

## **ADMINISTRATIVE PANEL DECISION**

### **Signum International AG and Hult Prize Foundation v. HO QUANG HUNG Case No. D2022-3992**

#### **1. The Parties**

The Complainants are Signum International AG, Switzerland, and Hult Prize Foundation, United States of America (“United States”), represented by BMVN International LLC, Viet Nam.

The Respondent is HO QUANG HUNG, Viet Nam.

#### **2. The Domain Names and Registrar**

The disputed domain names <hultprizevietnam.com> and <hultprizevn.com> are registered with P.A. Viet Nam Company Limited (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2022. On October 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 27, 2022, 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 November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. On November 4 and 7, 2022, the Center received four email communications from the Respondent. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on November 25, 2022.

The Center appointed Edoardo Fano as the sole panelist in this matter on December 6, 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.

Pursuant to the paragraphs 10 and 12 of the Rules, on December 20, 2022, the Panel issued a Procedural Order, requesting the Complainants to reply, on or before January 3, 2023, to the Respondent's claim that the prior CEO of the Complainants allowed the Respondent to register the disputed domain names.

The Complainants on January 3, 2023, and the Respondent on December 20, 2022, and January 3, 2023, submitted their respective reply to the Panel's Procedural Order.

The language of the proceeding is English, being together with Vietnamese one of the languages of the Registration Agreements, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainants, both of them members of the Hult Group, are Signum International AG, a Swiss company responsible for trademarks and domain names of the Hult Group, and Hult Prize Foundation, a United States non-profit organization dedicated to launching the world's next wave of social entrepreneurs with the goal of solving the planet's biggest challenges. One of the Complainants, namely Signum International AG, is the owner of several trademark registrations, including HULT, among which the following:

- International Trademark Registration No. 1180126 for HULT PRIZE, registered on September 5, 2013;
- United States Trademark Registration No. 4550897 for HULT PRIZE, registered on June 17, 2014;
- International Trademark Registration No. 803289 for HULT COLLEGE, registered on April 24, 2003, also designating Viet Nam;
- International Trademark Registration No. 803291 for HULT UNIVERSITY, registered on April 24, 2003, also designating Viet Nam.

The Complainants also operate on the Internet, being "www.hultprize.org" their official website.

The Complainants provided evidence in support of the above.

On September 18, 2018, Hult Prize Foundation granted a license to operate Hult Prize South East Asia Region to the Respondent's company, SEA EDU ("South East Asia Investment And Education Company Limited"). On July 5, 2022, the Complainants sent a letter to the Respondent, requesting him to stop all activities related to the Hult Prize and to transfer the disputed domain names to the Complainants. On August 9, 2022, the Complainants sent a letter of termination to the Respondent, officially terminating any and all relationships between the Complainants and the Respondent and reiterating their request for the transfer of the disputed domain names.

According to the WhoIs records, the disputed domain names were both registered on December 23, 2015, and they both resolve to the website of the disputed domain name "www.hultprizevn.com", in which the Hult Prize Southeast Asia program is promoted and the Complainants' trademarks and logo are reproduced.

#### **5. Parties' Contentions**

##### **A. Complainants**

The Complainants state that the disputed domain names are confusingly similar to their trademark HULT PRIZE, as the disputed domain names wholly contain the Complainants' trademark with the addition of the geographical term "vietnam" and its abbreviation "vn".

Moreover, the Complainants assert that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainants to register the disputed domain names or to use their trademark within the disputed domain names. The Complainants state that the Respondent was formerly a licensee of the Complainants from September 18, 2018, to August 9, 2022, and at no point, neither during the license or before or after its termination, did the Complainants authorize the Respondent to use, register, or operate the disputed domain names.

