



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Chen Hui, Gname

Case No. D2021-0240

1. The Parties

The Complainant is International Business Machines Corporation, United States of America (“United States”), internally represented.

The Respondent is Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <helloibm.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2021. On January 27, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 28, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 2, 2021.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 5, 2021. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 3, 2021.

The Center appointed Jonathan Agmon as the sole panelist in this matter on March 8, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, International Business Machines Corporation, commonly known as “IBM”, was incorporated on June 16, 1911 and is a world-famous manufacturer of a wide array of products, including computers and computer hardware, software and accessories. The Complainant officially became International Business Machines on February 14, 1924. The Complainant has been offering products under the trademark IBM ever since. In 2020, the Complainant was ranked the 14th most valuable global brand by BrandZ, the 14th best global brand by Interbrand, the 38th largest company on the Fortune U.S. 500 list, and the 118th largest company on the Fortune Global 500 list.

The Complainant devotes substantial resources toward maintaining and building its products and reputation in the IBM trademark. The Complainant spends over USD 1 billion annually marketing its goods and services globally, using the IBM trademark, and has undertaken extensive efforts to protect its name and enforce the IBM trademark.

The Complainant owns numerous trademark registrations for the mark IBM in the United States, including but not limited to the following:

- Registration No. 4,181,289 registered on July 31, 2012;
- Registration No. 3,002,164 registered on September 27, 2005;
- Registration No. 1,696,454 registered on June 23, 1992;
- Registration No. 1,694,814 registered on June 16, 1992;
- Registration No. 1,243,930 registered on June 28, 1983;
- Registration No. 1,205,090 registered on August 17, 1982;
- Registration No. 1,058,803 registered on February 15, 1977; and
- Registration No. 640,606 registered on January 29, 1957.

The disputed domain name <helloibm.com> was registered on November 20, 2020, and according to the Complaint, the disputed domain name resolved to an active website with links to online gambling websites. Currently, the disputed domain name is inactive.

5. Parties' Contentions

A. Complainant

The Complainant's contentions include the following:

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered IBM mark as the disputed domain name wholly incorporates the IBM mark and the word “hello” along with a generic Top-Level Domain (“gTLD”) “.com”, that are insufficient to avoid confusing similarity.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith for illegitimate commercial gain by creating a likelihood of confusion with the Complainant's IBM mark.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain name integrates the Complainant's IBM mark in its entirety, in addition to the word "hello". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#) ("WIPO Overview 3.0"), [section 1.8](#). The Complainant's mark at the end of the disputed domain name is clearly recognizable within the disputed domain name.

Further, it is well established that the addition of the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0, section 1.11.1](#).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0, section 2.1](#)).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations long before the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, [WIPO Case No. D2010-0138](#)).

There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name (see [WIPO Overview 3.0, section 2.3](#)). Moreover, the disputed domain name resolved to a pay-per-click website offering online gambling services, which does not constitute a legitimate or *bona fide* use (see [WIPO Overview 3.0, section 2.9](#)). Currently, the disputed domain name is inactive.

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence showing that the disputed domain name resolved to an active website providing links for online gambling. It is well-established that the use of a domain name which incorporates a complainant's trademark for such purposes to attempt to attract Internet users for commercial gain constitutes bad faith conduct under paragraph 4(a)(iii) of the Policy. Similarly, the Panel finds that the use of the disputed domain name in the present case constitutes evidence of bad faith registration and use of the disputed domain name. The fact that the disputed domain name currently does not resolve to an active website does not prevent a finding of bad faith.

Further, the disputed domain name is confusingly similar to the Complainant's IBM mark which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, [WIPO Case No. D2006-1095](#)). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the UDRP.

In addition, the Complainant also submitted evidence that it had issued two cease and desist letters to the Respondent prior to the commencement of the proceedings to which the Respondent never responded. The Panel draws a further adverse inference from the conduct of the Respondent.

The Respondent also did not submit a Response in this proceeding. This may be a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the registration of the disputed domain name after the registration of the Complainant's trademark, the confusing similarity between the disputed domain name and the Complainant's trademark, the Respondent's use of the disputed domain name, and the failure of the Respondent to submit a response, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <helloibm.com> be transferred to the Complainant.

Jonathan Agmon
Sole Panelist
Date: March 22, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Chen Hui, Gname

Case No. D2021-0334

1. The Parties

The Complainant is International Business Machines Corporation, United States of America (“United States”), internally represented.

The Respondent is Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <520ibm.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 3, 2021. On February 3, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 3, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 4, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 4, 2021.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 5, 2021. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 26, 2021.

The Center appointed Jonathan Agmon as the sole panelist in this matter on March 8, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, International Business Machines Corporation, commonly known as “IBM”, was incorporated on June 16, 1911 and is a world-famous manufacturer of a wide array of products, including computers and computer hardware, software and accessories. The Complainant officially became International Business Machines on February 14, 1924. The Complainant has been offering products under the trademark IBM ever since. In 2020, the Complainant was ranked the 14th most valuable global brand by BrandZ, the 14th best global brand by Interbrand, the 38th largest company on the Fortune U.S. 500 list, and the 118th largest company on the Fortune Global 500 list.

The Complainant devotes substantial resources toward maintaining and building its products and reputation in the IBM trademark. The Complainant spends over USD 1 billion annually marketing its goods and services globally, using the IBM trademark, and has undertaken extensive efforts to protect its name and enforce the IBM trademark.

The Complainant owns numerous trademark registrations in the United States, including but not limited to the following:

- Registration No. 4181289 for IBM registered on July 31, 2012;
- Registration No. 3,002,164 for IBM registered on September 27, 2005;
- Registration No. 1696454 for IBM registered on June 23, 1992;
- Registration No. 1694814 for IBM registered on June 16, 1992;
- Registration No. 1243930 for IBM registered on June 28, 1983;
- Registration No. 120090 for IBM registered on August 17, 1982;
- Registration No. 1058803 for IBM registered on February 15, 1977; and
- Registration No. 640606 for IBM registered on January 29, 1997.

The disputed domain name was registered on November 26, 2020, and resolves to an active website with links to pornographic and online gambling websites.

5. Parties' Contentions

A. Complainant

The Complainant's contentions include the following:

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered IBM mark as the disputed domain name wholly incorporates the IBM mark and the numbers “520” along with a generic Top-Level Domain (“gTLD”) “.com”, that are insufficient to avoid confusing similarity.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith for illegitimate commercial gain by creating a likelihood of confusion with the Complainant's IBM mark and thereby disrupting the business of the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain name integrates the Complainant's IBM mark in its entirety, in addition to the numbers "520". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#) ("WIPO Overview 3.0"), [section 1.8](#). In the present case, the addition of the numbers "520", which could stand for the old IBM eServer i5 Model 520 or IBM Power 520, does not obviate confusing similarity since the disputed domain name contains the Complainant's mark in whole. The Complainant's mark at the end of the disputed domain name is clearly recognizable within the disputed domain name.

Further, it is well established that the addition of the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0, section 1.11.1](#).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0, section 2.1](#)).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations long before the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, [WIPO Case No. D2010-0138](#)).

There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name (see [WIPO Overview 3.0, section 2.3](#)). Moreover, the disputed domain name resolves to a pay-per-click website offering pornography and online gambling services, which does not constitute a legitimate or *bona fide* use (see [WIPO Overview 3.0, section 2.9](#)).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence showing that the disputed domain name redirects to an active website providing links for pornography and online gambling. It is well-established that the use of a domain name which incorporates a complainant's trademark for posting of pornographic content and/or related services constitutes evidence of bad faith registration and use of a domain name (see *Coral Trademarks, Ltd. v. Eastern Net, Inc.*, [WIPO Case No. D2000-1295](#) ("The posting of pornographic contents on a web site under a domain name that corresponds to a third party's mark is a bad faith use of a domain name"); *America Online, Inc. v. Viper*, WIPO Case No. D2000-1198 ("The use of AOL as part of a domain name offering pornographic products and services certainly 'tarnishes' Complainant's existing marks, which is also evidence of bad faith"); *Valor Económico S.A. v. Daniel Allende*, [WIPO Case No. D2001-0523](#) ("Complainant has proved that Respondent linked the <valoreconomico.net> web page to adult content or pornographic sites. This is a typical bad faith use of the domain name."); *ABB Asea Brown Boveri Ltd. v. Quicknet*, [WIPO Case No. D2003-0215](#) ("The use of ABB as part of a domain name offering pornographic material certainly tarnishes the Complainant's existing marks, which is also evidence of bad faith."); *Six Continents Hotels, Inc. v. Seweryn Nowak*, [WIPO Case No. D2003-0022](#). ("Preliminary, it is commonly understood, under WIPO case law, that whatever the motivation of Respondent, the diversion of the domain names to a pornographic site is itself certainly consistent with the finding that the Domain Name was registered and is being used in bad faith.") Similarly, the Panel finds that the use of the disputed domain name in the present case constitutes evidence of bad faith registration and use of the disputed domain name.

Further, the disputed domain name is confusingly similar to the Complainant's IBM mark which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. D2006-1095). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the UDRP. The Complainant also submitted that the numbers "520" in the disputed domain name could stand for the old IBM eServer i5 Model 520 or IBM Power 520, which indicates that the Respondent had knowledge of and was aware of the Complainant at the time of registration. This is another indication of bad faith behavior on the part of the Respondent as it indicates that the Respondent specifically targeted the Complainant.

In addition, the Complainant also submitted evidence that it had issued two cease and desist letters to the Respondent prior to the commencement of the proceedings to which the Respondent never responded. The Panel draws a further adverse inference from the conduct of the Respondent.

The Respondent also did not submit a Response in this proceeding. This may be a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the registration of the disputed domain name after the registration of the Complainant's trademark, the confusing similarity between the disputed domain name and the Complainant's trademark, the Respondent's use of the disputed domain name, and the failure of the Respondent to submit a response, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <520ibm.com> be transferred to the Complainant.

Jonathan Agmon

Sole Panelist

Date: March 22, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. chen hui, gname

Case No. D2021-0638

1. The Parties

The Complainant is International Business Machines Corporation, United States of America, represented internally.

The Respondent is chen hui, gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <ibmapc.com> is registered with CNOBIN Information Technology Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 2, 2021. On March 2, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 26, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 26, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 26, 2021.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 1, 2021. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 23, 2021.

The Center appointed C. K. Kwong as the sole panelist in this matter on May 7, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the owner of trademarks consisting of or embodying the three letters “IBM” whether in plain or stylized form. The registrations for these trademarks include the following trademark registrations in the United States of America:-

Mark	Registration No.	Registration date	International Class(es)
IBM	640606	January 29, 1957	9
IBM	1058803	February 15, 1977	1, 9, 10, 16, 28, 37, 41 and 42
IBM stylized	1205090	August 17, 1982	1, 7, 9, 16, 37, and 41
IBM	1243930	June 28, 1983	42
IBM	1694814	June 16, 1992	36
IBM stylized	1696454	June 23, 1992	36
IBM stylized	3002164	September 27, 2005	9
IBM stylized	4181289	July 31, 2012	9, 16, 18, 20, 21, 22, 24, 25, 28, 35 and 41

The disputed domain name <ibmapc.com> was registered on December 9, 2020 by the Respondent. According to the Amended Complaint and relevant evidence, the disputed domain name resolved to a website which relates to online gambling and links to other online gambling websites (Annexes 10 and 11 to the Amended Complaint).

The uncontradicted evidence produced by the Complainant shows that the registration of its IBM word mark took place long before the registration of the disputed domain name <ibmapc.com> on December 9, 2020.

Other than the particulars shown in the printout of the database searches conducted by the Complainant against the Whois database (as provided in Annex 1 to the Amended Complaint) and the website to which the disputed domain name resolves (as provided in Annexes 10 and 11 to the Amended Complaint) and the Whois database search results updated to April 1, 2021 provided by the Center, there is no evidence in the case file concerning the background of the Respondent and its business.

5. Parties' Contentions

A. Complainant

The Complainant has made the following contentions:-

The Complainant is a leading innovator in the design and manufacture of a wide range of products that record, process, communicate, store and retrieve information, including computers and computer hardware, software and accessories.

The IBM trademark is a world-famous trademark, tracing its roots to the 1880s. Since it officially became International Business Machines on February 14, 1924, the Complainant has been offering products under the trademark IBM ever since.

The Complainant introduced its first large vacuum tube computer under the name IBM 710 in 1952, and since then has continuously used the trademark IBM in association with computers and computer hardware, software and accessories.

As a result of the high quality of goods and services which the Complainant has provided to its customers for over 100 years and its reputation as one of the premier manufacturers of computer and computer related goods and services throughout the world, the Complainant's name and the IBM trademark have become famous and valuable assets. The Complainant has continued to devote substantial resources toward maintaining and building these assets.

The Complainant spends over USD 1 billion annually marketing its goods and services globally, using the IBM trademark and has undertaken extensive efforts to protect its name and enforce the IBM trademark.

In 2020, the Complainant was ranked the 14th most valuable global brand by BrandZ, the 14th best global brand by Interbrand, the 38th largest company on the Fortune US 500 list, and the 118th largest company on the Fortune Global 500 list. The IBM trademark was valued by BrandZ to worth over USD 83 billion in 2020.

The disputed domain name consists of the letters "ibm" followed by the letters "apc" and the generic suffix ".com". The letters "ibm" contained in the disputed domain name are exactly the same as the IBM trademark. The only difference is the addition of the letters "apc". This minor variation does not obviate the confusing similarity between the disputed domain name and the IBM trademark. The disputed domain name is identical or confusingly similar to Complainant's registered trademark.

The Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the IBM trademark or to apply for any domain name incorporating such trademark. There is no evidence that "ibm" or "ibmapc" is the name of the Respondent's corporate entity, nor is there any evidence of fair use.

The Respondent has intentionally attempted to create a likelihood of confusion by using the disputed domain name containing the IBM trademark to increase Internet user traffic for its online gambling websites.

Such unauthorized use of the IBM trademark by the Respondent is likely to mislead consumers into believing that the Complainant is somehow affiliated with the Respondent or endorses its commercial activities, when it is not.

The Respondent was well aware of the Complainant's trademark at the time of registration of the disputed domain name on December 8, 2020 as the Complainant's IBM trademark is well known around the world and extensively registered worldwide.

The Complainant sent a cease and desist letter to the Respondent on January 15, 2021 asking the Respondent to disable and transfer the disputed domain name to the Complainant. A follow up letter was sent to the Respondent on February 3, 2021. The Respondent did not reply to them but continued to use the disputed domain name for its website with gambling contents.

The website to which the disputed domain name resolves extensively use click through features to direct users to other online gambling websites, to generate more traffic to its gambling websites and to make more money. All the above in combination are conclusive proof that the disputed domain name was registered and being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Notice of Proceedings

Having considered the records in the case file, the Panel is satisfied that the Center has discharged its responsibility under paragraph 2(a) of the Rules to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint and that the failure of the Respondent to furnish a Response is not due to any apparent omission or inadequate communication by the Center. It is further noted that receipt for delivery of the Notification of Complaint and Commencement of Administrative Proceedings under Waybill No. 7264976795 was signed on April 5, 2021.

B. The Three Elements

In rendering its decision, the Panel must adjudicate the dispute in accordance with paragraph 15(a) of the Rules which provides that, "[t]he Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 14(b) of the Rules further provides that, "[i]f a Party, in the absence of exceptional circumstances, does not comply with any provisions of, or requirement under these Rules or any requests from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate".

