

## ADMINISTRATIVE PANEL DECISION

Benefitfocus.com, Inc. v. 蒋黎 (Ieed johnny); 王化德 (Hua De Wang); huade wang, huanghebeilu; Karl Schnurch, EdenMedia; Idah Idah; 张存硕 (Zhang Cun Shuo); Domain Admin, TotalDomain Privacy Ltd; Domain Administrator, Sugarcane Internet Nigeria Limited; Domain Administrator  
Case No. D2022-4661

### 1. The Parties

The Complainant is Benefitfocus.com, Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

The Respondents are 蒋黎 (Ieed johnny), China; 王化德 (Hua De Wang), China; huade wang, huanghebeilu, China; Karl Schnurch, EdenMedia, Seychelles; Idah Idah, Indonesia; 张存硕 (Zhang Cun Shuo), China; Domain Admin, TotalDomain Privacy Ltd, Panama; Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria; Domain Administrator, Hong Kong, China.

### 2. The Domain Names and Registrars

The disputed domain names <abmhrintouch.com>, <amchrintouch.com>, and <gcshrintouch.com> are registered with Key-Systems GmbH.

The disputed domain names <brookdalehrintouch.com> and <mastechrintouch.com> are registered with Above.com Pty Ltd.

The disputed domain name <mykahbenefitshrintouch.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn).

The disputed domain names <ardaghbenefit-hrintouch.com>, <ardaghbenefitshrintouch.com>, and <ardaghbenifits-hrintouch.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd.

The disputed domain names <ametekhrintouch.com>, <amibenefitshrintouch.com>, <asrchrintouch.com>, <atriahrintouch.com>, <autozonehrintouch.com>, <bbssbenefitshrintouch.com>, <benefitshrintouch.com>, <biglotshrintouch.com>, <bojangleshrintouch.com>, <cbpbenefitshrintouch.com>, <ccrnhrintouch.com>, <centurybenefitshrintouch.com>, <charlottesvillehrintouch.com>, <claycountysdbenefitshrintouch.com>, <danvillevahrintouch.com>, <davidsonhrintouch.com>, <duncanhrintouch.com>, <forever21hrintouch.com>, <gibraltahrintouch.com>, <ikeahrintouch.com>, <mccarthyhrintouch.com>, <mhhrintouch.com>, <mybaptistbenefitshrintouch.com>, <mypetcobenefitshrintouch.com>, <mytitanbenefitshrintouch.com>, <myvolvocarusbenefitshrintouch.com>, <nalbenefitshrintouch.com>, <nationallifehrintouch.com>.

<nellcbenefitshrintouch.com>, <o-ibenefitshrintouch.com>, <pdibenefitshrintouch.com>, <ricehrintouch.com>, <rophbenefitshrintouch.com>, <rushbenefitshrintouch.com>, <schotthrintouch.com>, <shp-loginhrintouch.com>, <topsmarketshrintouch.com>, <unhealthcarehrintouch.com>, <wcpsshrintouch.com>, and <yourbenefitshrintouch.com> are registered with DNSPod, Inc.

The disputed domain name <mykerrybenefitshrintouch.com> is registered with GoDaddy.com, LLC.

The disputed domain names <albanymedhrintouch.com>, <cmshrintouch.com>, <comhrintouch.com>, <lccahrintouch.com>, <mycsbenefitshrintouch.com>, <myhrintouch.com>, <mytreehrintouch.com>, and <ykkhrintouch.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

The disputed domain name <hrintouch.org> is registered with PSI-USA, Inc. d/b/a Domain Robot.

The disputed domain names <adaghbenefts-hrintouch.com>, <ardafbenefts-hrintouch.com>, <ardagbenefts-hrintouch.com>, <ardaghenfits-hrintouch.com>, and <hrintouch-ardaghbenefts.com> are registered with Sav.com, LLC.