The Complainants submit that the Respondent has registered the disputed domain names in bad faith, since the Complainants' trademark HULT PRIZE is widely known and the Respondent obtained his MBA degree from Hult International Business School. Therefore, the Respondent targeted the Complainants' trademark at the time of registration of the disputed domain names and the Complainants contend, although the Respondent was involved in some Hult Prize-related activities in Viet Nam, that this does not explicitly generate to the Respondent any rights to use the disputed domain names. The Complainants assert that when the licensing relationship ended, the Respondent's refusal to transfer the disputed domain names and the use of them to mislead consumers into participating in the Respondent's events and activities as if the Respondent was still an affiliate of the Complainants, qualifies as bad faith registration and use.

Finally, in response to the Panel's Procedural Order, requesting the Complainants to reply to the Respondent's claim that the prior CEO of the Complainant allowed the Respondent to register the disputed domain names, the Complainants confirmed that the Respondent has never been authorized to register the disputed domain names.

## **B. Respondent**

The Respondent has made no formal reply to the Complainants' contentions.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL International PLC v. Mark Freeman*, WIPO Case No. [D2000-1080](#); *Altavista Company v. Grandtotal Finances Limited et. al.*, WIPO Case No. [D2000-0848](#); *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

In this case, the Respondent submitted four informal email communications on November 4 and November 7, 2022, stating the following:

"To whom it may concern: We are the legal owner of this domain. We do not accept any illegal action that set our ownership out of control. We will sue any illegal acts against our interests and rights." (November 4, 2022);

"Dear all, Any illegal action against our legal domain ownership will be subjected to our lawsuit. I am not free to receive any annoying message from Hult Prize Foundation." (November 4, 2022);

"To Who I May Concern: We are the legal owner of the domains. We do not accept the illegal request and complaint. No legal court's decision set those complaint to be right. We do not have time for these information." (November 4, 2022);

"To Whom It May Concern: I am writing as the legal owner of the domains: hultprizevietnam.com and hultprizevn.com. The authority that allowed me to bought these domains was ruled by the past CEO of Hult Prize Foundation Ahmad Ashkar. Moreover, the costs of the domains and its maintenance and website's costs have never been paid. Therefore, there is no rights to such the new CEO of Hult Prize Foundation claim to own these domain names. The new CEO of Hult Prize Foundation has never negotiated for such a reimbursement of the costs that i spent on behalf of Hult Prize Foundation (allowed by Ahmad Ashkar) at the beginning. There is also NO COURT to set any decision for this complaint. I do not have time for these illegal

requests. This case should be closed.” (November 7, 2022).

Finally, in response to the Panel’s Procedural Order, the Respondent reasserted with the above claims, adding that the Complainants should provide evidence that the Complainants’ former CEO did not authorize him to register the disputed domain names.

## **6. Discussion and Findings**

### **6.1. Procedural Issue – Consolidation of Multiple Complainants**

The Complaint was filed by two Complainants, and the Complainants have requested consolidation of multiple complainants. No objection to this request was made by the Respondent.

Pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.1: “assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”.

The Panel finds that there is sufficient evidence that the Complainants have common grievance against the Respondent, who has engaged in a common conduct that has affected both of them, and that the consolidation would be procedurally efficient and equitable. The Panel further notes that the Respondent did not object to the consolidation request. The Panel therefore accepts the Complainants’ consolidation request.

For the purpose of this decision, the “Complainant” will refer to both the Complainants.

### **6.2. Substantive issues**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

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

#### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant is the owner of the trademark HULT PRIZE both by registration and acquired reputation and that the disputed domain names are confusingly similar to the trademark HULT PRIZE.

Regarding the addition of the geographical term “vietnam” and of the geographical code “vn” (as an abbreviation for “Viet Nam”, the country of the Respondent), the Panel notes that it is now well established that the addition of other terms or letters to a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark (see, e.g., *Aventis Pharma SA., Aventis Pharma Deutschland GmbH v. Jonathan Valicenti*, WIPO Case No. [D2005-0037](#); *Red Bull GmbH v. Chai Larbthanasub*, WIPO Case No. [D2003-0709](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#)). The addition of the term “vietnam” and of the letters “vn” does not therefore prevent the disputed domain names from being confusingly similar to the Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain (“gTLD”), in this case “.com”, is typically ignored when assessing the confusing similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain names are confusingly similar to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular, but without limitation:

“(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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.”