The said three elements are considered below.

1. Identical or Confusingly Similar

On the evidence available before the Panel, it has no hesitation in finding that the Complainant has rights in the trademark IBM by reason of its trademark registrations as recited in Section 4 above.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name, see *Banconsumer Service, Inc. v. Mary Langthorne, Financial Advisor*, [WIPO Case No. D2001-1367](#). In cases

where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The distinctive feature of the disputed domain name in this case is the first three letters “ibm”, being the Complainant’s trademark IBM in its entirety. It is followed by the addition of the three letters “apc” which is then further followed by the generic Top-Level Domain (“gTLD”) “.com”.

It is well-established practice to disregard the gTLD “.com”, when assessing whether a domain name is identical or confusingly similar to the mark in issue. *Société Anonyme des Eaux Minerales d’Evian and Société des Eaux de Volvic v. Beroca Holdings B.V.I. Limited*, [WIPO Case No. D2008-0416](#). It is well recognized that for general consumers, the first syllables are generally more important. In this case, the first syllables of the disputed domain name are “ibm” being the three letters comprising the Complainant’s unique IBM trademark.

While the letters “apc” by themselves do not constitute a pronounceable word, the expression comprising the letters “pc” is commonly recognized as the abbreviation for “personal computer”, being one of the important line of goods designed, manufactured and/or marketed by the Complainant while the letter “a” merely serves the function of an indefinite article before a singular noun.

The Panel finds that the disputed domain name is identical or confusingly similar to the Complainant’s trademark IBM.

Accordingly, the first element of paragraph 4(a) of the Policy is established.

2. Rights or Legitimate Interests

The Complainant needs to establish a *prima facie* case showing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, [WIPO Case No. D2003-0455](#). Once such *prima facie* case is made, the burden will shift to the Respondent to prove that it has rights or legitimate interests in the disputed domain name.

In the present case, there is *prima facie* evidence of the Complainant’s asserted registration and use of the registered trade mark IBM well before the Respondent’s registration of the disputed domain name <ibmapc.com> on December 5, 2020. Further, the Panel notes that the names of the registrant and the registrant organization do not correspond in any way with the disputed domain name. From the evidence available to the Panel, the Respondent does not appear to be commonly known as <ibmapc.com>. There is also no evidence available to demonstrate any legitimate noncommercial or fair use of the disputed domain name by the Respondent.

There is no legitimate explanation on the record as to why it was necessary for the Respondent to adopt the word “ibmapc” in its domain name.

The Complainant has also confirmed that it has not licensed the Respondent to use its trademark IBM in any way.

The Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name and the second element of paragraph 4(a) of the Policy is established.

3. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides for four situations under which a conclusive presumption of registration and use in bad faith on the part of the respondent will be invoked, namely:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (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 the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service of the respondent's website or location.

However, it also specifically provides that the circumstances under which bad faith can be proved are without limitation. Put differently, the presumptions under paragraph 4(b) of the Policy are not exhaustive evidence of the way in which registration and use of a domain name in bad faith may be proved.

Given the Complainant's uncontradicted claim of registration of its trade mark IBM and long extensive use of that mark well before the registration of the disputed domain name in 2020, the Respondent will need to come forward with a strong case in order to defend itself. Unfortunately, the Respondent has not come forward with any defence.

Prior UDRP panels have held that failure to respond to a cease and desist letter can be evidence of bad faith. Any such bad faith is compounded when the domain name owner, upon receipt of notice that the domain name is identical to a registered trademark, refuses to respond and continues with the activity complained of. Such conduct is not consistent with what one would reasonably expect from a good faith registrant and accused of cybersquatting.

By using whether directly or indirectly, authorizing or permitting the use of the disputed domain name by the operators of the site in the manner and circumstances described in this sub-section and those under subsections 1 and 2 above, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to go to the said website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or products on the website. The Panel accordingly finds that paragraph 4(b)(iv) of the Policy has also been invoked.

From the materials presently presented to the Panel, it is also not possible to foresee any plausible genuine use of the disputed domain name by the Respondent or the operator of the website in question.

The Panel finds that the domain name has been registered and is being used in bad faith under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <ibmapc.com> be transferred to the Complainant.

C. K. Kwong

Sole Panelist

Date: May 21, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Dell Inc. v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname

Case No. D2021-0721

1. The Parties

The Complainant is Dell Inc., United States of America (“United States” or “US”), represented by Simone Intellectual Property Services Asia Limited, Hong Kong, China.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States / Chen Hui, Gname, Singapore.

2. The Domain Names and Registrar

The disputed domain names <dellagent.com>, <dellnetshop.com>, and <qjfdell.com> are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2021. On March 10, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 11, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 11, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 15, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 17, 2021. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 7, 2021.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on April 13, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, Dell Inc., is a world leader in computers, computer accessories, and other computer-related products and services. It has developed a family of businesses, collectively known as “Dell Technologies”, that offers products and services related to technology, software, security, and other products.

Dell Technologies provides the essential infrastructure for organizations to build their digital future, transform IT, and protect their most important asset, information. Over the years the Complainant has invested heavily in marketing its products, devoted hundreds of millions of USD to advertising and promoting its products and services through media in many countries, including television, radio, magazines, newspapers, and the Internet.

The Complainant sells its products and services in over 180 countries, including China. In the fiscal year 2019 it generated USD 91.3 million in revenue and was listed as No. 35 on Fortune 500. The Complainant refers to its official US website “www.dell.com” and its official Chinese website “www.dell.com/zh-cn/shop.”

The Complainant has used the mark DELL and other marks incorporating DELL for many years for computer-related products and services. At Annex 4 to the complaint the Complainant exhibits details of the US marks relied upon. These are:

DELL TECHNOLOGIES No. 5651864 registered January 15, 2019.

DELL (logo) No. 1860272 registered October 25, 1994.

DELL (logo) No. 3215023 registered March 6, 2007.

DELL No. 2236785 registered April 6, 1999.

DELL No. 2794705 registered December 16, 2003.

DELL No. 2806789 registered January 20, 2004.

DELL No. 2806770 registered October 28, 2003.

DELL No. 2808852 registered January 27, 2004.

All of these registrations pre-date the registration of the disputed domain names on January 1, 2021.

The disputed domain names resolve to websites offering “adult content”.

5. Parties’ Contentions

A. Complainant

The Complainant submits:

- i. On the evidence the Complainant owns registered and unregistered trade mark rights in the mark DELL and that the three disputed domain names are confusingly similar to the mark DELL;
- ii. There is no evidence that the Respondent has rights or legitimate interests in the disputed domain names;
- iii. The evidence shows that in registering and using the disputed domain names the Respondent is shown to have been “targeting” the Complainant’s mark DELL and that the Respondent has been using them to access websites, which it has set up and is operating offering “adult content”.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The evidence of the Complainant's registered trade marks for the mark DELL set out in section 4 above establishes that it owns registered rights in the mark DELL.

It is also established from the evidence of the Complainant's use of the mark DELL worldwide that it has acquired "substantial fame and recognition on a global basis" entitling it to unregistered rights in the mark DELL.

The disputed domain name <dellnetshop.com> consists of "dell" plus "net" plus "shop"; "net" and "shop" are descriptive of activities undertaken in conjunction with "dell" or as put by the Complainant, "a netshop operated by Dell". In the Panel's view, the disputed domain name <dellnetshop.com> is confusingly similar to the mark DELL.

The disputed domain name <dellagent.com> consists of "dell" plus "agent", which, as put by the Complainant is descriptive of "an agent of Dell". In the Panel's view, the disputed domain name <dellagent.com> is confusingly similar to the mark DELL.

The disputed domain name <qjfdell.com> consists of the meaningless combination of the letters "qjfd" plus "dell". The fact that the letters are essentially meaningless does nothing to avoid the confusing similarity between this disputed domain name and the mark DELL.

The Panel also takes into account that it is well-established that the addition of the generic Top-Level Domain ".com" can be disregarded in considering confusing similarity.

Accordingly and in the absence of evidence to the contrary the Panel finds that the disputed domain names are confusingly similar to the mark DELL in which the Complainant has registered trade mark rights within paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant relies upon the fact that it has not authorized the Respondent to use the mark DELL. It has not licensed or otherwise authorized the Respondent to use the mark DELL and in particular to register domain names incorporating DELL.

There is no evidence that the Respondent is commonly known by any of the disputed domain names. The Complainant submits that there is no evidence of a legitimate, noncommercial or fair use of any of the disputed domain names. To the contrary, the evidence of the Respondent's use adduced by the Complainant (set out in section 6C below) demonstrates that the disputed domain names were registered for the purpose of trading off the Complainant's name, reputation and goodwill in the mark DELL.

In the absence of evidence to the contrary, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that as a result of its use, the DELL mark, has acquired substantial fame and recognition. This is supported by the evidence of use adduced by the Complainant.

In the absence of any evidence to the contrary from the Respondent, the Panel finds the Complainant's evidence set out above to be true.

The Complainant submits that the disputed domain names were "maliciously" registered by the Respondent with "clear" knowledge of the Complainant's registered marks DELL. This is as a result of the "high degree" of reputation and recognition amongst relevant consumers on a global basis. The evidence of the Complainant's long-term and extensive promotion of its goods and services globally under the mark DELL shows that it has achieved an "overwhelming reputation" in the mark DELL, which the Respondent would have had full knowledge of.

The Complainant relies upon the fact that the Respondent chose to utilize the mark DELL because it would have had a "clear awareness" of the mark.

The Complainant also relies upon the fact that all three of the disputed domain names resolve to websites set up by the Respondent and which offer "adult content". Print outs of the content of the three websites are exhibited as Annex 5 to the Complaint and which the Panel finds contain "adult content".

In the Panel's view, there is no legitimate use of the disputed domain names by the Respondent. The Respondent is exploiting the Complainant's rights in the mark DELL to attract Internet users to its websites so as to access the "adult content". This will inevitably damage the Complainant's goodwill in its mark. The Panel also takes into account that "*per se* illegitimate activity", which in the Panel's view would include "adult content" can never confer rights or legitimate interest on a Respondent and is manifestly considered evidence of bad faith. (See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#) ("WIPO Overview 3.0"), [section 3.1.4](#)).

In the absence of a Response, the Panel finds that the disputed domain names were registered and are being used by the Respondent in bad faith within paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names; <dellagent.com>, <dellnetshop.com>, and <qjfdell.com>, be transferred to the Complainant.

Clive Duncan Thorne
Sole Panelist
Date: April 22, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

SODEXO v. Domain ID Shield Service, Domain ID Shield Service CO, Limited / zhang yan sheng, GNAME. COM PTE. LTD.

Case No. D2021-0790

1. The Parties

The Complainant is SODEXO, France, represented by Areopage, France.

The Respondent is Domain ID Shield Service, Domain ID Shield Service CO., Limited, China / zhang yan sheng, GNAME. COM PTE. LTD., Singapore.

2. The Domain Name and Registrar

The disputed domain name <sodexbo.com> is registered with OnlineNic, Inc. d/b/a China-Channel.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 17, 2021. On March 17, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 22, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 25, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 29, 2021. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 23, 2021.

The Center appointed Andrew Brown Q.C. as the sole panelist in this matter on May 5, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is SODEXO. It is one of the largest companies in the world to specialize in foodservices and facility management. The Complainant is also one of the largest employers worldwide. It has 460,000 employees in 72 countries.

The Complainant has operated since 1966. It has offered its services under the brand SODEXO since at least 2008. Before that it was known as SODEXHO (with an h). Both versions of its brand are trademarked.

SODEXO Mark

The Complainant owns various trademark registrations globally for the SODEXO mark. These include European Union Trademark No. 006104657 (registered June 27, 2008); and International Registration No 1240316 for the word mark (registered October 23, 2014) in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45. The Complainant's trademark SODEXO is continuously and extensively used and protected in 67 countries (*e.g.* International trademark number 964615 for SODEXO, registered on January 8, 2008). These registrations are collectively referred to as the "SODEXO Mark".

SODEXHO Mark

The Complainant also owns multiple registrations for SODEXHO logo in many countries and two international registrations for that earlier iteration of its brand, SODEXHO. These are International Registration No. 689106 and International Registration No. 694302 in classes 16, 36, 37, 39, 41 and 42 and (separately) class 9, and collectively referred to as the "SODEXHO Mark".

The Complainant's Domain Names

The Complainant owns various domain names which incorporate its SODEXO mark, including <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr> and <sodexho.com>. The Complainant uses the associated websites to connect with consumers, and to inform them of its products and services.

The disputed domain name <sodexbo.com> was registered on February 26, 2021. At the time the complaint was filed and at the time of this decision it is currently inactive, and is owned by an entity whose identity is shielded by the named Respondent. Because the named respondent is an agent for the owner of the disputed domain name, subsequent references to "the Respondent" in this decision are references to that unknown owner.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- (i) The disputed domain name is identical or confusingly similar to the Complainant's trademarks SODEXO and SODEXHO; and
- (ii) The Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) The Respondent registered and is using the disputed domain name in bad faith.

Specifically, the Complainant contends that it owns the SODEXO Mark, and that the mark is well-known to consumers (since the Complainant states it has over 100 million consumers in 67 countries, and significant annual revenues totaling over EUR 22 billion in Fiscal Year 2019).

The Complainant further contends that there is close similarity between the spelling of the disputed domain name <sodexbo.com> and the SODEXO Mark. The only difference between the signs is the addition of the letter "b" between the letters "x" and "o". The Complainant contends the public could undoubtedly believe that disputed domain name is associated with the Complainant.

The Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name, and further has registered and is using it in bad faith. It says its SODEXO Mark would have been well known to the Respondent and contends that the disputed domain name is characteristic of typosquatting practice intended to create confusing similarity between the Complainant's Mark. The Complainant submits it fears a possible fraudulent use of the domain name to perpetrate phishing email scams because the Complainant has been regularly targeted in the past and the Respondent's identity is shielded.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

As already noted the Complainant has registered trademarks for both its SODEXO Mark and its SODEXHO Mark. The Complainant's business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels. See *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* [WIPO Case No. D2020-1580](#); *Sodexo v. WhoisGuard Protected, WhoisGuard, Inc. / New World*, [WIPO Case No. DCO2020-0021](#); *Sodexo v. Contact Privacy Inc. Customer 1247228940*, WIPO Case No. 2020-1281. The Panel finds the Complainant has rights in the SODEXO Mark and the SODEXHO Mark.

The disputed domain name incorporates the Complainant's SODEXO Mark in full. The disputed domain name contains the additional letter "b" between the "x" and the "o". The Panel considers this additional "b" does not prevent a finding of confusing similarity because the SODEXO Mark remains clearly visible in the disputed domain name. The Panel also finds that the lower case "b" in the disputed domain name is confusingly similar in form and appearance to the lower case "h" in the SODEXHO Mark.

The Panel therefore finds that Complainant has satisfied the first UDRP element, in showing that the disputed domain name is confusingly similar to a trademark in which Complainant has.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish that it has rights or legitimate interests in the disputed domain name by, among other circumstances, showing any one of the following elements:

- (i) that before notice of the dispute, the Respondent used or made demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) that the Respondent has been commonly known by the disputed domain name, even if it had acquired no trademark or service rights; or
- (iii) that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name lies with the Complainant.

