contested Domain Name

The Complainant is **GREE ELECTRIC APPLIANCES INC. OF ZHUHAI**, with a principal address at Office 608, 108 Huitong 3rd Road, Hengqin New District, Zhuhai, China. The Complainant is represented by **CHOFN INTELLECTUAL PROPERTY** of 1217 12th Floor, No.68 West Road of North Fourth Ring, Haidian, Beijing 100081, China.

According to information supplied to the Complainant, the Respondent is **TOM CRUISE** of 3220 Executive Ridge Drive, Suite 101. 100080 Dublin, Colorado, United States of America.

The domain name at issue is <董明珠.com> (“**Disputed Domain Name**”), registered by the Respondent with **101domain GRS Limited** (the “**Registrar**”) of 3220 Executive Ridge, Suite 101, Vista, CA 92081.

### 2. Procedural History

The present complaint (the “**Complaint**”) was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “**Centre**”) on 16 January 2024 pursuant to the Uniform Domain Name Dispute Resolution Policy (the “**Policy**”) which was adopted by the Internet Corporation for Assigned Names and Numbers (the “**ICANN**”) and came into effect on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “**Rules**”) which became effective on 28 September 2013, and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy which became effective on 21 August 2023.

The Centre then issued a New Case Notification dated 16 January 2024 to the Registrar, requesting verification from the Registrar in relation to the Disputed Domain Name as well as the identity of the registrant or holder of the same. The Registrar subsequently, on or around 19 January 2024, issued its verification response to, among others, inform the Centre that the registrant of the Disputed Domain Name is Tom Cruise, as well as to confirm that the Policy applies to the Disputed Domain Name.

On 26 January 2024, the Centre verified that the Complaint satisfied the formal requirements of the Policy and the Rules.

The Centre sent a Written Notice of Complaint dated 26 January 2024 to the Respondent to, among others, notify the Respondent of the Complaint as well as to inform the Respondent of the requirement pursuant to Article 5 of the Rules to submit a response to the Complaint within 20 days from 26 January 2024 (on or before 15 February 2024). The Respondent failed to file a response by that due date or at all.

This Panel was then appointed by the Centre on 16 February 2024, and the case file was transferred to the Panel on the same day. Since the language of the Registration Agreement of the disputed domain name is in English, the language of the proceedings of this complaint should be English as well.

### **3. Factual background**

The Complainant, Gree Electric Appliances Inc. of Zhuhai, is a Chinese home appliances manufacturer headquartered in Zhuhai, Guangdong province. The Complainant is engaged in the manufacture of residential air-conditioners, as well as, among others, electric fans, water dispensers, heaters, rice cookers, air purifiers, water kettles, humidifiers, and induction cookers.

Trademarks over the name “董明珠” were registered with the China Trademark Office on 28 June 2016, and the Complainant is the named registrant of the aforesaid trademarks. The Complainant currently uses the “格力董明珠店” as one of its official flagship shops on a number of e-commerce platforms. Dong Mingzhu (Chinese name: 董明珠) is, at the time of the filing of the Complaint, the Chairperson and President of the Complainant.

The Complainant contends that prior to the registration of the Disputed Domain Name, the Complainant’s trademark 董明珠 had gained sufficient popularity in China; and as the Complainant’s Chairperson of the Board of Directors, Dong Mingzhu herself is a celebrity entrepreneur, whose exposure on the Internet and in the media is very high. According to the Complainant also, when the words “董明珠” are put into a search engine, the results will all point to the Complainant and its Chairperson, i.e., 董明珠. The Complainant therefore asserts that a unique correspondence (or correlation) has been formed between the name 董明珠 and themselves.

The Disputed Domain Name was registered on 11 December 2023. According to the information supplied by the Registrar, the Respondent is the named registrant of the Disputed Domain Name.