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent’s rights or legitimate interests in respect of the disputed domain names according to paragraph 4(a)(ii) of the Policy is potentially quite difficult since proving a negative circumstance is more complicated than establishing a positive one.

As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant, as set out above, asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since he has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, nor is making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. The Complainant submits that the Respondent, a former licensee of the Complainant from September 18, 2018, to August 9, 2022, is using the disputed domain names in relation to a website in which the Hult Prize Southeast Asia program is promoted, and the Complainant’s trademark and logo are reproduced.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that he has rights or legitimate interests in the disputed domain names.

The Respondent has failed to file a formal response in accordance with the Rules, paragraph 5.

In his email communication of November 7, 2022, the Respondent is stating that “the authority that allowed me to bought these domains was ruled by the past CEO of Hult Prize Foundation Ahmad Ashkar”, and is providing as an annex to this email the letter of Ahmad Ashkar, as CEO of Hult Prize Foundation, granting his company, SEA EDU, a license to operate Hult Prize South East Asia Region. This letter granting the

license to the Respondent to operate Hult Prize South East Asia Region, also provided as an annex to the Complaint, is dated September 18, 2018, while the disputed domain names were both registered on December 23, 2015, that is almost three years earlier.

As regards the license of 2018, the Panel does not understand it as an authorization to register as a domain name, the distinctive sign HULT PRIZE.

As the Complainant says: “while the Letter of License from Hult Prize Foundation allowed SEA EDU to run the Hult Prize Southeast Asia program, it did not explicitly grant SEA EDU or the Respondent any license to use the Complainant’s trademarks or to register any domain names incorporating the Complainant’s trade name and trademarks.”

While the Panel understands that the Respondent disputes this (claiming to have such authorization), it is to be noted that the Complaint signed by the Complainant’s lawyers includes an attestation of accuracy.

Even if the Respondent may have understood that the Complainant authorized implicitly the use of the HULT PRIZE trademark for the purposes of advertising and developing the Complainant’s products and services, such implicit authorization should not be interpreted as an absolute permit to register and use domain names confusingly similar to the Complainant’s trademark in a manner susceptible of creating confusion to the Internet users, especially in circumstances where the Complainant itself has specifically denied that it provided any authorization to do so. The Panel also notes that the nature of the disputed domain names carries a risk of implied association with the Complainant’s trademark. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the facts of this case, the Panel finds that paragraph 4(a)(ii) of the Policy has been satisfied.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that “for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the respondent has] registered or has 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 its documented out-of-pocket costs directly related to the domain name; or
- (ii) that [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) that [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that 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”.

Regarding the registration in bad faith of the disputed domain names, there is no question about the fact that the Respondent knew of the Complainant and deliberately registered the disputed domain names, having the Respondent obtained his MBA degree from Hult International Business School, as well as having been the licensee of the Complainant to operate Hult Prize South East Asia Region from September 18, 2018, to August 9, 2022.

In the present case, the Panel's view is that the Respondent has not been able to prove that the registration of the disputed domain names was authorized or accepted by the Complainant. Moreover, the disputed domain names were registered almost three years before the license was granted by the Complainant.

In the Panel's view, it is also established that the disputed domain names are used in bad faith because, since the end of the license relationship communicated by the Complainant's legal representatives to the Respondent, that is more than two months before the present Complaint was filed, in the website at the disputed domain names the Complainant's Hult Prize Southeast Asia program is promoted and the Complainant's trademark and logo are reproduced, by creating a likelihood of confusion with the Complainant's trademark and the relationship (or lack thereof) between the Complainant and the Respondent.

In conclusion, the above evidence suggests to the Panel that the Respondent intentionally registered and is using the disputed domain names in order to create confusion with the Complainant's trademark and attract, for commercial gain, Internet users to his website, in accordance with paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

## **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 <hultprizevietnam.com> and <hultprizevn.com> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: January 4, 2023