The Complainant has stated, and the Panel accepts, that the Respondent has no rights or legitimate interests in the disputed domain name. In this respect, the Panel also accepts that the Respondent is not commonly known by the disputed domain name and has not acquired any rights (registered or otherwise) in the SODEXO/ SODEXHO Marks or names.

Further the Panel is satisfied that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, which the Panel notes resolved to an inactive website.

The Panel finds that the Complainant has satisfied the burden of establishing a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and accordingly finds that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

The Panel is also entitled to have regard to the lack of any substantive response on this point from the Respondent and the absence of any claim to rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

C. Registered and Used in Bad Faith

The Panel is satisfied that the disputed domain name has been registered in bad faith for the following reasons:

- (i) The Panel is satisfied that the Complainant's SODEXO Mark is internationally well recognized, and that the Respondent ought to have been aware of the Complainant, its SODEXO Mark, and its associated goodwill at the time of registration. A trademark or search engine search by the Respondent would have revealed the Complainant's trademark rights in the SODEXO Mark.
- (ii) The Panel finds that the disputed domain name's confusing similarity to the SODEXO Mark and the fact that it is identical to the Complainant's Mark but for the addition of the "b" (which is similar in form to the "h" in the Complainant's SODEXHO Mark by which it was previously known) suggests the Respondent was in fact aware of the Complainant and its Marks and its website at the time of registration, and (given the lack of genuine use or rights by the Respondent) that the disputed domain name was registered for the purpose of purporting to be associated with the Complainant.

(iii) The Panel adopts the Complainant's submission that the sign SODEXO is purely fanciful and that it is unlikely that a third party would legitimately chose the word or any variant thereof, unless seeking to create an association with the Complainant and its activities and marks.

(iv) There is a principle established in previous UDRP decisions that the registration of a domain name incorporating a widely-recognized or well-known trademark by someone who has no connection whatsoever with the trademark is a clear indication of bad faith. See *Sodexo v. Shahzan* - PrivacyProtect.org, [WIPO Case No. D2013-1308](#).

(v) It is unlikely that the Respondent could make any active use of the disputed domain name without creating a false impression of association with the Complainant. See *Sony Kabushiki Kaisha also trading as Sony Corporation v. Inja, Kil*, WIPO Case No. D2000 1409.

(vi) Bad faith may be also deduced from the fact that the disputed domain name was anonymously registered. See *WSFS Financial Corporation v. Private Registrations Aktien Gesellschaft 2*, [WIPO Case No. D2012-0033](#).

The Panel is also satisfied that the disputed domain name has been used in bad faith for the following reasons:

(i) The disputed domain name resolved to an inactive website which is not affiliated with the Complainant. It is the responsibility of the Respondent to monitor how the disputed domain name is used, even if the content on the website to which it resolves was generated by an Internet parking company. Previous UDRP decisions have found that passive use of a disputed domain name can still amount to use in bad faith. See *Société pour l'Oeuvre et la Mémoire d'Antoine de Saint Exupéry – Succession Saint Exupéry – D'Agay v. Perlegos Properties*, [WIPO Case No. D2005-1085](#).

(ii) The Panel accepts the Respondent's use of the disputed domain name creates a likelihood of confusion with the SODEXO Mark and is therefore likely to mislead Internet users as to the source, sponsorship, affiliation or endorsement of the disputed domain name or any future emails sent from addresses containing the disputed domain name.

(iii) The presence of the disputed domain name in the hands of the Respondent represents, in the view of the Panel, an abusive threat hanging over the head of the Complainant (i.e., an abuse capable of being triggered by the Respondent at any time) and therefore a continuing abusive use. See *Conair Corp. v. Pan Pin, Hong Kong Shunda International Co. Limited*, [WIPO Case No. D2014-1564](#) where the same conclusion was reached.

(iv) The Panel is entitled to have regard to the lack of any substantive response on this point from the Respondent.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <sodexbo.com> be transferred to the Complainant.

Andrew Brown Q.C.
Sole Panelist
Date: May 19, 2021

WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

IM Production v. yansheng zhang, GNAME.COM PTE. LTD

Case No. D2021-1502

1. The Parties

The Complainant is IM Production, France, represented by Nameshield, France.

The Respondent is yansheng zhang, GNAME.COM PTE. LTD, Singapore .

2. The Domain Name and Registrar

The disputed domain name <isabelmarantsneakersclassic.com> is registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 14, 2021. On May 14, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent, and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On May 20, 2021, the amended Complaint filed by the Complainant was received by the Center.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 25, 2021. In accordance with the Rules, paragraph 5, the due date for Response was June 14, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 2, 2021.

The Center appointed 陈长杰 Jacob (Changjie) Chen as the sole panelist in this matter on July 15, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company specializing in the manufacture and marketing of ready-to-wear, shoes, handbags, and jewelry. The Complainant markets products under the brand Isabel Marant around the world.

The Complainant owns numerous registrations of ISABEL MARANT trademark, including the International Trademark No. 1284453 registered on November 16, 2015, and the European Union Trademark No. 001035534 registered on May 3, 2000. The Complainant owns domain names incorporating its ISABEL MARANT trademark, including <isabelmarant.com> registered on April 20, 2002.

According to the information disclosed by the Registrar, the Respondent is yansheng zhang, GNAME.COM PTE. LTD, Singapore.

The disputed domain name is <isabelmarantsneakersclassic.com>, registered on May 7, 2021, and resolves to a website offering for sale of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its ISABEL MARANT trademark. The addition of two generic words "sneakers" and "classic" is insufficient to differentiate the similarity between the disputed domain name and the Complainant's ISABEL MARANT trademark.

The Complainant further contends that there is no evidence showing that the Respondent has been commonly known by the disputed domain name. Besides, the Complainant has never authorized the Respondent to use its ISABEL MARANT trademark or to register any domain name incorporating the ISABEL MARANT trademark. Moreover, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services because the Respondent is offering the disputed domain name for sale.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns rights upon numerous registrations of ISABEL MARANT trademark worldwide, which far predate the registration date of the disputed domain name (May 7, 2021). The Complainant has successfully established its rights upon ISABEL MARANT trademark.

It is well established that the generic Top-Level Domain ("gTLD") suffix ".com" as a standard registration requirement is disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's ISABEL MARANT trademark.

The disputed domain name incorporates the Complainant's ISABEL MARANT trademark in its entirety. The addition of "sneakers" and "classic" does not prevent a finding of confusing similarity between the ISABEL MARANT trademark and the disputed domain name.

Thus, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's ISABEL MARANT trademark.

B. Rights or Legitimate Interests

The Panel is satisfied that the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in respect of the disputed domain name. The burden of production on this element hence shifts to the Respondent to rebut the Complainant's contentions. In this case, given the Respondent's failure to submit a response to rebut the Complainant's *prima facie* case, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy according to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1. See *Construction Skills Certification Scheme Limited v. Mara Figueira*, [WIPO Case No. D2010-0947](#).

According to the Complainant's evidence, the Respondent directs the disputed domain name to a website offering for sale of the disputed domain name. The Panel views that the Respondent's use of the disputed domain name cannot be considered as a legitimate noncommercial or fair use nor is the Respondent using the disputed domain name in connection with a *bona fide* offering of goods or services. Further, there is no evidence on record showing that the Respondent has been commonly known by the disputed domain name.

Further, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Therefore, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel notes that the disputed domain name was registered on May 7, 2021, far later than the registration date of the Complainant's ISABEL MARANT trademark. Given the reputation of the Complainant and its ISABEL MARANT trademark, the Panel holds that the Respondent should have awareness of the Complainant's trademark and/or its business at the time of registering the disputed domain name, because a simple Internet search with key word "Isabel Marant" shows all top search results connecting to the Complainant. Thus, without any rights or legitimate interests, the Respondent's registration of the disputed domain name is indicative of bad faith.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

Further, the Panel observes that the disputed domain name resolves to a website showing the disputed domain name is on sale. The Panel views that with the clear understanding of the Complainant's ISABEL MARANT trademark and the disputed domain name's value to the Complainant, the Respondent has intention to profit from selling it. Therefore, the Panel holds that the Respondent's purpose of registering and using the disputed domain name is to gain commercial profit from the sale of the disputed domain name.

For the reasons above, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <isabelmarantsneakersclassic.com> be transferred to the Complainant.

陈长杰 Jacob (Changjie) Chen

Sole Panelist

Date: August 3, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Laboratoires M&L, L'Occitane International SA v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname

Case No. D2021-1629

1. The Parties

The Complainants are Laboratoires M&L, France, and L'Occitane International SA, Switzerland, represented by Wilhelm Gilliéron Attorney Corp., Switzerland.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <loccitanr.com> is registered with Dynadot, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 26, 2021. On May 26, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 27, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 28, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 28, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 31, 2021. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 21, 2021.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on June 25, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainants in this proceeding are Laboratoires M&L, a company affiliated to the L'Occitane Group, which holds and handles the Group's trademark portfolio, and L'Occitane International S.A., also affiliated to the L'Occitane Group, which holds and handles the Group's domain name portfolio.

L'Occitane Group is a global, natural and organic ingredient-based cosmetics and wellness product manufacturer and retailer. Active in all continents, as of March 31, 2020, the L'Occitane Group had 3,486 retail locations and 1,608 stores operated directly by the Group; at the same date, the Group had 9,347 employees.

Laboratoires M&L, *i.e.* the first Complainant, has proven to be the owner of:

- L'OCCITANE, International trademark No. 1006051, registered on October, 8, 2008;
- L'OCCITANE, International trademark No. 579875, registered on November, 5, 2011;
- L'OCCITANE, International trademark No. 1330027, registered on June 28, 2016.

L'Occitane International S.A., *i.e.* the second Complainant, has proven to be the holder of the following domain names. The domain name <loccitane.com> was registered on April 7, 1997, which has been extended it to several geographical versions with third level domains, such as: <fr.loccitane.com>, <de.loccitane.com>, <jp.loccitane.com>, <ch.loccitane.com> and <hu.loccitane.com>, all of which consist of the same website translated in the respective language of the country concerned to which the Internet user is automatically redirected depending on their location.

The disputed domain name was registered on April 21, 2021. The disputed domain name resolves to a parked web page with pay-per-click links, including some links referring to the Complainant's business.

The Complainant's trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the Complainants' registered trademark; that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

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

A. Identical or Confusingly Similar

The Complainant has established rights in the L'OCCITANE trademark.

The disputed domain name consists of a small variation of the Complainant's trademark. Specifically, the letter "e" in the end of the wording "loccitane" is replaced by the letter "r". The Panel agrees with the Complainants' assertion that this is a typical case of typo-squatting, where the Respondent relies upon Internet users' mistakes in typing to redirect them to its website rather than to the Complainant's official website.

The generic Top-Level-Domain ("gTLD") ".com" is generally disregarded under the test for confusing similarity for the purposes of the Policy, and the substitution of the letter "e" with the letter "r" in the Complainants' trademark is insufficient in itself to avoid a finding of confusing similarity under the first element of the UDRP. In this sense [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#) ("WIPO Overview 3.0"), [section 1.8](#): "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

The Panel finds that the Complainants' trademark is clearly recognizable in the disputed domain name, and the substitution of the letter "e" with the letter "r" in the Complainants' trademark is insufficient to avoid a finding of confusing similarity. See also [WIPO Overview 3.0, section 1.9](#).

Accordingly, the Panel finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainants have made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection to or affiliation with the Complainants, and the Complainants have not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainants' trademark. The Respondent does not appear to be commonly known by the name "loccitanr" or by a similar name. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services.

Finally, the Respondent has not replied to the Complainants' contentions, alleging any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark rights when it registered the disputed domain name.

The Complainants' trademark has been registered and used for many years and is a renowned trademark, especially in the cosmetics sector.

In addition, the Respondent's knowledge of the Complainants' trademark is particularly obvious, given that the Respondent, on the balance of probability, is using a slight variation of the Complainants' trademark (*i.e.* a typo) to mislead Internet users to go to its own commercial website where pay-per-click links to third parties' websites are displayed.

Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainants' trademarks and intentionally intended to create an association with the Complainants and their business at the time of the registration of the disputed domain name.

Inference of bad faith can also be found in the failure to respond to the Complainants' claims made in this proceeding.

By using the confusingly similar disputed domain name to display pay-per-click links, including some links to Complainant's business, without any explanation of the lack of relationship to the Complainant, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name is given by the fact that the Respondent deliberately chose to conceal its identity by means of a privacy protection service. While the use of a privacy or proxy registration service is not in and of itself an indication of bad faith, it is the Panel's opinion that in the present case the use of a privacy shield, combined with the elements discussed herein, amounts to a further inference of bad faith registration and use.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy

7. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <locctanr.com> be transferred to the Complainant.

Fabrizio Bedarida

Sole Panelist

Date: July 6, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Ivy Hill Asset Management, L.P. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Johnson, GNAME.COM PTE. LTD.

Case No. D2021-1898

1. The Parties

The Complainant is Ivy Hill Asset Management, L.P., United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States / Johnson, Gname.com Pte. Ltd., Singapore.

2. The Domain Name and Registrar

The Disputed Domain Name <ivy-hill.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2021. On June 17, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 18, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 26, 2021.

The Center verified that the Complaint, together with the amended Complaint, satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 29, 2021. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2021.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on August 10, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

On August 11, 2021, the Center received an email communication from a third party. On the same day, the Center sent an email to the third party requesting that the third party identify herself or himself, clarifying her/his relationship (if any) to the Respondent, and provide information sufficient to establish the legitimacy of her/his request in the context of the current proceedings. On August 12, 2021, the third party emailed the Center. On the same day, the Center repeated its request to the third party, however, no answer has been received.

4. Factual Background

The Complainant is a registered investment advisor in the United States. The Complainant delivers comprehensive financing solutions to the middle-market.

The Complainant is the owner of the trademark IVY HILL (United States Trademark Reg. No. 3965370, which was registered on May 24, 2011).

The Complainant is also the owner of the following domain names: <ivyhillassetmanagement.com> and <ivyhillassetmgmt.com>, among others.

The Respondent registered the Disputed Domain Name <ivy-hill.com> on March 21, 2021. The Disputed Domain Name currently resolves to an inactive website. However, the Complainant submitted evidence that the Disputed Domain Name resolved to a website that forwarded website visitors to a gambling website.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

Identical or confusingly similar

The Complainant contends that the Disputed Domain Name incorporates essentially the identical IVY HILL trademark owned by the Complainant, changing the trademark only by adding a hyphen and the generic Top-Level Domain ("gTLD") ".com" after it, which does not avoid confusing similarity with the Complainant's trademark.

Rights or legitimate interest

The Complainant alleges that the Respondent is not commonly known by the Disputed Domain Name, nor has the Complainant authorized, licensed, or otherwise permitted the Respondent to register and/or use the Disputed Domain Name.

The Complainant further states that the Respondent has not used or prepared to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. The Respondent is using the Disputed Domain Name to redirect and forward website visitors to the website, which is a referral link to the gambling website, presumably generating affiliate revenue for the Respondent.

Registration and use in bad faith

The Complainant states that the Respondent acquired and is commercially using the Disputed Domain Name, which is virtually identical to the Complainant's IVY HILL trademark to divert Internet traffic intended for the Complainant to affiliate links to commercial gambling websites, causing likely confusion of the Internet visitors and generating affiliate revenue for the Respondent.