Key-Systems GmbH; Above.com Pty Ltd.; Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn); Chengdu West Dimension Digital Technology Co., Ltd; DNSPod, Inc.; GoDaddy.com, LLC; PDR Ltd. d/b/a PublicDomainRegistry.com; PSI-USA, Inc. d/b/a Domain Robot; and Sav.com, LLC, are individually and collectively referred to below as “the Registrar”.

### **3. Procedural History**

The Complaint involving 78 domain names was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2022. On December 6, 2022, the Center transmitted by email to the Registrar and other registrars a request for registrar verification in connection with 78 domain names. Between December 6 and December 14, 2022, the Registrar and other registrars transmitted by email to the Center its verification response disclosing registrant and contact information for 78 domain names that differed from the named Respondents (various privacy protection services, not disclosed, Redacted for Privacy, and EdenMedia) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 15, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On December 15, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 19, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

On December 19, 2022, due to the number of potential registrants identified, the Complainant requested an extension of time to file an amendment to the Complaint. On the same day, the Complainant was granted an extension until December 24, 2022 to file an amendment to the Complaint. Due to expiry, on January 18 and February 6, 2023 respectively, five domain names in total were withdrawn from this proceeding at the request of the Complainant. The Complainant filed an amended Complaint in English on March 1, 2023.

On March 2, 2023, a further eight domain names were withdrawn from this proceeding at the request of the Complainant. On the same day, the proceeding was suspended to allow the Complainant to settle the dispute as regards another domain name, which was subsequently withdrawn from the proceeding. On March 13, 2023, at the request of the Complainant, the proceeding was reinstated as regards the remaining 64 disputed domain names.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on April 4, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 1, 2023. 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 offers cloud-based employee health benefits administration technology. It provides its solution to 25 million employees in the United States. The Complainant has held or currently holds multiple trademark registrations, including the following:

- United States trademark registration number 3,461,016 for a mixed mark featuring the textual element INTOUCH and, above it in smaller font, BENEFITFOCUS HR, registered on July 8, 2008, with a claim of first use in commerce on August 14, 2007, specifying services in class 42. This registration was cancelled on February 13, 2015;
- United States trademark registration number 4,261,146 for HR INTOUCH, registered on December 18, 2012, with a claim of first use in commerce on August 14, 2007, specifying services in class 42, disclaiming any exclusive rights to use “HR” apart from the mark as shown. This registration was cancelled on July 19, 2019;
- International trademark registration number 1138700 for HR INTOUCH, registered on October 22, 2012, designating multiple jurisdictions, specifying services in class 42, with a disclaimer of “HR”. This registration was not renewed and lapsed on May 6, 2023;
- International trademark registration number 1181498 for HR INTOUCH, registered on October 1, 2013, designating multiple jurisdictions, specifying goods in class 9. This registration remains current; and,
- United States trademark registration number 6,682,864 for HR INTOUCH, registered on March 29, 2022, with a claim of first use in commerce on January 1, 2009, specifying services in classes 35, 36, and 42, and disclaiming any exclusive rights to use “HR” apart from the mark as shown. This registration remains current.

The Complainant also registered the domain name <hrintouch.com> on September 10, 2008 that it uses as a central online location for its HR InTouch employee benefits platform. Specifically, it uses this domain name to create client-specific Third-Level Domains (“3LDs”) that serve as log-in pages for employees of particular clients. For example, it created the 3LD <cms.hrintouch.com> for employees of its client CMS. According to evidence provided by the Complainant, it has created other 3LDs in the same way with its domain name and the initial elements “mytree”, “mastec”, “mycsbenefits”, “ykk”, “lcca”, “albany”, “mykerrybenefits”, “abm”, “mykahbenefits”, “ametek”, “amibenefits”, “asrc”, “atria”, “autozone”, “bbssbenefits”, “benefits”, “biglots”, “bojangles”, “ccrn”, “centurybenefits”, “charlottesville”, “claycountysdbenefits”, “danvilleva”, “duncan”, “forever21”, “gibraltar”, “ikea”, “mccarthy”, “mh”, “mybaptistbenefits”, “mynetco”, “mytitanbenefits”, “myvolvocarusbenefits”, “nalbenefits”, “nationallife”, “nellcbenefits”, “o-ibenefits”, “pdibenefits”, “rice”, “rophbenefits”, “rushbenefits”, “schott”, “shp-login”, “topsmarkets”, “unchealthcare”, “wcpss”, “yourbenefits”, or “gcs”. It also created a 3LD with the element “ardaghbenefits” that is no longer active.