### **4. Parties’ Contentions**

#### **A. Complainant**

The Complainant’s contentions may be summarized as follows:

- i. The Complainant believes that the Disputed Domain Name can easily lead to consumer confusion.**

As set out above, the Complaint holds registered trademarks over the name “董明珠” with the China Trademark Office. The Complainant also contends that there is a unique correspondence or correlation between the name 董明珠 and themselves.

In the Disputed Domain Name “董明珠.com”, the “.com” is a generic top-level domain and is not distinctive, and the “.com” should be ignored in determining confusing similarity. With the suffix “.com” removed, the main identifying part of the Disputed Domain Name would be the same as the Complainant’s registered trademarks, i.e., “董明珠”.

Accordingly, the Complainant submits that the Disputed Domain Name contains all or at least one of the main features of the Complainant’s 董明珠 mark and is likely to cause confusion.

**ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.**

The Complainant contends that they have searched the China Trademark Database and did not find evidence to the effect that the Respondent has the right to use the trademark “董明珠”. Further, the Respondent is not a distributor or partner of the Complainant, and have also not been directly or indirectly authorized by the Complainant to use the trademark “董明珠” or any corresponding domain names. The Complainant also argues that the name of the Respondent is “Tom Cruise”, which makes it impossible for the Respondent to enjoy name rights over the name “董明珠”.

The Complainant therefore submits that the Respondent does not have any rights or legitimate interest in the Disputed Domain Name.

**iii. The Disputed Domain Name has been registered and is being used in bad faith.**

According to the Complainant, prior to the registration of the Disputed Domain Name, the Complainant’s trademark 董明珠 had gained popularity in China, and as the Complainant’s Chairperson, Dong Mingzhu herself is a celebrity entrepreneur whose exposure on the Internet and in the media is very high. As such, the Complainant submits that the Respondent knew or should have known about the existence of the Complainant’s 董明珠 trademark at the time of the registration of the Disputed Domain Name.

The Complainant further alleges that the Respondent sold the Disputed Domain Name for a price of at least several times higher than the cost of domain name registration, apparently for a profit.

The Complainant further contends that inference of bad faith would be supported by a clear absence of the Respondent’s own rights or legitimate interests over the trademark 董明珠, the manner in which the Disputed Domain Name incorporates

the Complainant's trademark, the contents of the website to which the Disputed Domain Name points, including among others the Respondents conduct, the reputation of the Complainant's trademark, the use of false contact details or privacy shields, or the failure to submit a response.

The Complainant therefore submits that the Respondent has registered and used the Disputed Domain Name in bad faith.

**iv. Remedies Sought:**

The Complainant requests that the Disputed Domain Name be transferred to the Complainant.

**B. Respondent**

The Respondent has not filed any response to the Compliant.

**5. Findings**

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

Although the Respondent has not filed any response to the Complaint, this Panel considers that the elements stipulated in Paragraph 4(a) of the Policy as set out above must nevertheless still be satisfied before a decision may be made in the Complainant's favour. This Panel will therefore now address each element under Paragraph 4(a) of the Policy in turn.

**A) Identical / Confusingly Similar**

The Complainant had put forward six (6) Trademark Registration Certificates issued by the (then) Trademark Office of State Administration for Industry and Commerce of the People's Republic of China (中华人民共和国国家工商行政管理总局 商标局) for the 董明珠 trademark. All six (6) Trademark Registration Certificates show a registration date of 28 June 2016 and are to remain valid until 27 June 2026. This Panel therefore finds that the Complainant has rights over the 董明珠 trademark.

Moving on to the Disputed Domain Name, this Panel observes, firstly, that the Disputed Domain Name "董明珠.com" wholly incorporates the Complainant's 董明珠 mark in a most dominant and recognizable manner. All the main identifying parts of the Complainant's trademark have been replicated in the Disputed Domain Name.