The Complainant also contends that at the time of registration of the Disputed Domain Name, it is evident that the Respondent had actual knowledge of the Complainant's IVY HILL trademark since the Disputed Domain Name is virtually identical to the Complainant's IVY HILL trademark, which is highly distinctive and lacks any meaning as an English phrase apart from the meaning created by the Complainant as a brand for its services.

Furthermore, the Respondent is likely using the Disputed Domain Name in bad faith with respect to email addresses based on the Disputed Domain Name. In fact, the Disputed Domain Name has active MX (mail exchange) records, which evidences a likelihood of additional bad faith use of the Disputed Domain Name.

The Respondent also used a privacy service to register the Disputed Domain Name, which further demonstrates the Respondent's bad faith use and registration of the Disputed Domain Name.

Finally, the Complainant states that the Respondent was involved in six prior UDRP panel decisions under the Policy against the Respondent Gname in the last year alone, which concern the Respondent registering and using domain names incorporating well-known and famous trademarks.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Center received two email communications on August 11 and 12, 2021, from a third party alleging receipt of Center communications and requesting further information. Despite repeated requests from the Center for the third party to identify its relationship and connection to the Respondent and/or proceeding, no further communications or submissions were received.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which the Complainant must satisfy with respect to the Disputed Domain Name at issue in this case:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the evidence submitted, the Panel finds that the Disputed Domain Name <ivy-hill.com> is confusingly similar to the Complainant's trademark IVY HILL. The Disputed Domain Name contains the trademark IVY HILL in its entirety.

The Disputed Domain Name only differs from the Complainant's trademarks with the addition of a hyphen between the trademarks term. This addition does not prevent a finding of confusing similarity between the Complainant's trademark and the Disputed Domain Name.

Moreover, the addition of the gTLD ".com" does not change this finding, since the gTLD is generally disregarded in such an assessment of confusingly similarity.

Therefore, this Panel finds that the Complainant has satisfied the first requirement of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances, any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the Disputed Domain Name:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use its trademark in the Disputed Domain Name. Furthermore, there is no evidence that the Respondent is commonly known by the Disputed Domain Name.

The Respondent has failed to show that it has acquired any rights with respect to the Disputed Domain Name. Moreover, it had the opportunity to demonstrate its rights or legitimate interests, but it did not reply to the Complainant's contentions.

As such, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the Disputed Domain Name in bad faith.

The Disputed Domain Name was registered on March 21, 2021, while the Complainant's trademark was registered on March 24, 2011. The Respondent did not reply to the Complainant's assertions. The Panel is of the view that the Respondent knew of the Complainant's trademark and prior rights.

Paragraph 4(b)(iv) of the Policy states: "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location".

In the case at hand, the Respondent's registration of a domain name confusingly similar to the Complainant's trademark, used for forwarding website visitors to a gambling website, the absence of any documented rights or legitimate interests of the Respondent in the Disputed Domain Name, and its failure to respond to the Complaint, constitutes bad faith.

Due to this conduct, it is obvious that the Respondent intentionally created a likelihood confusion with the Complainant's trademark and websites in order to attract Internet users for its own commercial gain, as required by paragraph 4(b)(iv) of the Policy.

While the Disputed Domain Name is currently inactive, the change in the use of the Disputed Domain Name does not alter the Panel's findings, rather it may constitute a further indication of bad faith.

Moreover, the fact that the Respondent was previously involved in six UDRP cases is further indication of the Respondent's bad faith.

Finally, the Respondent has taken active steps to conceal its true identity through a privacy service. This particular conduct in the circumstances of this case is a further evidence supporting a finding of the Respondent's bad faith.

Therefore, taking all circumstances into account and for all the above reasons, the Panel concludes that there is bad faith in the registration and use of the Disputed Domain Name.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <ivy-hill.com> be transferred to the Complainant.

Pablo A. Palazzi
Sole Panelist
Date: August 24, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Établissements Sogal v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname

Case No. D2021-2018

1. The Parties

The Complainant is Etablissements Sogal, France, represented by Inlex IP Expertise, France.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America ("United States") / Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <sogal1981.com> is registered with Dynadot, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 25, 2021. On June 25, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 1, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 7, 2021. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 29, 2021.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on August 9, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company founded in 1981, who is a manufacturer and retailer of furniture design solutions. It is the owner, amongst others, of the following trademark registrations (Annex 3 to the Amended Complaint):

- French Trademark registration No. 1184618 for SOGAL, filed on June 19, 1981, registered on June 10, 1991 under No. 1671239 and subsequently renewed, in classes 06, 19, and 20; and
- International Trademark registration No. 1052493 for SOGAL, registered on July 13, 2010, in classes 06, 19, 20, and 35.

The disputed domain name <sogal1981.com> was registered on February 16, 2021. Currently the disputed domain name resolves an active webpage selling cans in the Chinese market and which appears to illegally reproduce the website of the unrelated third party company Dongguan Guantong Packaging Products Co.

5. Parties' Contentions

A. Complainant

The Complainant asserts to be part of the CMAI Group which is one of the European leaders of tailor-made interior design solutions, having had a strong partnership with the Chinese group Suofeiya Home Collection, a top leading cabinetry manufacturer in China.

Having used the SOGAL trademark and a series of domain names amongst which <sogal.com> (registered on September 22, 1999) for decades in connection with the manufacture and retailing of furniture and interior design solutions, especially cupboard doors, dressings, and interior layout solutions, the Complainant sustains to have gained recognition in the interior design field and become a well-known trademark in its sector.

The Complainant further asserts that the recently registered disputed domain name is comprised of the reproduction of its trademark and the 1981 numeral which refers to the Complainant's foundation, being therefore confusingly similar therewith.

According to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent does not own any SOGAL trademark registrations, having the Respondent deliberately chosen the disputed domain name seeking to create an association with the Complainant and to trade off the Complainant's goodwill;
- (ii) there is no business relationship between the Complainant and the Respondent, not having the Complainant ever authorized or licensed the Respondent to use its trademark in any way; and
- (iii) the Respondent is not making a *bona fide* offering of goods or services under the Policy or a legitimate noncommercial or fair use of the disputed domain name since the disputed domain name is being used in connection with a website that reproduces the website of the unrelated third party company Dongguan Guantong Packaging Products Co. (whose official websites appear to be <dgggbz.com> and <guantongbz.com>) so as to give an appearance of legitimate use (Annex 10 to the Amended Complaint).

Lastly, the Complainant asserts that the bad faith of the Respondent is evident given the well-known status of the SOGAL trademark in its sector and choice of the disputed domain which reproduces that mark in connection with the founding year of the Complainant, 1981, not having the Respondent registered the disputed domain name by chance or coincidence. Furthermore, the choice to retain a privacy protection service is a further

indicative of the Respondent's bad faith, who has also been found in bad faith in at least four past UDRP cases. In addition to that, the Complainant argues that the disputed domain name is illegally reproducing the websites of the unrelated third party company Dongguan Guantong Packaging Products Co., Ltd in an attempt to give an appearance of legitimate use, where there is none since there appears to be no link between the Respondent and that company.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

The Complainant has established its rights in the registered SOGAL trademark.

The Panel finds that the disputed domain name reproduces the Complainant's SOGAL trademark entirely. The addition of the 1981 numeral does not prevent a finding of confusing similarity and is as well linked to the Complainant's year of foundation. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.12.

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that there is no business relationship between the Complainant and the Respondent, not having the Complainant ever authorized or licensed the Respondent to use its trademark in any way.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the absence of any rights or legitimate interests in the disputed domain name.

Furthermore, the use made of the disputed domain name in connection with what appears to be a reproduction of a third-party website cannot characterize a *bona fide* offering of goods or services under the Policy.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

(i) circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who is the owner of a trademark relating to the disputed domain name or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name;
- (ii) the Respondent appears to have reproduced a third-party website in an attempt to conceal its true intention to profit from the Complainant's well-known trademark;
- (iii) the Respondent has engaged in a pattern of bad faith conduct registering domain names that target third parties' well-known trademarks, as recognized by past UDRP panels;
- (iv) the choice to retain a privacy protection service so as to conceal its identity; and
- (v) the indication of what appears to be false contact information.

For the reasons stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has therefore been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <sogal1981.com> be transferred to the Complainant.

Wilson Pinheiro Jabur
Sole Panelist
Date: August 23, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

VHV Allgemeine Versicherung AG v. LLC Gname

Case No. D2021-2291

1. The Parties

The Complainant is VHV Allgemeine Versicherung AG, Germany, represented by JBB Rechtsanwaelte, Germany.

The Respondent is LLC Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <vhv-versicherungen.com> (the "Domain Name") is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 15, 2021. On July 15, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 16, 2021, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 21, 2021. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 15, 2021.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on August 20, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a German publicly traded stock corporation formed in February 2006 and headquartered in Hannover, Germany. It is part of the VHV insurance group, a subsidiary of VHV Vereinigte Hannoversche Versicherung A.G., which has been selling insurance in Germany since 1919. The VHV Group started using the initials “VHV” in its company names in 2000 and operates a group website at “www.vhv.de”.

The record shows that the Complainant and other group members hold and license to one another “VHV” formative registered trademarks including the following:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE
VHV (combined word / figurative mark)	Germany	DE1190359	June 1, 1994
VHV (combined word / figurative mark)	Germany	DE2911665	August 21, 1995
VHV (word mark)	Germany	DE302010026451	May 3, 2010
VHV VERSICHERUNGEN (combined word / figurative mark)	Germany	DE30737113	September 24, 2007
VHV SOLUTIONS (word mark)	Germany	DE302016226865	October 25, 2016
VHV CYBERPROTECT (word mark)	Germany	DE302016226750	January 16, 2017
VHV KAUTION-START (word mark)	Germany	DE302018200840	February 5, 2018
VHV KAUTION-STANDARD (word mark)	Germany	DE302018200842	February 9, 2018
VHV KAUTION-SPEZIAL (word mark)	Germany	DE302018200843	February 9, 2018
VHV BAUFORSCHUNG (combined word / figurative mark)	Germany	DE302018218479	July 27, 2018

The Registrar reports that the Respondent “LLC Gname”, listing only a postal code in Singapore, registered the Domain Name on March 14, 2021, using an email address in the <aol.com> domain.

The Complaint attaches an undated screenshot in Chinese that was formerly associated with the Domain Name, stating only that the Domain Name was “formerly up for sale”. The Panel notes that the Internet Archive’s Wayback Machine has several archived screenshots showing that the Domain Name has resolved at times

since that date to a website with articles in Chinese evidently copied from published news stories on a variety of subjects not concerning the Complainant or the insurance industry, such as a specialty tea shop in Beijing and a technology company traded on the Shenzhen Stock Exchange.

At the time of this Decision, the Domain Name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the Domain Name is confusingly similar to its various VHV trademarks, particularly the VHV VERSICHERUNGEN combined mark prominently displayed in its advertising and at the top of every page of the Complainant's website. The Domain Name differs only in adding a hyphen and lacking the trademark's design elements. (The Panel notes that "*Versicherungen*" is the German plural for "insurance", referring in the Complainant's case to its multiple lines of insurance on offer.) The Complainant contends that the Respondent has no permission to use the Complainant's VHV marks and no evident rights or legitimate interests in the Domain Name.

The Complainant argues for a finding of bad faith:

"The Respondent uses the domain names [sic] intentionally and misleadingly to block the domain, divert consumers and therefore to tarnish the trademarks at issue. Before contacting the Registrar the domain was up for sale and posed a threat to the legitimate interests of the Complainant, because of the confusing similarity to the Complainant's trademarks. There is a strong possibility of fraudulent activities on the domain as soon as the Respondent decides to use the domain in that way or to sell it to someone with bad intentions."

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following:

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

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The first element of a UDRP complaint “functions primarily as a standing requirement” and entails “a straightforward comparison between the complainant’s trademark and the domain name”. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. The Complainant and its affiliates hold numerous registrations for VHV and VHV formative trademarks, including the combined mark VHV VERSICHERUNGEN. The Domain Name is confusingly similar to the VHV marks, incorporating these initials and adding dictionary words, and particularly to the VHV VERSICHERUNGEN mark, adding only a hyphen and design elements. The addition of dictionary words or design elements does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), sections 1.8, 1.10. As usual, the generic Top-Level Domain (“gTLD”) “.com” is disregarded as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.2.

Accordingly, the Panel finds that the Domain Name is confusingly similar to the Complainant’s registered VHV trademarks for purposes of the Policy, paragraph 4(a)(i) and concludes that the Complainant has established the first element of the Complaint.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) that the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant denies giving the Respondent permission to use its marks. The Respondent has used the Domain Name only to advertise the Domain Name for sale and to republish business articles in Chinese on topics unrelated to the Complainant or insurance. Hence, the Respondent’s use of the Domain Name does not reveal any likely grounds for claiming rights or interests based on a corresponding name, *bona fide* commercial offerings, or relevant noncommercial or fair use, and the Respondent has not come forward in this proceeding to such rights or legitimate interests.

The Panel concludes that the Complainant prevails on the second element of the Complaint.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that “shall be evidence of the registration and use of a domain name in bad faith”, including the following (in which “you” refers to the registrant of the domain name):

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Complainant does not cite these Policy examples but uses language suggestive of them. They are not clearly apposite, because there is no evidence in the record of attempts to sell the Domain Name for a particular sum, nor is there any indication that the Respondent has engaged in a pattern of preventing trademark owners from reflecting their marks in corresponding domain names, nor is there any indication that the Respondent is a competitor. Further, it is not clear that the Respondent's use of the Domain Name to date has actually directed Internet users to other websites for commercial gain.

The examples of bad faith furnished in the Policy are expressly not exhaustive, however, and the Respondent has already used the Domain Name, closely imitating a distinctive and well-established German insurance mark, to misdirect Internet users to a Chinese website with content unrelated to any generic or dictionary sense of the Domain Name. There is no plausible legitimate reason for doing this, and there is clearly the potential for trademark abuse through user confusion and fraudulent employment of the Domain Name (such as fake websites and email phishing scams). The inference of bad faith is reasonable and is supported in this case by the Respondent's failure to reply to complete and accurate registration contact details and to reply to correspondence from the Complainant and the Center or to submit a Response in this proceeding.

The Panel finds that the inference of bad faith in the registration and use of the Domain Name is warranted on these facts and concludes that the Complainant has established the third element of the Complaint.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <vhv-versicherungen.com>, be transferred to the Complainant.

W. Scott Blackmer

Sole Panelist

Date: September 2, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

ALSTOM v. LLC Gname

Case No. D2021-2383

1. The Parties

Complainant is ALSTOM, France, represented by Lynde & Associates, France.

Respondent is LLC Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <alstomtd.com> (hereinafter "Disputed Domain Name") is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 22, 2021. On July 22, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 26, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on July 28, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 29, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on August 10, 2021. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2021. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on August 31, 2021.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on September 20, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant is a company registered in France. It was formed in 1928 and is in the business of transport infrastructure.

Complainant is a well-known provider of power generation installations, power transmission and rail infrastructure, employing 36,000 professionals in more than 60 countries.

Complainant owns trademark registrations for the mark ALSTOM in numerous jurisdictions around the world, including the United States of America (No. 4,570,546 registered July 22, 2014) and the European Union (No. 948,729 registered August 8, 2001). Complainant also owns multiple registrations throughout the world, including Singapore (Singaporean Trademark Registration Nos. T9810228F, T9810241C and T9810231F) for the design mark

The logo for ALSTOM, featuring the word "ALSTOM" in a bold, black, sans-serif font. The letter "O" is stylized with a horizontal line through its center.