The Respondents are identified in the Registrar's private Whois database as 蒋黎 (leed johnny), other individual names, and company names, or they are masked by a privacy service.

The disputed domain names were registered on the dates, and in the names, shown in the following table.<sup>1</sup>

Registration date	Disputed domain name	Registrant name
May 21, 2009	<cmshrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 21, 2013	<mytreehrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 22, 2013	<mastechrintouch.com>*	Domain Administrator
December 30, 2013	<hrintouch.org>	Karl Schnurch, EdenMedia
October 29, 2014	<brookdalehrintouch.com>*	Domain Administrator
October 30, 2015	<mycsbenefitshrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 9, 2015	<ykkhrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 25, 2015	<comhrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
June 2, 2016	<lccahrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
August 2, 2016	<myhrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 7, 2016	<albanymedhrintouch.com>	Domain Admin, TotalDomain Privacy Ltd
November 15, 2018	<mykerrybenefitshrintouch.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
November 16, 2018	<abmhrintouch.com>	Karl Schnurch, EdenMedia
November 20, 2019	<mykahbenefitshrintouch.com>	张存硕 (Zhang Cun Shuo)
June 6, 2022	<ametekhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<amibenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<asrchrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<atriahrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<autozonehrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<bbssbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<benefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<biglotshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<bojangleshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<cbpbbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<ccrnhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<centurybenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<charlottesvillehrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<claycountysdbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<danvillevahrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<davidsonhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<duncanhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<forever21hrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<gibraltarhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<ikeahrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<mccarthyhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<mhhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<mybaptistbenefitshrintouch.com>	蒋黎 (leed johnny)

<sup>1</sup> The disputed domain names marked with an asterisk (\*) have not been consolidated in this dispute. See section 6.1A below.

June 6, 2022	<mypetcobenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<mytitanbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<myvolvocarusbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<nalbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<nationallifehrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<nellcbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<o-ibenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<pdibenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<ricehrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<rophbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<rushbenefitshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<schothrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<shp-loginhrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<topsmarketshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<unchealthcarehrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<wcpsshrintouch.com>	蒋黎 (leed johnny)
June 6, 2022	<yourbenefitshrintouch.com>	蒋黎 (leed johnny)
August 16, 2022	<amchrintouch.com>*	Idah Idah
August 16, 2022	<gcshrintouch.com>*	Idah Idah
August 23, 2022	<adaghbenefits-hrintouch.com>	huade wang, huanghebeilu
August 23, 2022	<ardafbenefits-hrintouch.com>	huade wang, huanghebeilu
August 23, 2022	<ardagbenefits-hrintouch.com>	huade wang, huanghebeilu
August 23, 2022	<ardaghbenfits-hrintouch.com>	huade wang, huanghebeilu
August 23, 2022	<hrintouch-ardaghbenefits.com>	huade wang, huanghebeilu
August 23, 2022	<ardaghbenefit-hrintouch.com>	王化德 (Hua De Wang)
August 23, 2022	<ardaghbenefitshrintouch.com>	王化德 (Hua De Wang)
August 23, 2022	<ardaghbenifits-hrintouch.com>	王化德 (Hua De Wang)

Almost all the disputed domain names resolve to landing pages displaying (“pay-per-click”) PPC links regarding, variously, employee benefits management systems, employee benefits, employee recognition, HR recruitment, and other topics. Several of the landing pages associated with the disputed domain names registered with PDR Ltd. d/b/a PublicDomainRegistry.com indicate that the corresponding domain name may be for sale. The remaining disputed domain names either redirect to unrelated domain names or do not resolve to any active website.

