



**.hk Domain Name Dispute Resolution**  
**ARBITRATION PANEL DECISION**

Complainant: Etude Corporation  
Respondent: HKCOSMETIC.ORG  
Case Number: DHK1300089  
Contested Domain Name: <etudehouse.com.hk>  
Panel Member: Paul STEPHENSON

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**1. Parties and Contested Domain Name**

The Complainant is Etude Corporation of 4F West Wing, Signature Tower, 100 Cheonggyecheon-ro, Jung-gu, Seoul, South Korea being a legal entity incorporated under the laws of South Korea.

The Respondent is HKCOSMETICS.ORG of Flat/Room 33-1-24 2/F., Comm Complex, Tai Po, New Territories. The legal status of the Respondent is unknown.

The domain name at issue is <etudehouse.com.hk> registered by Respondent with Hong Kong Internet Registration Corporation through their subsidiary Hong Kong Domain Name Registration Company Limited.

**2. Procedural History**

The complaint was received by the Hong Kong International Arbitration Centre ("HKIAC") on 11 January 2013 and this was forwarded to the Respondent by the HKIRC on the same day. The Respondent was informed that the Complaint would be examined according to the Hong Kong Domain Name Dispute Resolution Policy Rules of Procedure and the Supplemental Rules of the HKIAC.

No response has been received by HKIAC from the Respondent.

**3. Factual Background**

### For the Complainant

The Complainant asserts that its trade marks ETUDE and ETUDE HOUSE have been registered in many countries and those words form the subject of over 200 different trade mark registrations including 7 trade mark registrations in Hong Kong. It appears the trade marks ETUDE and ETUDE HOUSE have been used since 1995 and since 2005, the annual value of exports of trade marked products of the Complainant has varied between, in round numbers, US\$7 million to nearly US\$12 million.

### For the Respondent

No information has been provided by the Respondent.

## **4. Parties' Contentions**

### The Complainant

Based upon the extensive scheme of statutory trade mark registrations (including, in particular, the Hong Kong trade mark registrations) and the extensive use that has been claimed, the Complainant asserts that registration by the respondent of ETUDE HOUSE as part of a domain name without the permission of the Complainant amounts to trade mark infringement and passing off.

### The Respondent

No contentions have been received from the Respondent.

## **5. Findings**

According to Paragraph 4a of the HKDNR Domain Name Dispute Resolution Policy (the "Policy") which is applicable hereto, the Complainant has the burden of proving that:

- (i) the Disputed Domain is identical or confusingly similar to a trade mark or service mark in Hong Kong in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain; and
- (iii) the Disputed Domain has been registered and is being used in bad faith; and
- (iv) if the Disputed Domain Name is registered by an individual person, the Registrant does not meet the registration requirements for that individual category of Domain Name.

**(1). Identical/confusing similarity**

The contested domain name <etudehouse.com.hk> takes an identical registered trade mark of the Complainant, ETUDE HOUSE being *inter alia* a Hong Kong Registered Trade Mark. I consider that the word "HOUSE" in the context of cosmetic products is not a distinguishing feature of the trade mark and does nothing to negate confusion with the trade mark ETUDE alone. The contested domain name <etudehouse.com.hk> therefore incorporates a similar registered trade mark of the Complainant, that is to say, ETUDE.

**(2). Rights or Legitimate Interests of Respondent**

No justification has been put forward by the Respondent.

**(3). Bad faith**

In the absence of any justification by the Respondent for adopting a domain name that is identical and/or similar to the registered and apparently widely used trade marks of the Complainant, I find there is bad faith on the part of the Respondent within paragraph 4a of the Policy.

**(4). If the Disputed Domain Name is registered by an individual person, the Registrant does not meet the registration requirements for that individual category of domain name**

In the absence of any information from the Respondent about its legal capacity I do not intend to comment on this issue and I consider it would be wrong for me to speculate about the capacity of the Respondent.

**6. Conclusions**

On the information made available to me and in the absence of any representations made by the Respondent, I have to conclude that this is a standard case of so-called "Cybersquatting" in which a (usually well-known) trade mark is registered by a third party as a domain name without first obtaining the consent or license of the trade mark owner.

I can see no reason for refusing the Complainant's application for the domain name <etudehouse.com.hk> to be transferred to the Complainant.

I ORDER that the domain name <etudehouse.com.hk> be transferred to the Complainant.

Dated 13th March 2013

*P. Stephenson*

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PAUL STEPHENSON