Complainant also owns the domain name <alstom.com>, which it registered in 1998.

The Disputed Domain Name was registered September 4, 2020.

Respondent's name is LLC Gname. The information provided by the Registrar is incomplete and, at best, confusing. The Whois record indicated that the registrant's identification was "REDACTED FOR PRIVACY" giving only the address "Singapore, SG." Complainant made multiple requests to the Registrar for more contact information, but received no response. After the UDRP complaint was filed, the Registrar gave more information, but the information was still not complete:

fname: LLC
lname: Gname
Registrant country: SG
Address: Singapore 534818
Phone: +852-5935-4640
Email address: [...]@aol.com

The physical address is insufficient to locate Respondent and the names lack detail needed to locate a specific entity.

The webpage was inoperable for several months after it was registered, but later reverted to an active page for "CSSC Science & Technology Co., Ltd", an entity which, according to the site, specialized in "deep military-civilian integration" and "marine power." There is a "history" statement on the page which recites that it is owned by "Blizzard 4bx Entertainment." Complainant has not been able to identify a company by that name. However, Complainant has determined that there is genuine website for CSSC Science & Technology Co., Ltd at "www.cssckj.com", and that the content on the Disputed Domain Name was copied from the <cssckj.com> website. Without elaboration, Complainant asserts that CSSC Science & Technology Co., Ltd is a competitor.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to its ALSTOM trademark and that Respondent has no rights or legitimate interest in the Disputed Domain Name. Complainant further contends that Respondent registered and uses the Disputed Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in its ALSTOM trademark, as evidenced by its several trademark registrations identified above. The Disputed Domain Name incorporates the entirety of the ALSTOM mark. The addition of "td" does not dispel the confusion caused by the wholesale incorporation of Complainant's mark, which is recognizable within the Disputed Domain Name.

The Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant has established a *prima facie* case Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name, which Respondent has not rebutted.

Respondent has not explained, much less proved, that it has any relationship whatsoever to CSSC Science & Technology Co., Ltd whose graphics were copied and pasted into the webpages associated with the Disputed Domain Name. And even if Respondent has some relationship to CSSC Science & Technology Co., Ltd, no explanation is offered for why it would have a right to reference Complainant's trademark in the Disputed Domain Name.

The Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Respondent registered the Disputed Domain Name in bad faith. Complainant has offered credible evidence that it is sufficiently well known worldwide to support an inference that Respondent was more likely than not aware of Complainant's rights in the ALSTOM trademark, which were first registered more than 20 years before the Disputed Domain Name was registered.

The Panel also finds bad faith use of the Disputed Domain Name. Respondent has copied the content of CSSC Science & Technology Co., Ltd's webpage and pasted it into the Disputed Domain Name website. As the record includes no evidence that Respondent has any relationship to CSSC, it was bad faith to misappropriate another's web content and associate it with Complainant's trademark. If Respondent is in fact associated with CSSC, an entity that Complainant alleges to be a competitor, then Respondent has intentionally sought to confuse Internet users for commercial gain. This is, of course, bad faith. Policy paragraph 4(b)(iv).

Furthermore, Respondent has given incomplete contact information and ignored Complainant's repeated efforts to communicate. This too is evidence of bad faith registration and use. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#) ("WIPO Overview 3.0"), section 3.6.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <alstomtd.com> be transferred to Complainant.

Lawrence K. Nodine

Sole Panelist

Date: October 11, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

24 Hour Fitness USA, LLC v. chen xiansheng, gname

Case No. D2021-2665

1. The Parties

The Complainant is 24 Hour Fitness USA, LLC, United States of America, represented by Willkie Farr & Gallagher LLP, United States of America.

The Respondent is chen xiansheng, gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <24hoursfitnesslocations.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 14, 2021. On August 16, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 2, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 10, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 13, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 14, 2021. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 18, 2021.

The Center appointed George R. F. Souter as the sole panelist in this matter on October 26, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a US corporation which, for over 30 years, has operated fitness clubs under its trademark 24 HOUR FITNESS trademark, and currently operates hundreds of such clubs throughout the USA. Details of registration of its 24 HOUR FITNESS trademark, and associated trademarks have been supplied to the Panel. These registrations include US Registration No 5,693,248, registered on March 5, 2019, in respect of its 24 HOUR FITNESS trademark.

The disputed domain name was registered on June 8, 2021, and it resolves to a single page website, a photograph of which follows:

8/13/2021

安全加密检测



已通过安全加密检测
如果没有自动跳转, 请点击下方按钮前往

点击进入

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its 24 HOUR FITNESS trademark, containing the Complainant's 24 HOUR FITNESS trademark in its entirety, with the mere pluralisation of the word HOUR, and the non-distinctive element "locations".

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular, to the best of the Complainant's knowledge, the Respondent is not generally known by the disputed domain name, and the Respondent has never received permission from the Complainant to use its 24 HOUR FITNESS trademark in connection with a registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain was registered in bad faith, and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

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

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

A. Identical or Confusingly Similar

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top Level Domain (“gTLD”) is irrelevant when comparing a trademark with a disputed domain name.

Accordingly, the Panel considers the gTLD “.com” to be irrelevant in the circumstances of the present case, and so finds.

The Complainant’s 24 HOUR FITNESS trademark is clearly recognizable in the disputed domain name. The pluralisation of the word HOUR of the Complainant’s trademark is, in the Panel’s opinion, trivial, and the additional word “locations” does not, in the circumstances of the present case, avoid a finding of confusing similarity, and the Panel so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Panel considers the submissions put forward by the Complainant as sufficient to be regarded as a *prima facie* case, and the Respondent did not take the opportunity to advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Accordingly, and noting the Panel’s further findings below, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstance of the present case, in which the Panel regards it as self-evident from the evidence supplied, that the Complainant’s 24 HOUR FITNESS trademark was deliberately appropriated in the disputed domain name, are such that the Panel concludes that a finding of registration in bad faith is justified, and so finds.

In the Panel’s opinion, it is unlikely that many of the population of the United States would be capable of extracting a meaning from the text of the website operated under the disputed domain name, so that the disputed domain name can be considered as being effectively unused. Nor is the website at the disputed domain name seemingly used with any dictionary meaning of the terms “24hoursfitnesslocations”. Since the decision in *Telstra Corporation Limited v. Nuclear Marshmallows*, [WIPO Case No. D2000-0003](#), it has become well-established in prior decisions under the Policy that the lack of use of a disputed domain name does not avoid a finding of use in bad faith, if use of the disputed domain name is likely to cause damage to the

complainant's interests. In the Panel's opinion, the circumstances of the present case, in which the Panel considers that any use of the disputed domain name would be likely to give the impression that it was associated with or authorized by the Complainant, are such as to justify a finding of use in bad faith, and the Panel so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <24hoursfitnesslocations.com> be transferred to the Complainant.

George R. F. Souter

Sole Panelist

Date: November 9, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Sha Chen

Case No. D2021-3160

1. The Parties

The Complainant is AB Electrolux, Sweden, represented by SILKA AB, Sweden.

The Respondent is Sha Chen, China.

2. The Domain Name and Registrar

The disputed domain name <elertcolux.com> (the "Domain Name") is registered with Gname 009 Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 24, 2021. On September 24, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 12, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 15, 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on October 19, 2021.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 21, 2021. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 11, 2021.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on November 18, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a Swedish multinational home appliance manufacturer, headquartered in Stockholm.

The Complainant is the owner of several trade marks for ELECTROLUX including the following:

- United States Patent and Trademark Office trade mark ELECTROLUX, Registration No. 0248774, registered on October 30, 1928; and

- International Registration trade mark ELECTROLUX, Registration No. 836605, registered on March 17, 2004, designating China.

The Complainant is also the owner of several domain names reflecting its trade mark including <electrolux.com>.

The Domain Name was registered on September 15, 2021. The Domain Name does not currently resolve to an active website and it generates an error message. The Domain Name used to direct to explicit adult content and links related to gambling.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to the ELECTROLUX trade mark in which the Complainant has rights. The Complainant contends that the term "elertcolux" is an intentional misspelling of the trade mark ELECTROLUX where the letters "rtc" have been swapped around. The Complainant also highlights that the addition of the generic Top-Level Domain ("gTLD") ".com" should be disregarded for the purpose of assessing confusing similarity.

The Complainant asserts that the Respondent has no rights to or legitimate interests in respect of the Domain Name. The Complainant contends that the Respondent is not commonly known by the Domain Name and there is no evidence that the Respondent has a history of using, or preparing to use, the Domain Name in connection with a *bona fide* offering of goods and services. The Complainant highlights the fact that according to the Whois provided in Annex 3 to the Complaint, the Respondent was known by the name "please contact our customer service to acquire it" which strongly suggests that this is a fabricated name. The Complainant also points to the fact that the Domain Name resolved to a website in Chinese with adult content as well as links to gambling pages and that such use cannot be considered as use of the Domain Name in connection with a *bona fide* offering of goods and services, or as a legitimate noncommercial or fair use.

The Complainant argues that the Respondent was aware that the trade mark ELECTROLUX enjoys a substantial reputation worldwide including in China where the Respondent is based and that it registered the Domain Name to take unfair advantage of the goodwill and reputation of the Complainant's trade mark. The Complainant thus considers that the Domain Name was registered in bad faith. The Complainant also contends that the Domain Name is being used in bad faith by the Respondent. The Complainant points to the past content associated with the Domain Name to point to a webpage in the Chinese language with adult content and links to gambling sites as evidence of the Respondent's bad faith and attempt to create a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the

services offered on the Respondent's website. The Complainant adds that such use is extremely prejudicial to the Complainant as it could tarnish the reputation of the Complainant and disrupt the business of the Complainant. Finally, the Complainant submits that given its goodwill and renown worldwide, and the nature of the Domain Name, which is confusingly similar to the Complainant's trade mark, it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the Domain Name as it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights. The Complainant thus considers that the Domain Name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In order to prevail, the Complainant must substantiate that the three elements of paragraph 4(a) of the Policy have been met, namely:

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

In the case of default by a party, as is the case here, paragraph 14(b) of the Rules makes it clear that if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

In the absence of a Response from the Respondent whereby the Respondent did not object to any of the contentions from the Complainant, the Panel will have to base its decision on the basis of the Complaint and supporting Annexes.

A. Identical or Confusingly Similar

In light of the evidence provided by the Complainant, the Panel is satisfied that the Complainant has substantiated that it holds valid trade mark rights in ELECTROLUX.

The second point that has to be considered is whether the Domain Name is identical or confusingly similar to the trade mark ELECTROLUX in which the Complainant has rights.

The only difference between the Domain Name and the ELECTROLUX trade mark of the Complainant is that the fourth and sixth letters ("c" and "r") are swapped around. The term "elertcolux" does not mean anything to the best of the Panel's knowledge and thus the Panel finds that the Domain Name constitutes an example of typosquatting and does not prevent a finding of confusing similarity between the Complainant's trade mark and the Domain Name. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 1.9. Furthermore, recognizability of the Complainant's trade mark in the Domain Name is also confirmed by technological means as, when searching for the term "elertcolux" via Google, all results triggered relate to the trade mark ELECTROLUX.

Then there is the addition of the gTLD “.com”. As is widely accepted, the addition of a gTLD such as “.com” is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test.

Thus, the Panel finds that the Domain Name is confusingly similar to a trade mark or service mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out relevant circumstances that could demonstrate that a respondent has rights or legitimate interests in a domain name, namely:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [the respondent’s] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to [the respondent] of the dispute, [the respondent’s] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) [the respondent] (as an individual, business, or other organization) ha[s] been commonly known by the domain name, even if [the respondent] ha[s] acquired no trade mark or service mark rights; or

(iii) [the respondent is] making a legitimate noncommercial 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 at issue.”

Numerous previous panels have found under the UDRP that once a complainant makes a *prima facie* showing that the respondent does not have rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut the showing by providing evidence of its rights or legitimate interests in the domain name.

Having reviewed the Complainant’s assertions and evidence, the Panel is satisfied that the Complainant has made a *prima facie* showing that the Respondent does not have rights or legitimate interests in the Domain Name.

The Complainant has stated that there is no business or legal relationship between the Complainant and the Respondent and that it has not authorized the Respondent to make any use of its trade mark. There is no evidence that the Respondent is commonly known by the Domain Name especially given that the Respondent chose not to respond.

The Domain Name is currently inactive, and was used to direct to a website with explicit adult content and links to gambling. Given the overall circumstances of the case, including the renown of the Complainant’s trade mark, the Panel concludes that the Respondent’s use of the Domain Name cannot be seen as a legitimate noncommercial or fair use of the Domain Name nor can it be seen as a *bona fide* offering of goods or services.

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a number of relevant non-exhaustive circumstances, which can be deemed to constitute evidence of registration and use of a domain name in bad faith, namely:

(i) circumstances indicating that [the respondent has] registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trade mark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(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 [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

Given the circumstances described in the Complaint and the documentary evidence provided by the Complainant, the Panel finds that the Domain Name was registered in bad faith.

The Domain Name is confusingly similar to the trade mark ELECTROLUX of the Complainant and this cannot be a coincidence.

The trade mark ELECTROLUX of the Complainant is not a descriptive or common term and its protection as a trade mark in a number of jurisdictions, including in China where the Respondent is reportedly located, significantly predates the registration of the Domain Name by the Respondent. The Complainant has provided sufficient evidence and previous UDRP panels under the Policy have found that the Complainant's ELECTROLUX trade mark is well known. Thus, the fact that the Respondent chose to register the Domain Name which only differs from the Complainant's ELECTROLUX well-known trade mark by the inversion of the letters "c" and "r" leads the Panel to find it inconceivable that the Respondent would not have been well aware of the Complainant and its trade mark at the time of registration of the Domain Name. The Panel finds that when registering the Domain Name, the Respondent had the Complainant's trade mark in mind and targeted it specifically.

Thus, the Panel finds that the Domain Name was registered in bad faith.

As for use of the Domain Name in bad faith, given the circumstances described in the Complaint, the documentary evidence provided by the Complainant, and the brief verification carried out by the Panel of the website associated with the Domain Name, the Panel is satisfied that the Domain Name is being used in bad faith.

The Domain Name used to direct to a website with explicit adult content and links to gambling websites which in the present circumstances can only be seen as use of the Domain Name in bad faith.

As for the current use of the Domain Name, it is currently inactive. Passive use itself would not prevent a finding of the Respondent's bad faith given the overall circumstances here, specifically the renown of the Complainant's ELECTROLUX trade mark. The Panel finds that by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product on the Respondent's website.

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the Domain Name is being used in bad faith.

Finally, this is further supported by the fact that the Respondent deliberately chose to provide incorrect registration data when registering the Domain Name as, according to the courier delivery report, the Center's Written Notice failed to deliver due to the Respondent's false physical contact address. In the circumstances, this is an additional indication of the Respondent's bad faith and its intent to use the Domain Name in a way which may be abusive or otherwise detrimental to the Complainant and its rights.

Thus, the Panel finds that the Domain Name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <elertcolux.com> be transferred to the Complainant.

Vincent Denoyelle

Sole Panelist

Date: December 2, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Colorobbia Italia SPA and Colorobbia Holding SPA v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname

Case No. D2021-3435

1. The Parties

Complainants are Colorobbia Italia SPA and Colorobbia Holding SPA, Italy (together the “Complainant”) represented by Gino Rabbene, Italy.

Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <gruppocolorobbia.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 16, 2021. On October 18, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on October 22, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 27, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 1, 2021. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2021. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 22, 2021.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on December 2, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant is comprised of companies that belong to the Colorobbia Group, a group of companies based in Italy that manufacture goods and provide services relating to the ceramics industry. The first company of the Colorobbia Group was first founded in 1921, and the first company of the group that included the term “colorobbia” was founded in 1937.

Complainant owns over 60 trademarks globally in numerous jurisdictions for “COLOROBBLIA” or for marks containing the term “colorobbia”. Sample trademark registrations for Complainant include:

- COLOROBBLIA (in color), Italy Reg. No. 1459073, registered on September 21, 2011;
- COLOROBBLIA, Canada Reg. No. 445,599, registered on July 28, 1995; and
- COLOROBBLIA, United Kingdom Reg. No. 1556971, registered on November 4, 1994.

Complainant owns the domain name <colorobbia.com>, which it uses to operate its primary website, as well as over 40 other domain names containing the term “colorobbia”. From 2006 until December 13, 2020, Complainant also owned the disputed domain name.

The disputed domain name was registered by Respondent on February 21, 2021. At the time of the filing of the Complaint and currently, the disputed domain name resolves to a website in Chinese that directs users to follow additional links to participate in various lotteries and online gambling.

5. Parties' Contentions

A. Complainant

According to Complainant, the disputed domain name is identical or confusingly similar to Complainant's COLOROBBLIA trademark in which Complainant has rights as demonstrated through its cited registrations. Complainant asserts that the disputed domain name incorporates the COLOROBBLIA trademark in its entirety and that the addition of a descriptive term to Complainant's trademark, namely the Italian word “gruppo”, does not eliminate the confusing similarity.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name. Complainant states that Complainant owned the disputed domain name from 2006 until the registration lapsed on December 13, 2020 due to an error. Complainant states that Respondent has never been assigned, licensed, or otherwise authorized to use Complainant's COLOROBBLIA mark and that there is no relationship between Complainant and Respondent. Complainant advises that, according to Complainant's knowledge, Respondent has never been known by the disputed domain name and does not have any trademark rights in the disputed domain name. Complainant contends that, as the Colorobbia Group's first company was established a century ago and now contains 29 companies located in 18 different countries, as detailed at the website “www.gruppocolorobbia.it/en”, it is impossible that Respondent was unaware of Complainant at the time of registration of the disputed domain name. Complainant argues that Respondent's use of the disputed domain name to provide lotteries and online games, through a website that does not always work, does not represent

fair use, but creates a false and misleading sense of affiliation between Complainant and Respondent for the purpose of Respondent's financial gain. Accordingly, Complainant asserts that Respondent has not met any criteria for demonstrating rights or legitimate interests in the disputed domain name.

Complainant asserts that its COLOROBRIA trademark is known globally and is registered in numerous countries, and is a strong and distinctive mark. Complainant reiterates that Complainant has no relationship with Respondent and that Complainant has never granted Respondent the right to register the disputed domain name, and contends that, accordingly, there is no reasonable explanation for Respondent's choice to register the disputed domain name. Complainant states that the website content associated with the disputed domain name, the provision of services for lotteries and online gaming, is entirely unrelated to Complainant's business, and that the disputed domain name creates a likelihood of confusion with Complainant, particularly due to the inclusion of the Italian word "gruppo" with the COLOROBRIA trademark. Complainant contends that Respondent's purpose in registering the disputed domain name, after it had been owned by Complainant for 14 years and was only not renewed due to an error, was to prevent Complainant from recovering its domain name so that Respondent could use the disputed domain name to exploit Complainant's reputation to attract users to Respondent's website. Complainant also states that Respondent used a privacy service to conceal its identity. For all of these reasons, Complainant contends that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraphs 5(e) and 14(a) of the Rules, the effect of a default by a respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel AccoViews on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has failed to address Complainant's contentions, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, [WIPO Case No. D2006-0340](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it owns numerous registrations for the COLOROBRIA trademark, as referenced above. Therefore, Complainant has established that it has rights in the COLOROBRIA trademark.

The remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the TLD in which the domain name is registered) is identical or confusingly similar to Complainant's mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name incorporates the COLOROBRIA trademark in its entirety, with the addition of the descriptive Italian word "gruppo" before the term "colorobria". This variation does not prevent a finding of confusing similarity between the disputed domain name and the mark. See *Covanta Energy Corporation v. Domains By Proxy, LLC / Peter Allen, Covantaholdingcorporation*, [WIPO Case No. D2018-0285](#).

The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its COLOROBRIA mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, [WIPO Case No. D2008-1393](#). Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice of the dispute, respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

Here, Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has not submitted any arguments or evidence to rebut Complainant's contention that Respondent is not an assignee or licensee of Complainant and that Respondent has no other business relationship with Complainant. Complainant has contended that Respondent is not commonly known by the disputed domain name and that there is no evidence that Respondent has established trademark rights in the disputed domain name. Respondent is using the disputed domain name to host a website that directs the user to participate in lotteries and online gaming. Accordingly, Respondent is using the disputed domain name for commercial purposes, without any evidence that Respondent has established a business with a name that corresponds to Complainant's COLOROBRIA trademark. Prior UDRP panels have found that use of a

complainant's trademark in a disputed domain name that resolves to a website directing users to online gambling content does not give rise to rights or legitimate interests in the disputed domain name. See *International Business Machines Corporation v. Chen Hui, Gname*, [WIPO Case No. D2021-0240](#).

Therefore, the Panel concludes that Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

In this case, bad faith can be found in the registration and use of the disputed domain name. Complainant provided evidence of its registration and widespread use of the COLOROBRIA trademark prior to Respondent's registration of the disputed domain name, as well as Complainant's prior registration of the disputed domain name before the registration lapsed due to an administrative error. Therefore, Respondent was likely aware of Complainant and its rights in the COLOROBRIA trademark when it registered the disputed domain name. See [WIPO Overview 3.0](#), section 3.2.1; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, [WIPO Case No. D2016-1973](#). Moreover, noting that Complainant is a group of Italian companies and that the disputed domain name contains the descriptive term "gruppo", which means "group" in Italian, the disputed domain name's construction reinforces the Panel's view that Respondent was likely aware of Complainant at the time registering the disputed domain name.

Respondent is using the disputed domain name to host a website in Chinese that prompts users to participate in lotteries and online gaming (gambling). Prior UDRP panels have found that such a use of a complainant's trademark, when there is no other legitimate business interest in the disputed domain name, constitutes bad faith because this use capitalizes upon a complainant's goodwill and reputation for unauthorized financial gain. See *International Business Machines Corporation v. Chen Hui, Gname*, [WIPO Case No. D2021-0334](#).

For these reasons, this Panel finds that Respondent's registration and use of the disputed domain name was in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <gruppocolorobbia.com> be transferred to Complainant.

Brian J. Winterfeldt

Sole Panelist

Date: December 16, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname

Case No. D2021-3677

1. The Parties

The Complainant is Instagram, LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States / Chen Hui, Gname, Singapore.

2. The Domain Name and Registrar

The disputed domain name <instagram-signin.com> is registered with Dynadot6 LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 3, 2021. On November 4, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 5, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on November 16, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 19, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 19, 2021. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 13, 2021.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on January 7, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules,

paragraph 7.

4. Factual Background

The Complainant operates an online photo and video sharing social networking application. Instagram currently has over 1 billion monthly active users and 500 million daily active users, with more than 95 million photos and videos shared per day.

The Complainant's official website at "www.instagram.com" is ranked as the 25th most visited website in the world.

The Complainant owns many trade mark registrations in the term "Instagram" in many jurisdictions throughout the world, including in Singapore. These include Singaporean Trade Mark No. 40201516189P, for INSTAGRAM, registered on July 15, 2016; United States Trade Mark No. 4146057, for INSTAGRAM, registered on May 22, 2012 (first use in commerce on October 6, 2010); and International Trade Mark No. 1129314, for INSTAGRAM, registered on March 15, 2012.

The disputed domain name was registered on April 26, 2021, and resolves to a website providing various gambling and gaming advertisements.

5. Parties' Contentions

A. Complainant

The Complainant says that the disputed domain name currently points to a website in Chinese promoting and providing links to various online gambling websites. That website does not contain any information related to the Respondent, except for some purported credentials displayed at the bottom of the homepage, including a certificate entitled "Interactive Gaming License". The Complainant points out that once having clicked on this certificate, Internet users will be redirected to a highly similar website available at "<https://www.taoban100.com/manbetx/index.html>".

The Complainant says that according to its research, it appears that the Respondent was previously involved as a respondent in many UDRP proceedings where all the disputed domain names were ordered to be transferred to the complainants.

The Complainant also submits that the inclusion of the Complainant's INSTAGRAM mark in its entirety in the disputed domain name is sufficient to establish confusing similarity between the disputed domain name and the Complainant's trade mark. According to the Complainant, it is well established in previous UDRP decisions that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other elements, such as the term "sign in" and a hyphen, would not prevent a finding of confusing similarity under the first element.

The Respondent is not a licensee of the Complainant, nor has it been authorised or allowed by the Complainant to make any use of its INSTAGRAM mark, in a domain name or otherwise. The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy, in order to demonstrate rights or legitimate interests in the disputed domain name. The disputed domain name is being used to point to a website promoting and providing links to various online gambling websites, obviously for

commercial gain. According to the Complainant, such use of the disputed domain name cannot constitute a *bona fide* offering of goods or services under the Policy as the Respondent is clearly trading on the Complainant's reputation and goodwill by diverting traffic to a commercial website for profit.

The Complainant points out that the Respondent is not commonly known by the disputed domain name, and cannot assert that it is making a legitimate or fair use of the disputed domain name. The term "Instagram" is said to be highly distinctive and exclusively associated with the Complainant. All search results obtained by typing the term "Instagram" into the Google search engine available at "www.google.com" and "www.google.com.sg" refer to the Complainant.

The Complainant therefore submits that the Respondent registered the disputed domain name in the full knowledge of the Complainant's rights. Prior panels deciding under the Policy have held that actual knowledge of a complainant's rights at the time of registration of a domain name constitutes strong evidence of bad faith.

The Complainant further submits that the Respondent has engaged in a pattern of conduct within the meaning of paragraph 4(b)(ii) of the Policy by registering the disputed domain name and many other trade mark-abusive domain names for the purpose of preventing trade mark owners from reflecting their trade marks in corresponding domain names.

In addition, the Complainant contends that the fact that the Respondent deliberately chose to conceal his identity by means of a privacy protection service is another strong indication of his intent to use the disputed domain name in a way which may be abusive or otherwise detrimental to the Complainant and its rights.

The Complainant also submits that the Respondent's use of the disputed domain name to point to a gambling website may also tarnish the Complainant's distinctiveness, image and reputation.

Finally, the Complainant says that the Respondent's failure to reply to the Complainant's clear and explicit cease and desist letter prior to the filing of this Complaint is also indicative of the Respondent's bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is not identical to the INSTAGRAM trademark of the Complainant. However, that mark is immediately recognisable within the disputed domain name. It appears as its first part and is separated from the descriptive term "sign in" by a dash.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the INSTAGRAM trade mark of the Complainant.

B. Rights or Legitimate Interests

The Respondent did not reply to the Complainant's contentions, and used a privacy service to disguise his identity. There is no indication before the Panel that the Respondent is commonly known by the disputed domain name or has any rights or legitimate interests to the INSTAGRAM mark, which is inherently improbable given the distinctiveness and fame of that mark. The disputed domain name points to a website with various

gambling and gaming advertisements in the Chinese language, with no legitimate connection to the Complainant or its products. The only inference open to the Panel is that the Respondent has embarked upon a gratuitous attempt to derive a profit from the distinctiveness and reputation of the mark INSTAGRAM with millions of consumers around the world, including in Singapore.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered at a time when the reputation inherent in the Complainant's INSTAGRAM mark was already very well established, including in Singapore. It is inconceivable that the Respondent was not aware of the exclusive rights of the Complainant in the INSTAGRAM mark. The carefully chosen composition of the disputed domain name, including the term "sign in", further suggests that it was registered with a bad faith purpose. Linking the disputed domain name to a Chinese language website with various gambling and gaming advertisements further establishes the bad faith of the Respondent, and the fact that the Respondent is engaged in an attempt to derive financial advantage from a distinctive trade mark in relation to which it has no rights whatsoever.

Therefore, the Panel holds that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <instagram-signin.com> be transferred to the Complainant.

William A. Van Caenegem
Sole Panelist
Date: January 21, 2022



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. Domain ID Shield Service, Domain ID Shield Service CO., Limited / zhang yan sheng, GNAME. COM PTE. LTD.

Case No. D2021-3760

1. The Parties

The Complainant is Compagnie de Saint-Gobain, France, represented by Tmark Conseils, France.

The Respondent is Domain ID Shield Service, Domain ID Shield Service CO., Limited, Hong Kong, China / zhang yan sheng, GNAME. COM PTE. LTD., Singapore.

2. The Domain Name and Registrar

The disputed domain name <saint-gobain350jahre.com> is registered with OnlineNic, Inc. d/b/a China-Channel.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 10, 2021. On November 10, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 11, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on November 11, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 12, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 17, 2021. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 8, 2021.

The Center appointed Gareth Dickson as the sole panelist in this matter on December 14, 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a manufacturing company specialising in construction materials, which has been based in and operating from France for just over 350 years, having celebrated its 350th anniversary in 2015. The Complainant is established as a construction materials manufacturer worldwide and has over 170,000 global employees.

The Complainant has been using the "SAINT-GOBAIN" name for over 350 years and has been using the domain name <saint-gobain.com> since December 1995. The Complainant is also the owner of a number of trade mark registrations for SAINT-GOBAIN (the "Mark") around the world, including:

- Canadian trade mark registration number TMA423541, filed on June 27, 1990;
- French trade mark registration number 3005563, filed on February 4, 2000;
- European Union trade mark registration number 001552843, filed on March 9, 2000;
- International trade mark registration number 740183, registered on July 26, 2000, designating several countries including Morocco;
- United States of America trade mark registration number 4669229, filed on September 13, 2013;
- International trade mark registration number 1505901, registered on September 23, 2019 and designating several countries including Australia, Japan and Singapore.

The Complainant's use and registration as a trade mark of the Mark pre-dates the registration of the disputed domain name, which was registered on February 25, 2021. The disputed domain name is currently inactive and does not point to any active website.

5. Parties' Contentions

A. Complainant

The Complainant argues that it has rights in the Mark by virtue of its ownership of various trade mark registrations for the Mark around the world. It contends that the disputed domain name is confusingly similar to the Mark since it incorporates the Mark (which is recognisable within the disputed domain name) with the addition after the Mark of the number "350" and the word "jahre", being the German word for "years", under the generic Top-Level Domain ("gTLD") ".com". The Complainant submits that the addition of the phrase "350jahre" is a direct reference to the 350th anniversary celebrated by the Complainant in 2015.

The Complainant confirms that the disputed domain name was registered by the Respondent without its permission and that the Respondent is not a licensee of the Complainant.

The Complainant submits that there is no evidence to suggest that the Respondent: has been commonly known by the disputed domain name; is making, or intends to make, a legitimate noncommercial or fair use of it or has ever used or demonstrated preparations to use it in connection with a *bona fide* offering of goods or services.