## 5. Parties’ Contentions

### A. Complainant

The Complainant obtained common law rights in the HR INTOUCH mark at least as early as 2007 and its first United States trademark registration for that mark in 2008. The disputed domain names are confusingly similar to the Complainant’s HR INTOUCH mark.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents are not commonly known by the disputed domain names. The Complainant has not authorized the Respondents to use the HR INTOUCH mark and the Respondents are not a licensee of the HR INTOUCH mark. All of the disputed domain names incorporate the HR INTOUCH mark or an intentional misspelling of that mark or mimic the Complainant’s client-specific 3LDs by omitting the dot after the client’s name, and therefore carry a high risk of implied affiliation with the Complainant. At present, there is only commercial use of the disputed domain names.

The disputed domain names were registered and are being used in bad faith. The Complainant has been exclusively using the HR INTOUCH mark since 2007. The composition of the disputed domain names alone,

which mimics the Complainant's client-specific websites, is sufficient to establish that the Respondents were aware of the Complainant and the way in which it uses the HR INTOUCH mark.

## B. Respondents

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

## 6. Discussion and Findings

### 6.1 Procedural Issues

#### A. Consolidation: Multiple Domain Name Registrants

The amended Complaint initiates disputes in relation to nine nominally different domain name registrants. The Complainant alleges that the disputed domain names are registered to the same entity or are under common control. The Complainant argues that the primary registrant is 蒋黎 (leed johnny) while the others follow a common naming convention, *i.e.*, they are Second-Level Domains ("2LDs") that omit the first dot in the Complainant's 3LDs. The overwhelming majority of disputed domain names resolves to PPC links landing pages while the others do not resolve to an active website or redirect to another domain name.

The Complainant requests consolidation of the disputes against the disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) of the Rules was intended to enable a single person or entity to put a complainant to the unnecessary time, expense, and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing the Complainant's request, the Panel will consider whether: (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#), and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that many of the disputed domain names in the present case follow a naming pattern whereby they incorporate the Complainant's domain name (<hrintouch.com>), preceded by an acronym, a name, a word or an abbreviation, or some combination of these elements. Further:

- 40 disputed domain names are held by the same registrant, *i.e.*, 蒋黎 (leed johnny);
- two disputed domain names (<cmshrintouch.com> and <myhrintouch.com>) were registered years earlier using the privacy service TotalDomain Privacy Ltd and the Registrar has not disclosed the underlying registrant or registrants. However, they follow the same naming pattern as those held by 蒋黎 (leed johnny) plus they are associated with the same mail server and nameserver, and resolve to PPC links landing pages hosted by the same company as those held by 蒋黎 (leed johnny). These circumstances give the Panel reason to find that these two disputed domain names are under common control with those held by 蒋黎 (leed johnny);
- six other disputed domain names (<albanymedhrintouch.com>, <comhrintouch.com>, <lccahrintouch.com>, <mycsbenefitshrintouch.com>, <mytreehrintouch.com>, and <ykkhrintouch.com>) were registered in the intervening years using the same Registrar and same privacy service (TotalDomain Privacy Ltd) following the same naming pattern, and they are used to

resolve to PPC links landing pages like those held by 蒋黎 (leed johnny), albeit using different hosting services. These circumstances give the Panel reason to find that these six disputed domain names are also under common control with those held by 蒋黎 (leed johnny);