Further, the generic Top-Level Domain (gTLD) suffix “.com” is not distinctive, and should be ignored in determining whether the Disputed Domain Name exhibits confusing similarity (**Rohde & Schwarz GmbH & Co. HG v. Pertshire Marketing, Ltd., WIPO Case No. D2006-0762**). In the present Complaint, when the gTLD suffix “.com” is ignored, all that is left of the Disputed Domain Name is “董明珠”, which is largely if not completely identical to the Complainant’s registered trademark, 董明珠.

This Panel therefore finds that the Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, and that the first element of Paragraph 4(a) of the Policy is met.

## **B) Rights and Legitimate Interests**

The Complainant contends that:

- (1) they have searched the China Trademark Database and did not find evidence to the effect that the Respondent has the right to use the trademark “董明珠”;
- (2) the Respondent is not a distributor or partner of the Complainant, and have also not been directly or indirectly authorized by the Complainant to use the trademark “董明珠” or any corresponding domain names.; and
- (3) the name of the Respondent is “Tom Cruise”, which makes it impossible for the Respondent to enjoy name rights over the name “董明珠”.

Although it is the Complainant who has the burden to establish that the Respondent has no rights or legitimate interests in the Disputed Domain Name, this Panel finds that a *prima facie* case has been made out premised on the Complainant’s contentions as set out above. The burden therefore shifts to the Respondent to rebut such a *prima facie* case, which the Respondent have not attempted to do.

This Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the second element of Paragraph 4(a) of the Policy is met.

## **C) Bad Faith**

On the issue of bad faith, this Panel first addresses the Complainant’s allegation that the Respondent is selling the Disputed Domain Name for a price of at least several times higher than the cost of domain name registration, apparently for a profit. In support of that allegation, the Complainant had tendered a screen grab where the selling price of the Disputed Domain Name is reflected to be ¥781,923.75.

This Panel is of the view that abovementioned screen grab points towards the Respondent having registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to the owner of the trademark or service mark or to their competitor, for valuable consideration in excess of the Respondent’s documented out-of-pocket costs

directly related to the Disputed Domain Name. This, pursuant to Paragraph 4(b)(i) of the Policy, is evidence of the registration and use of a domain name in bad faith. This is further buttressed by the Complainant’s allegation that the Respondent registered the Disputed Domain Name “without using it”, which has not been contradicted by evidence.

Secondly, this Panel notes that an Internet search of the name 董明珠 would have brought the Respondent to the Complainant and/or Dong Mingzhu (see **Annex 8** to the Complaint). As such, this Panel finds that the Respondent knew or should have known about the existence of the Complainant’s 董明珠 trademark at the time of the registration of the Disputed Domain Name.

Thirdly, the Complainant has also submitted, premised on 3.2.1 of the WIPO Jurisprudential Overview 3.0, that an inference of bad faith could be supported by among others the use of (false) contact details or a privacy shield to hide the registrant’s identity. In this respect, although not expressly raised by the Complainant, it would be remiss of this Panel not to take note of the similarity between the address of the Respondent as set out in the WHOIS information supplied by the Registrar and the address of the Registrar of the Disputed Domain Name:

Address of Respondent	Address of Registrar
<u>3220 Executive Ridge Drive, Suite 101</u> , 100080 Dublin, Colorado, United States of America	<u>3220 Executive Ridge, Suite 101</u> , Vista, CA 92081

The Respondent and the Registrar somehow have the same building number, street name, and suite number as each other despite being located across two different states. This Panel therefore has to also consider the possibility that false contact details have been used for the registration of the Disputed Domain Name, which is a factor pointing towards the conclusion that the Disputed Domain Name was registered in bad faith.

In the upshot, this Panel finds that the Respondent’s domain name has been registered and is being used in bad faith, and that the third element of Paragraph 4(a) of the Policy is met.

## 6. Decision

For all the foregoing reasons, in accordance with Paragraph 4(1) of the Policy and Paragraph 15 of the Rules, this Panel directs that the Disputed Domain Name <董明珠.com> be transferred to the Complainant forthwith.

  
Chew Kherk Ying  
Panellist

Dated: 27 February 2024