The Complainant submits that the Respondent must have known of the Complainant and the Mark when it registered the disputed domain name. The Mark, according to the Complainant, is not descriptive or a dictionary word, and has acquired distinctiveness and a secondary meaning over the course of its 350 years of use, and is

well-known throughout the world.

Finally, the Complainant contends that the current passive holding of a domain name remains a use in bad faith under the Policy, and notes that the Respondent has been found to have engaged in bad faith registration and use of another French company's trade mark in a UDRP decision dated May 19, 2021 (*SODEXO v. Domain ID Shield Service, Domain ID Shield Service CO, Limited / zhang yan sheng, GNAME. COM PTE. LTD.*, [WIPO Case No. D2021-0790](#).)

Together, the Complainant submits that the Respondent is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant bears the burden of proving that:

- a) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- c) the disputed domain name has been registered and is being used in bad faith.

These criteria are cumulative. The failure of the Complainant to prove any one of these elements means the Complaint must be denied.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant is the owner of, and therefore has rights in, the Mark.

Section 1.7 of the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#), (["WIPO Overview 3.0"](#)) provides that: "[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

Section 1.8 of the [WIPO Overview 3.0](#) further provides that: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Panel therefore finds that the disputed domain name is confusingly similar to the Mark, since the disputed domain name incorporates the Mark in its entirety. The addition in the disputed domain name of "350jahre", being German for "350 years" and a reference to the 350-year anniversary of the Complainant, does not prevent a finding of confusing similarity, nor does the gTLD ".com".

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Although a complainant is required to demonstrate that a respondent has no rights or legitimate interests in respect of the domain name, as explained in section 2.1 of the [WIPO Overview 3.0](#), the consensus view of previous UDRP panels is that where a complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the current proceeding, the Complainant has established its *prima facie* case. The evidence before the Panel is that the Mark is neither generic nor descriptive but enjoys a degree of inherent distinctiveness that makes a coincidental adoption by the Respondent highly unlikely. The Complainant states that it has not given the Respondent permission to use the Mark, in a domain name or otherwise, and submits that the Respondent has not been commonly known by the disputed domain name.

There is no evidence that the Respondent has acquired any common law rights to use the Mark, is commonly known by the Mark or has chosen to use the Mark in the disputed domain name in any descriptive manner or is making any use of the disputed domain name that would establish rights or legitimate interests as a result of a noncommercial or fair use of it.

By not participating in these proceedings, the Respondent has failed to refute the Complainant's *prima facie* case that it has met its burden under the second UDRP element.

As clearly stated in section 2.1 of the [WIPO Overview 3.0](#), "a panel's assessment will normally be made on the basis of the evidence presented in the complaint and any filed response. The panel may draw inferences from the absence of a response as it considers appropriate but, will weigh all available evidence irrespective of whether a response is filed". Having reviewed and weighed the available evidence, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel notes that the Complainant has been using the Mark since long before the Internet or domain names existed, and that the disputed domain name was registered many years after the Mark was registered.

As a result, and in the absence of evidence from the Respondent that the similarity of the disputed domain name to the Mark is coincidental, the Panel must conclude that the Respondent knew of the Complainant's rights in the Mark when it registered the disputed domain name, and did so register it because of its similarity to the Mark.

The Panel therefore finds that the Respondent's registration of the disputed domain name was in bad faith since it attempted to appropriate for the Respondent, without the consent or authorisation of the Complainant, rights in the Complainant's Mark.

The disputed domain name is also being used in bad faith.

Although the disputed domain name does not currently resolve to a website, this does not alter the Panel's findings above and the Panel finds that the disputed domain name is being used in bad faith under the doctrine of passive holding.

Section 3.3 of the [WIPO Overview 3.0](#) states that relevant factors to finding bad faith in cases of passive holding include:

- “(i) the degree of distinctiveness or reputation of the complainant’s mark;
- (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use;
- (iii) the respondent’s concealing its identity [...]; and
- (iv) the implausibility of any good faith use to which the domain name may be put.”

The Panel notes that the Mark is distinctive of the Complainant, through its extensive use over nearly four centuries, and further notes that the Respondent: has not participated in these proceedings or sought to explain its registration and use of the disputed domain name; has sought to conceal its identity through a privacy service; and has very recently been found to have engaged in the bad faith registration and use of a domain name which incorporated another French company's trade marks. Furthermore, there is no apparent use of the disputed domain name by the Respondent that would not be illegitimate.

Therefore, and on the basis of the information available to it, the Panel finds that the Respondent’s use of the disputed domain name is in bad faith.

The Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <saint-gobain350jahre.com>, be transferred to the Complainant.

Gareth Dickson

Sole Panelist

Date: December 29, 2021



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

L'Occitane International S.A. v. Whois Privacy, Private by Design, LLC / Bartosz Kujawski

Case No. D2021-3906

1. The Parties

The Complainant is L'Occitane International S.A., Luxembourg, represented by IP Twins, France.

The Respondent is Whois Privacy, Private by Design, LLC, United States of America ("United States") / Bartosz Kujawski, Poland.

2. The Domain Name and Registrar

The disputed domain name <erorian.com> is registered with Porkbun LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 22, 2021. On November 23, 2021, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 2021 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 10, 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 27, 2021. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2022.

The Center appointed Reyes Campello Estebarez as the sole panelist in this matter on February 14, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules,

paragraph 7.

4. Factual Background

The Complainant is part of the L'Occitane Group, which is a natural and organic ingredients-based cosmetics and well-being products retailer. The Complainant's group commercializes its products through offline and online stores. Per the Complaint, in 2021, the Complainant's group counted 3,088 retail locations (1,523 of them owned retail stores), had more than 8,700 employees, and generated a revenue of more than 1 billion euros, reporting net sales of EUR 1,537.8 million.

The L'Occitane Group commercializes its products under various brands including L'OCCITANE, MELVITA, ERBORIAN, L'OCCITANE AU BRESIL, LIMELIFE BY ALCONA, and ELEMIS. Erborian was founded in 2007, became part of the L'Occitane Group in 2012, and it is currently distributed in numerous countries, including France, Germany, Italy, China, United States, Mexico, Russian Federation, Slovenia, Spain, Portugal, and Poland. The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has consulted the Complainant's website "www.erborian.com".

The Complainant has secured trademark registrations for ERBORIAN brand in many jurisdictions, including the following registrations:

- International Registration No. 1125364, ERBORIAN, word, registered on June 29, 2012, in Classes 3, and 5; and
- International Registration No. 1295774, ERBORIAN, figurative, registered on January 19, 2016, in Classes 18, 21, 24, and 35, (collectively the "ERBORIAN mark").

The Complainant further owns various domain names comprising its ERBORIAN mark, under various generic Top-Level-Domains ("gTLDs") or country code Top-Level-Domains ("ccTLDs"), which are linked to its corporate websites and online shops, including the following:

- <erborian.com>, registered on October 2, 2006;
- <erborianshop.com>, registered on March 21, 2008;
- <erborian.fr>, registered on July 31, 2010;
- <erborian.ru>, registered on January 12, 2013;
- <erborian.us>, registered on November 27, 2013;
- <erborian.com.tw>, registered on November 28, 2013;
- <erborian.co.uk>, registered on November 28, 2013;
- <erborian.co>, registered on January 23, 2014;
- <erborian.cz>, registered on January 23, 2014;
- <erborian.mx>, registered on January 23, 2014;
- <erborian.dk>, registered on January 24, 2014;
- <erborian.pt>, registered on April 7, 2014;
- <erborian.com.sg>, registered on April 19, 2016;
- <erborian.sg>, registered on April 19, 2016;
- <erborian.shop>, registered on September 26, 2016; and
- <erborian.asia>, registered on June 6, 2018.

The Complainant also operates various social media pages, including a Facebook page with 110,000 followers as well as an Instagram page with more than 160,000 subscribers.

The disputed domain name was registered on November 14, 2021, and it is currently inactive. According to the evidence provided by the Complainant, the disputed domain name was previously redirected to several third parties' websites offering erotic dating services.

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The Complainant enjoys widespread reputation and goodwill through its continuous and long-standing use of the ERBORIAN mark. *Laboratoires M&L y L'Occitane International S.A. v. Hebe Leite*, [WIPO Case No. DES2016-0017](#), has held that the Complainant and its trademark L'OCCITANE are well known.

The disputed domain name is confusingly similar to the ERBORIAN mark. The disputed domain name is a misspelling of the ERBORIAN mark (omitting the letter "b"), and the applicable gTLD ".com" is as a standard registration requirement and, as such, is disregarded under the first element confusing similarity test.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not known by the disputed domain name, he has no rights in the "erborian" name, and no authorization to use the Complainant's trademarks. Before the filing of the Complaint, the Respondent has not used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. The disputed domain name redirects to several third parties' websites offering erotic dating services. The Respondent is purposely trying to misdirect Internet users from the Complainant to these dating services sites.

The disputed domain name was registered and is being used in bad faith. The Complainant and its trademarks are so widely well known that it is inconceivable that the Respondent ignored the ERBORIAN mark. A simple search of the term "erorian" on an online search engine yields results only related to the Complainant. The Respondent knew or should have known that, when registering and using the disputed domain name, he would do so in violation of the Complainant's earlier rights. The Respondent targeted the ERBORIAN mark to attract Internet users by creating a likelihood of confusion, in the hope that Internet users searching for the Complainant's products and services would instead come across the Respondent's website.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material, and

allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the registered trademark ERBORIAN, both by virtue of its trademark registrations and as a result of its continuous use of this mark on the market.

The disputed domain name incorporates the ERBORIAN mark omitting one of its letters (the letter “b”), which may be considered a common misspelling that may easily go unnoticed not avoiding the direct perception of the trademark being reproduced in the disputed domain name. The Panel considers that the Complainant’s trademark ERBORIAN is recognizable in the disputed domain name, and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity.

It is to be noted that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered identical or confusingly similar to that mark for purposes of the Policy. Additionally, a domain name consisting of a common, obvious, or intentional misspelling of a trademark, containing sufficiently recognizable aspects of that mark, is considered confusingly similar to the relevant mark for the purposes of the first element, and employing a misspelling in this way normally signals an intention to confuse users seeking or expecting the complainant. Furthermore, the applicable TLD in a domain name is considered a standard technical registration requirement and, as such, is generally disregarded under the first element confusing similarity test. See sections 1.7, 1.9, and 1.11, [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that demonstrating a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The Complainant’s above-noted assertions and evidence in this case effectively shift the burden of production to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case. However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation or evidence of rights or legitimate interests in the disputed domain name.

The Panel notes that the disputed domain name incorporates the Complainant’s trademark ERBORIAN (with a sole common misspelling, omitting the letter “b”), which may be a common misspelling pointing to an intention to confuse Internet users seeking for or expecting the Complainant.

Additionally, the Panel notes that the term “erborian” is a coined term. Moreover, the term “erorian” does not appear to be included in the dictionary in any language.

The Panel further considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in the disputed domain name, not being authorized to use the ERBORIAN mark, and not owning any trademark including the term “erborian”. The Complainant has further alleged that the disputed domain name redirected to several third parties’ websites offering erotic dating services.

The Panel, under its general powers, has further corroborated that the Respondent owns no trademark containing or consisting of the word “erorian”.¹

The Panel further notes that the Respondent’s name, provided in the registration of the disputed domain name, was concealed under a privacy registration service, and has no resemblance with “erborian” or the term corresponding to the disputed domain name (“erorian”).

Furthermore, the Panel considers remarkable that the disputed domain name is currently apparently inactive resolving to a page with an Internet browser error message, and that the Respondent has chosen not to reply to the Complaint. These circumstances lead the Panel to consider that the Respondent’s reaction to this Complaint has been to take down the website that was linked to the disputed domain name.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant’s *prima facie* case, and nothing in the case file gives reason to believe, in a balance of probabilities, that the Respondent has or has had any rights or legitimate interests in respect of the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the well-known character worldwide of the Complainant and its trademark L’OCCITANE, particularly in the field of cosmetics, which has been recognized by previous decisions under the Policy.²

The Panel further notes the extensive use over the Internet and the notorious character of the ERBORIAN mark in the cosmetic field. The ERBORIAN mark has been extensively and continuously used over the Internet at least since July 3, 2007. The Panel, under its general powers, has consulted the Internet web archive WayBackMachine regarding the Complainant’s website “www.erborian.com”.

The Panel has further corroborated that the ERBORIAN mark is distributed in many jurisdictions, including Poland, where the Respondent is located according to the Registrar verification. In this respect, the Panel, under its general powers, has conducted various searches over the Internet and consulted the Complainant’s ERBORIAN website for Poland “www.pl.erborian.com”.

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the disputed domain name incorporates the Complainant's trademark with a sole common misspelling (omitting the letter "b"), existing an intrinsic likelihood of confusion;
- (ii) the term "erborian" is a coined term;
- (iii) the Complainant's and its trademarks are well known worldwide, or, in the case of the ERBORIAN mark, at least notorious in the cosmetic field, and the Complainant operates internationally, including in Poland (where the Respondent is apparently located according to the Registrar verification);
- (iv) any investigation over the Internet for the term "erborian" or for the term "erorian" yields results related to the Complainant;
- (v) according to the evidence provided by the Complainant, the disputed domain name has been linked to a website redirecting to third parties' websites in the dating services, which has been apparently taken down as a result of the Complaint;
- (vi) the Respondent used a privacy registration service; and
- (vii) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the Complaint.

The Panel considers highly unlikely that the Respondent was not aware of the Complainant and its ERBORIAN mark in circumstances that a simple web search for the term "erorian" would have brought them up. As a result and also for the reasons noted above, the Panel finds that in all likelihood and on the balance of probabilities the disputed domain name was registered with knowledge of the Complainant's prior rights, targeting these rights with the intention of free riding on the established reputation of the Complainant's trademarks, in bad faith. All circumstances in this case indicate that the Respondent has intentionally attempt to mislead third parties, in order to generate traffic to his website with a commercial purpose.

It is further to be noted that the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3, [WIPO Overview 3.0](#).

In light of the above, taking into consideration all cumulative circumstances of this case, on the balance of probabilities, the Panel concludes that the Complainant has met its burden of establishing that the disputed domain name has been registered and is being used in bad faith under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <erorian.com> be transferred to the Complainant.

Reyes Campello Estebaranz
Sole Panelist
Date: February 28, 2022

¹ In this respect, the Panel has consulted the WIPO Global Brand Database searching for any trademark belonging to the Respondent that includes the term "erorian".

² See, among others, *Laboratoires M&L e L'Occitane International SA. v. Hebe Leite*, *supra*; *Laboratoires M&L v. Hebe Leite*, [WIPO Case No. DBR2017-0001](#); *Laboratoires M&L and L'Occitane International S.A. v. Ronald Tsitsey*, [WIPO Case No. D2021-0155](#); *Laboratoires M&L, L'Occitane International SA v. Super Privacy Service LTD c/o Dynadot / Chen Hui, Gname*, WIPO Case No. D2021-1629; *Laboratoires M&L and L'Occitane International SA v. Web Commerce Communications Limited dba WebNic.cc / Tan Baozheng*, [WIPO Case No. D2021-2760](#).