- two disputed domain names (<abmhrintouch.com> and <hrintouch.org>) were also registered in the intervening years but in the name of Karl Schnurch, EdenMedia. The first follows the same naming pattern as the disputed domain names held by 蒋黎 (leed johnny) while the other incorporates the same HR INTOUCH trademark, is hosted on the same mail server and nameserver, and uses the same PPC links hosting service, as the disputed domain names held by 蒋黎 (leed johnny). These circumstances give the Panel reason to find that both these disputed domain names are under common control with those held by 蒋黎 (leed johnny);
- one disputed domain name (<mykerrybenefitshrintouch.com>) was registered the day before <abmhrintouch.com> with a different Registrar and using a different registrant name (Domain Administrator, Sugarcane Internet Nigeria Limited) but it follows the same naming pattern, is hosted on the same nameserver, and uses the same PPC links hosting service as that domain name as well as four of the above disputed domain names (<comhrintouch.com>, <lccahrntouch.com>, <mycsbenefitshrintouch.com>, and <ykkhrintouch.com>) registered using the privacy service TotalDomain Privacy Ltd;
- one disputed domain name (<mykahbenefitshrintouch.com>) was also registered in the intervening years but in the name of 张存硕 (Zhang Cun Shuo). It follows the same naming pattern as those held by 蒋黎 (leed johnny) plus it is hosted on the same nameserver, has the same IP address, and uses the same PPC links hosting service as one of the above disputed domain names (<albanymedhrintouch.com>); and
- eight disputed domain names are registered in the name of “王化德 (Hua De Wang)” or “huade wang, huanghebeilu” with the same contact email address. Registered two months after those held by 蒋黎 (leed johnny), one follows the same naming pattern while the other seven contain obvious misspellings or a rearrangement of that one domain name and add a hyphen. All eight disputed domain names are hosted on the same nameserver, have the same IP address, and use the same PPC links hosting service as two of the above disputed domain names (<albanymedhrintouch.com> and <mykahbenefitshrintouch.com>).

In view of these circumstances, the Panel is persuaded that the above 60 disputed domain names are under common control.

However, the remaining four domain names (<amchrintouch.com>, <brookdalehrintouch.com>, <gcshrintouch.com>, and <mastechrintouch.com>) are registered in two different names, *i.e.*, Idah Idah and Domain Administrator. They follow the same naming pattern but were registered at different times with different Registrars and either use different PPC links hosting services from all the others or they do not resolve to PPC landing pages at all. Having regard to the overall circumstances of this case, the Panel does not find a sufficient basis in the record to infer that these four disputed domain names are under common control with the other 60 disputed domain names; rather, they may be opportunistic registrations by different persons acting independently of each other.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding the 60 disputed domain names would be unfair or inequitable to any Party.

Accordingly, the Panel will decide the Complaint regarding the 60 disputed domain names (referred to below as the “disputed domain names”) registered in the names of 蒋黎 (leed johnny); Domain Admin, TotalDomain Privacy Ltd; Karl Schnurch, EdenMedia; Domain Administrator, Sugarcane Internet Nigeria Limited; 张存硕 (Zhang Cun Shuo); 王化德 (Hua De Wang); and huade wang, huanghebeilu (separately and collectively referred to below as the “Respondent”). On the other hand, the Panel declines to consolidate the disputes regarding the other four domain names registered in the names of Idah Idah; and

Domain Administrator. This decision is made without prejudice to the possibility of refiling complaints regarding these four domain names.

## **B. Language of the Proceeding**

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar confirmed that the Registration Agreements for disputed domain names registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), Chengdu West Dimension Digital Technology Co., Ltd, and DNSPod, Inc. are in Chinese, whereas the Registration Agreements for the other disputed domain names are in English.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain names are composed of Latin letters, they incorporate the Complainant’s HR INTOUCH trademark, which is in English; they are associated with IP addresses owned by hosting companies that conduct their business in English, which is clear evidence of the Respondent’s ability to understand that language; whereas the Complainant does not understand Chinese and translation of the Complaint into that language would create an unnecessary burden and undue delay.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint in this proceeding were filed in English. Despite the Center having sent an email regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a Response in Chinese, but none was filed.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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.

The burden of proof of each element is borne by the Complainant. The Respondent’s default does not result in an automatic finding in favor of the Complainant. See [WIPO Overview 3.0](#), section 4.3.



## A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the HR INTOUCH mark at the time of this proceeding. Although the Complainant's earlier trademark registrations are no longer in force, the Panel notes that it holds other trademark registrations for HR INTOUCH that remain current, which is sufficient for the purposes of the first element of paragraph 4(a) of the Policy. See [WIPO Overview 3.0](#), section 1.1.3; and *Euroview Enterprises LLC v. Jinsu Kim*, WIPO Case No. [D2016-1124](#).

Every disputed domain name wholly incorporates the HR INTOUCH mark. All except one add other elements in the second level of each disputed domain name. The additional element consists of an acronym, a name, a word, an abbreviation, or some combination of these. However, none of these additions prevents a finding of confusing similarity because the HR INTOUCH mark remains clearly recognizable within each disputed domain name. See [WIPO Overview 3.0](#), section 1.8. The exception is <hrintouch.org>, in which the HR INTOUCH mark is the entire operational element of that disputed domain name.

Every disputed domain name also includes a generic Top-Level Domain ("gTLD") extension (".com" or, in one case, ".org"). As a standard requirement of domain name registration, this element may be disregarded in the comparison between a domain name and a mark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, the Panel finds that the disputed domain names are identical or confusingly similar to trademarks in which the Complainant has rights. The Complainant has satisfied the first condition 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 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 60 consolidated disputed domain names, which wholly incorporate the HR INTOUCH mark, resolve to landing pages displaying PPC links, in many cases regarding employee benefit management systems, which is the type of product that the Complainant provides, among other topics. The PPC links operate for the commercial gain of the Respondent, if it is paid to direct traffic to the linked websites, or for the commercial gain of the operators of the linked websites, or both. The Complainant submits that it has not authorized the Respondent to use the HR INTOUCH mark and that the Respondent is not a licensee of that mark. In view of these circumstances, the Panel has reason to find that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use that would generate rights or legitimate interests.

As regards the second circumstance set out above, the Respondent is identified in the Registrar's private Whois database either as "蒋黎 (leed johnny)", "Karl Schnurch, EdenMedia", "Domain Administrator,

Sugarcane Internet Nigeria Limited”, “张存硕 (Zhang Cun Shuo)”, “王化德 (Hua De Wang)”, and “huade wang, huanghebeilu” or its identity is masked by a privacy service. Nothing indicates that the Respondent is commonly known by any of the disputed domain names.

In view of the above circumstances, 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 names. The Respondent did not rebut that *prima facie* case because it 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 this is not an exhaustive list. 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.

With respect to registration, the Panel will assess bad faith as at the time when the Respondent registered each disputed domain name, as nothing indicates that the Respondent acquired any disputed domain name from a third party after its initial registration. See [WIPO Overview 3.0](#), section 3.8. The earliest disputed domain name (<cmshrintouch.com>) was registered in 2009, prior to the registrations of the Complainant's HR INTOUCH mark but after the registration of its BENEFITFOCUS HR INTOUCH mixed mark. Although the registration of the mixed mark was cancelled in 2015, it was current at the time of registration of this disputed domain name. This is not a scenario in which the Complainant lacked relevant trademark rights at the time of registration of this disputed domain name. Cf. *Tytex A/S v. William Coam, Germanium World LLC*, WIPO Case No. [D2021-3051](#). In the present case, this disputed domain name incorporates the dominant textual element of the then-current mixed mark, *i.e.*, “intouch” preceded by the letters “hr” as in that mark. The other 59 disputed domain names were registered during the period 2013 to 2022, after the first registration of the Complainant's HR INTOUCH mark. Although certain registrations of the HR INTOUCH mark are no longer current, one or more were current at the time of registration of each of these 59 disputed domain names. These disputed domain names all wholly incorporate that mark. Most disputed domain names mimic specific 3LDs created by the Complainant with its domain name <hrintouch.com> (omitting only the first dot in a specific 3LD or containing an obvious spelling error or rearrangement of the elements of a specific 3LD). These circumstances indicate a keen awareness of the Complainant, its mark, and the way in which the Complainant has been using its mark in its domain name. Accordingly, the Panel finds that the Respondent knew of the Complainant and its marks at the various times at which it registered all the disputed domain names.