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc – A.C.D. Lec v.
WhoisSecure / johnson, GN
Case No. D2022-0152

1. The Parties

The Complainant is Association des Centres Distributeurs E. Leclerc – A.C.D. Lec, France, represented by INLEX IP, France.

The Respondent is WhoisSecure, United States of America / johnson, GN, Singapore.

2. The Domain Name and Registrar

The disputed domain name <louerchezleclerc.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2022. On January 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2022 providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 20, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 10, 2022. On February 7, February 9 and February 16, 2022, the Center received email communications from Gname.com Pte. Ltd. which are considered below.

The Center appointed Antony Gold as the sole panelist in this matter on February 15, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant owns and operates a chain of approximately 721 supermarkets and hypermarkets in France as well as about 100 stores in other countries in Europe. The Complainant's business was established almost 70 years ago and it now has approximately 133,000 employees. In 2019, its turnover was EUR 48.20 billion.

The Complainant's brand name is LECLERC and it owns a number of trade marks to protect this trading style, including European Union Trade Mark, registration number 002700656, for LECLERC in multiple classes, registered on February 26, 2004. It also owns and operates a number of domain names associated with its goods and services, including <e.leclerc> and <mouvement.leclerc>.

The disputed domain name was registered on November 11, 2021. As at the time of submission of the Complaint, it resolved to a web page in Chinese characters which invited Internet users to click on a green button. Internet users who did so were redirected to a web page at another website location, the content of which was also in Chinese characters and comprised a login screen for a mobile lottery gambling website. The disputed domain does not currently resolve to an active website¹.

On February 7, 2022, Gname.com PTE. Ltd ("Gname")², which is a company which provides domain name registration and related services, sent an email to the Center asserting that it was the registrar of the disputed domain name and purporting to provide details of the underlying registrant. On February 8, 2022, the Center asked the Registrar to confirm the accuracy of the registrant and contact information which it had provided on January 19, 2022, which it duly did. On February 8, 2022, this confirmation was notified to Gname, who responded on February 9, 2022 stating that its earlier email had been sent in error and should be ignored. On February 16, 2022, Gname sent a further email to the Center, repeating its statement that it was the registrar, not the registrant, of the disputed domain name and providing contact details of xiao ceng, a different party to that provided on February 7, 2022 which, it said, was the underlying registrant.

On March 2, 2022, the Panel issued the Administrative Procedural Order No.1 instructing the Center to forward a copy of the Notification of Complaint and Commencement of Administrative Proceeding to the email address of xiao ceng, copying the parties, and requesting Gname and xiao ceng to clarify the relationship between them in addition to inviting xiao ceng to provide comments on the Complaint, if any. In addition, the Panel requested Gname and/or the Respondent, johnson, GN, to clarify why the registrant details of "johnson, GN" were provided for the disputed domain name. No reply was received to the Administrative Procedural Order No.1.

5. Parties' Contentions

A. Complainant

The Complainant says that the disputed domain name is identical or confusingly similar to a trade mark in which it has rights. It refers to its marks for LECLERC, details of one of these marks having been set out above, and says that this term is highly distinctive with no meaning in French or English. The disputed domain name contains its mark in full and adds as a prefix the words "louer chez", which translates as "to rent at". This additional content does not lessen the confusing similarity with the Complainant's mark and, in

¹ As explained at section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. The Panel has accordingly attempted to visit the website to which the disputed domain name resolves and has established that it is currently inactive.

² The email address uses the same domain name that was used as the registrant's email address as disclosed by the Registrar.

fact, serves to increase the risk of confusion as the Complainant also offers car rental services through its website at “www.location.leclerc”.

The Complainant says also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no indication that the Respondent is commonly known by the disputed domain name, nor has the Respondent been authorized, licensed or otherwise been permitted by the Complainant to use its LECLERC mark nor, to the Complainant’s best knowledge, does it have any other rights in LECLERC. The use of the disputed domain name to redirect to a gambling-related website does not comprise a *bona fide* offering of goods and services.

Finally, the Complainant says that the disputed domain name was registered and is being used in bad faith. Having regard to the longstanding reputé of the Complainant’s LECLERC mark, the Respondent was most likely aware of the Complainant’s activities and of the existence and use of its LECLERC trade mark as at the time the registration was made. Indeed there is no other reasonable explanation for the Respondent’s registration of the disputed domain name incorporating, as it does, the Complainant’s distinctive mark and combining it with words which associate it with the Complainant’s car hire activities in France.

The disputed domain name is also being used in bad faith. The Respondent’s use of the disputed domain name is disrupting its business and causing harm to the Complainant’s brand image. Internet users and particularly the Complainant’s customers may wrongly believe that the website to which it resolves is that of the Complainant, but that it is not functioning correctly or has been hacked. The Respondent has not replied to a cease and desist letter dated December 17, 2021, nor a reminder, and so it has not proved possible to resolve this matter without the issue of these proceedings. Moreover, the use of a privacy service by the Respondent is a further indicator of bad faith registration.

B. Respondent

The Respondent has not served a formal Response to the Complaint.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant shall prove each of the following three elements in order to succeed in its Complaint:

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

A. Respondent’s Identity

Before turning to the substantive issues, the Panel deals with the emails sent to the Center by Gname claiming that it is the registrar of the disputed domain name and that another party (xiao ceng) is the registrant. Paragraph 1 of the Rules defines respondent as “the holder of a domain-name registration against which a complaint is initiated”. The Whois record is a record of key information relating to a domain name, including the details of the registrar. The Registrar has reaffirmed to the Center that, consistent with the Whois record, it is the registrar of the disputed domain name and that johnson, GN is the underlying registrant.

In view of the information provided by Gname, the Panel issued the Administrative Procedural Order No.1 instructing the Center to forward a copy of the Notification of Complaint and Commencement of Administrative Proceeding to the email address of xiao ceng.

The Panel notes that according to a Whois search, the Registrar of the disputed domain name is indeed OwnRegistrar, Inc. Moreover, whilst the relationship between Gname and xiao ceng is unclear and it could be that the actual holder or user of the disputed domain name is xiao ceng, the Registrar has confirmed that the Respondent is the registrant of the disputed domain name.

Taking into account that no reply was received to the Administrative Procedural Order No.1, in the present circumstances, the Panel finds that johnson, GN is the Respondent, and that the substantive issues for the Panel to consider are essentially the same, irrespective of Gname's contentions. References below to the Respondent shall be construed to include the final user of the disputed domain name (if any).

B. Identical or Confusingly Similar

The Complainant has provided evidence of its trade mark registrations for LECLERC, including the mark in respect of which full details are provided above. It has thereby established its rights in this mark.

When comparing the Complainant's mark and the disputed domain name, the Top Level Domain ".com" is not taken into account as it is a technical requirement of registration. The disputed domain name comprises the Complainant's mark, in full and without alteration, and adds to it the prefix "louerchez". This additional term does not prevent the disputed domain name from being found to be confusingly similar to the Complainant's mark. As explained at section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "Where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

The Complainant's LECLERC mark is recognizable within the disputed domain name and the Panel accordingly finds that it is confusingly similar to a trade mark in which the Complainant has rights.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides, without limitation, examples of circumstances whereby a respondent might demonstrate that it has rights or legitimate interests in a domain name. In summary, these are: if a respondent has used, or made demonstrable preparations to use, the domain name in connection with a *bona fide* offering of goods and services; if a respondent has been commonly known by the domain name or a name corresponding to the domain name; or if a respondent has made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark in issue.

The previous use of the disputed domain name in order to direct to a webpage which redirected Internet users to a gambling website did not comprise a *bona fide* offering of goods and services. The extent to which Internet users, who were most likely seeking rental or hire services provided by the Complainant in France, might have found a Chinese language gambling website to be of interest is not readily apparent. However, irrespective of the efficacy of such use of the disputed domain name, the Respondent was nonetheless using the repute of the Complainant's mark and the confusing similarity to it of the disputed domain name in order to attract Internet users to its webpage and, most likely, deriving a commercial advantage from those Internet users who clicked on the green button and were taken through to the third party website. But, even if no such financial benefit was obtained, use of the disputed domain name simply as a means of funneling Internet traffic to a third party website providing gambling services, in the present circumstances, does not comprise use in connection with a *bona fide* offering of goods and services.

There is no evidence to indicate that the Respondent has been commonly known by the disputed domain name and the second circumstance set out at paragraph 4(c) of the Policy is therefore inapplicable. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name. Lastly, the current inactive status of the disputed domain name comprises neither a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use of it; see, by way of example, *G4S Plc v. Muyou Chen, wer*, WIPO Case No. [D2020-0715](#).

Once a complainant has made out a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent; see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). In the absence of any response from the Respondent to the Complainant's contentions, it has failed to satisfy that burden. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

D. Registered and Used in Bad Faith

As explained above, the disputed domain name uses the Complainant's LECLERC mark in full and couples it with the term "louer chez", so that the English language equivalent of the combined term would be understood as "Rent from Leclerc". This provides strong evidence that the Respondent was aware of the Complainant's LECLERC mark as at the date of registration and that it was registered in order to target the Complainant and take advantage of its repute in its mark. As explained at section 3.1.4 of the [WIPO Overview 3.0](#), "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith". See also *Costco Wholesale Membership Inc. and Costco Wholesale Corporation v. Almantas Kakareka and Hostmaster Oneandone, 1&1 Internet, Inc.*, WIPO Case No. [D2007-1833](#). The Panel therefore finds the registration of the disputed domain name to have been in bad faith.

Turning to bad faith use, Internet users who visited the Respondent's earlier webpage were unlikely to believe that they had encountered the Complainant's website. However, they will have been drawn to it because of the confusing similarity between the disputed domain name and the Complainant's LECLERC mark and the Respondent will have thereby have gained the opportunity of earning revenue from such visitors, whether as pay-per-click income from those Internet users who clicked through to the gambling website or otherwise; see *Yahoo! Inc. v. Hildegard Gruener*, WIPO Case No. [D2016-2491](#). The Respondent's conduct therefore falls within the example of bad faith registration and use set out at paragraph 4(b)(iv) of the Policy namely that, by its use of the disputed domain name, it has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website.

The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding; see section 3.3 of the [WIPO Overview 3.0](#). The factors that are typically considered when applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealment of its identity by its use of and (iv) the implausibility of any good faith use to which the domain name may be put.

These factors are fulfilled in the current circumstances in that: (i) the Complainant has established the repute of its LECLERC trade mark; (ii) the only use made of the disputed domain name to date has been in bad faith; (iii) the user of the disputed domain name has sought to conceal its identity; (iv) there is no plausible good faith use to which the disputed domain name could be put as, due to the composition of the disputed domain name, it would be implicitly connected to the Complainant. See also *VOLKSWAGEN AG v. Danny de graaf*, WIPO Case No. [D2020-1940](#).

The Panel therefore finds that the disputed domain name has been registered and used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <louerchezleclerc.com>, be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: March 13, 2022

ADMINISTRATIVE PANEL DECISION

Laboratoires Théa v. hai qing cai
Case No. D2022-0359

1. The Parties

The Complainant is Laboratoires Théa, France, represented by AARPI Scan Avocats, France.

The Respondent is hai qing cai, China.

2. The Domain Name and Registrar

The disputed domain name <ftadirect.com> is registered with Gname 007 Inc (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2022. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. On the following day, the Center sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on February 11, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 9, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 17, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration

of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a pharmaceutical company dedicated to ophthalmology. It holds trademark registrations for OFTADIRECT, including the following:

- French trademark registration number 3596401, registered on September 2, 2008, specifying services in class 35; and
- European Union trademark registration number 014358105, registered on July 10, 2015, specifying services in class 35.

The above trademark registrations remain current. The Complainant has also registered various domain names, including <oftadirect.fr>, registered on June 3, 2008, that it uses in connection with an online store, and <oftadirect.com>, also registered on June 3, 2008, that redirects to <oftadirect.fr>.

The Respondent is an individual resident in China.

The disputed domain name was created on January 12, 2022. At the time when the Complaint was filed, it resolved to a webpage displaying links to pornographic content with a video search feature, and a link to a dating website. At the time of this Decision, it no longer resolves to any active website; rather, it is passively held.

The Registrar confirmed that the language of the Registration Agreement is English and Chinese.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's OFTADIRECT trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has never been known as "Oftadirect". The Respondent is not in any way related to the Complainant's business. The Respondent is not an authorized distributor of the Complainant and does not have any business with it. The Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the OFTADIRECT trademark.

The disputed domain name was registered and is being used in bad faith. It is highly likely that the Respondent knew of the existence of the Complainant's prior rights when the disputed domain name was registered. It is highly unlikely that the Respondent's choice to register a domain name similar to the Complainant's OFTADIRECT trademark was purely fortuitous. The disputed domain name resolves to a webpage displaying pornographic content which has no relationship to the Complainant's sector. Furthermore, it appears that the disputed domain name is for sale.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the OFTADIRECT trademark.

The disputed domain name incorporates all but one feature of the OFTADIRECT trademark, *i.e.*, the initial letter “O”. Given that the disputed domain name contains sufficiently recognizable aspects of the mark, the omission of this one letter does not avoid a finding of confusing similarity between the disputed domain name and the Complainant’s trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.9 and, for example, *Groupe La Centrale v. naveed wajid*, WIPO Case No. [D2021-3966](#).

The only other element in the disputed domain name is a generic Top-Level Domain (“gTLD”) suffix (“.com”). As a technical requirement of registration, the gTLD suffix may be disregarded in the comparison between the disputed domain name and the Complainant’s trademark for the purposes of the first element of paragraph 4(a) of the Policy. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [the respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain name formerly resolved to a webpage displaying links to pornographic content and a dating website. Nothing on the webpage had any apparent connection to the disputed domain name. This use was for the commercial gain of the Respondent, or for the commercial gain of the operators of linked websites, or both. The Complainant declares that the Respondent is not in any way related to the Complainant’s business and has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the OFTADIRECT trademark. At the present time, the disputed domain name is passively held. In view of these

circumstances, the Panel does not consider that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor that he is making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Respondent is identified in the Registrar's Whois database as "hai qing cai", not the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, but these circumstances are not exhaustive. The fourth circumstance is as follows:

"(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

The disputed domain name was registered on January 12, 2022, years after the registration of the Complainant's OFTADIRECT trademark. The Complainant has made longstanding use of the OFTADIRECT trademark. The disputed domain name incorporates almost all of that trademark, omitting only the letter "O", and it is almost identical to the Complainant's domain name <oftadirect.com>. The operational element of the disputed domain name is composed of the initials "fta" and the word "direct" but nothing on the webpage to which it formerly resolved has any apparent connection to those elements. Rather, the disputed domain name appears designed to attract Internet users who mistype in a browser the Complainant's domain name in the ".com" gTLD, a practice known as "typosquatting". The Respondent provides no other explanation for his registration of the disputed domain name. In these circumstances, the Panel considers it more likely than not that the Respondent was aware of the Complainant and its OFTADIRECT trademark when he registered the disputed domain name.

The disputed domain name formerly resolved to a webpage displaying links to pornographic content and a dating website. Given the findings in Section 6.B above, the Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the Respondent's webpage, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's webpage or of the goods or services advertised on that webpage within the terms of paragraph 4(b)(iv) of the Policy.

The Panel takes note that the use of the disputed domain name has changed since the Complaint was filed and that it no longer resolves to any active website. This change in use does not alter the Panel's conclusion and may constitute a further indication of bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <ftadirect.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: March 25, 2022