With respect to use, the disputed domain names resolve to landing pages displaying PPC links. All the disputed domain names wholly incorporate the Complainant's HR INTOUCH mark and almost all of them mimic 3LDs created by the Complainant for the employees of its clients to use with the Complainant's platform. These disputed domain names appear to have no other purpose than to attract employees of clients of the Complainant who inadvertently omit the first dot in those 3LDs when typing in an Internet browser and divert them to PPC links landing pages, many of which display links to employee benefit management systems, which is the type of product that the Complainant provides, among other topics. Although the Panel sees no evidence in the record that two of these disputed domain names (<cbpbbenefitshrintouch.com> and <davidsonhrintouch.com>) mimic any specific 3LD that the Complainant has created, they follow the same naming pattern and appear to be intended to divert Internet users in the same way. Two other disputed domain names (<comhrintouch.com> and <hrintouch.org>) do not mimic a

3LD but appear to be intended to divert Internet users seeking the Complainant's domain name <hrintouch.com> itself. The PPC links on the landing pages in all cases operate for commercial gain. In view of these circumstances, the Panel finds that by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's landing pages, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's landing pages within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain names have been registered and are 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:

- (i) the Panel orders that the following disputed domain names be transferred to the Complainant: <abmhrintouch.com>, <adaghbenefits-hrintouch.com>, <albanymedhrintouch.com>, <ametekhrintouch.com>, <amibenefitsshrntouch.com>, <ardafbenefits-hrintouch.com>, <ardagbenefits-hrintouch.com>, <ardaghbenefit-hrintouch.com>, <ardaghbenefitsshrntouch.com>, <ardaghbenfits-hrintouch.com>, <ardaghbenifits-hrintouch.com>, <asrchrntouch.com>, <atriahrntouch.com>, <autozonehrntouch.com>, <bbssbenefitsshrntouch.com>, <benefitsshrntouch.com>, <biglotshrntouch.com>, <bojangleshrntouch.com>, <cbpbenefitsshrntouch.com>, <ccnrhrntouch.com>, <centurybenefitsshrntouch.com>, <charlottesvillehrntouch.com>, <claycountysdbenefitsshrntouch.com>, <cmshrntouch.com>, <comhrntouch.com>, <danvillevahrintouch.com>, <davidsonhrntouch.com>, <duncanhrntouch.com>, <forever21hrntouch.com>, <gibraltarhrntouch.com>, <hrintouch.org>, <hrintouch-ardaghbenefits.com>, <ikeahrntouch.com>, <lccahrntouch.com>, <mccarthyhrntouch.com>, <mhrntouch.com>, <mybaptistbenefitsshrntouch.com>, <mycsbenefitsshrntouch.com>, <myhrntouch.com>, <mykahbenefitsshrntouch.com>, <mykerrybenefitsshrntouch.com>, <mypetcobenefitsshrntouch.com>, <mytitanbenefitsshrntouch.com>, <mytreehrntouch.com>, <myvolvocarusbenefitsshrntouch.com>, <nalbenefitsshrntouch.com>, <nationallifehrntouch.com>, <nellcbenefitsshrntouch.com>, <o-ibenefitsshrntouch.com>, <pdibenefitsshrntouch.com>, <ricehrntouch.com>, <rophbenefitsshrntouch.com>, <rushbenefitsshrntouch.com>, <schotthrintouch.com>, <shp-loginhrntouch.com>, <topsmarketshrntouch.com>, <unchealthcarehrntouch.com>, <wcpsshrntouch.com>, <ykkhrntouch.com>, and <yourbenefitsshrntouch.com>; and
- (ii) the Complaint is dismissed without prejudice to the possibility of refiling complaints as regards the following domain names: <amchrntouch.com>, <brookdalehrntouch.com>, <gcshrntouch.com>, and <mastechrntouch.com>.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: May 15, 2023