

## **ADMINISTRATIVE PANEL DECISION**

**Accor v. Registration Private, Domains by Proxy LLC / Carolina Rodrigues,  
Fundacion Comercio Electronico  
Case No. D2022-2660**

### **1. The Parties**

The Complainant is Accor, France, represented by Dreyfus & associés, France.

The Respondent is Registration Private, Domains by Proxy LLC, United States of America (“United States” or “U.S”) / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2022. On July 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 22, 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 July 29, 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 July 29, 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 August 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 22, 2022.

The Center appointed Edward C. Chiasson Q.C. as the sole panelist in this matter on September 2, 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 Accor, a French company with its registered office located in Issy-Les-Moulineaux, France.

According to the Whois database, the Respondent was masked (Domains By Proxy, LLC).

The Complainant is a leading global hotel operator that owns, manages and franchises hotels, resorts, and vacation properties. It is the single largest hospitality company in Europe and the sixth largest worldwide. Its main website is available at "https://www.group.accor.com".

Since it was founded in 1967, the Complainant has acquired considerable reputation and goodwill worldwide. The Complainant operates more than 4,500 hotels in 111 countries worldwide with approximately 700,000 rooms, from economy to upscale. The group includes notable hotel chains such as Fairmont, Raffles, Swissôtel, Sofitel, Pullman, Novotel, Grand Mercure, and Ibis. The Complainant's brands offer hotel stays tailored to the specific needs of each business and leisure customer.

The Complainant owns and operates several hotels under the trademark ACCOR, protected worldwide in particular in relation to hotels and restaurants services. In particular the Complainant owns the following trademark registrations:

- International trademark ACCOR No. 1471895, dated December 24, 2018, designating *inter alia* the United States, and covering services in classes 35, 36, 38, 39, 41, 42, 43 and 44;
- U.S. trademark ACCOR No. 2532400, dated January 22, 2002, duly renewed and covering services in class 42;
- International trademark ACCORHOTELS, No. 1103847 dated December 12, 2011, designating *inter alia* the United States, duly renewed and covering services in classes 35, 39 and 43.

In addition, the Complainant operates, among others, the following domain names reflecting its trademarks: <accor.com> registered on February 23, 1998; <accor.us> registered on April 19, 2002.

The disputed domain name was registered on May 3, 2022, and resolves to a parking page displaying sponsored links targeting the Complainant's field of activity. The parking page has pay-per-clicks ("PPC"), which are likely to generate revenues. The disputed domain name is also set up with an email server.

In an attempt to resolve the issue amicably, on May 13, 2022, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar's platform with no satisfactory results. At the same time, the Complainant sent a notification for blocking of the disputed domain name <jobsaccor.com> to the Registrar, as well as a notification to the hosting company, in order to request the deactivation of the email servers. As a response, the Registrar stated it has no authority to adjudicate this matter. On the other hand, the hosting company indicated that their client is actually the one controlling the email servers. Despite the Complainant's best efforts, there was no satisfactory result.

## 5. Parties' Contentions

### A. Complainant

The Complainant asserts that the disputed domain name is confusingly similar to its trademark ACCOR.

The disputed domain name reproduces the Complainant's company name and trademark ACCOR in its entirety, which previous panels have considered to be "well-known" or "famous" (*Accor v. Liu Xiao Yan*, WIPO Case No. [D2019-0355](#), *Accor v. Cybernet Systech Private Limited*, WIPO Case No. [D2018-1561](#), *Accor v. DreamHost, Long Giang*, WIPO Case No. [D2014-0196](#), *Accor and SoLuxury HMC v. "m on"*, WIPO Case No. [D2012-2262](#), *Accor and SoLuxury HMC v. Fundacion Private Whois*, WIPO Case No. [D2012-1654](#), *Accor v. Mao Jian Ting*, WIPO Case No. [D2012-0189](#), *Accor v. Domainjet, Inc.*, WIPO Case No. [D2012-0038](#), *Accor v. Huajicani Hujiancai*, WIPO Case No. [D2014-0189](#), *Accor v. Reap Usd*, WIPO Case No. [D2016-0177](#)).

Prior UDRP panels have considered that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to a complainant's trademark (*Swarovski Aktiengesellschaft v. mei xudong*, WIPO Case No. [D2013-0150](#), *RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. [D2010-1059](#)).

Prior panels have consistently held that domain names are confusingly similar to a trademark for purposes of the Policy "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name". The panel further emphasized that "it is also established that the addition of generic terms to the disputed domain name has little, if any, effect on a determination of confusing similarity between the domain name and the mark; furthermore, mere addition of a generic or descriptive term does not exclude the likelihood of confusion." (*Farouk Systems, Inc. v. LMW*, WIPO Case No. [D2009-1658](#)).

The disputed domain name reproduces entirely the trademark ACCOR combined with the word "jobs". The full inclusion of the Complainant's trademark ACCOR in combination with the term "jobs" enhances the false impression that the disputed domain name <jobsaccor.com> is managed by the Complainant. Unsuspecting Internet users could assume that the disputed domain name will lead them to the Complainant's official website displaying job advertisements.

The generic Top-Level-Domain ("gTLD") ".com" is not to be taken into consideration when examining the similarity between the Complainant's trademarks and the disputed domain name. It is viewed as a standard registration requirement (section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The mere adjunction of a gTLD such as ".com" is irrelevant as it is well established that the gTLD is insufficient to avoid a finding of confusing similarity (WIPO Case No. [D2013-0820](#), *L'Oréal v Tina Smith*, WIPO Case No. [D2013-0820](#); *Titoni AG v. Runxin Wang*, WIPO Case No. [D2008-0820](#), and *Alstom v. Itete Peru S.A.*, WIPO Case No. [D2009-0877](#)). I do not object to your deletions, but many are what the complainant submitted. That is, it is one thing to edit, but quite another to exclude.

The Complainant asserts that the Respondent has no rights to or legitimate interests in the disputed domain name.

The Respondent is not affiliated with the Complainant, has not been authorized to use the Complainant's trademark, or to seek registration of any domain name incorporating the trademark.

The Respondent has no prior rights in the disputed domain name and is not commonly known under the disputed domain name or under the name ACCOR. The registration of the Complainant's ACCOR trademark preceded the registration of the disputed domain name.

The disputed domain name is virtually identical, or at least confusingly similar to the Complainant's well-known trademark ACCOR. The Respondent cannot reasonably pretend it was intending to develop a

legitimate activity through the disputed domain name <jobsaccor.com>.

In previous decisions, panels held that in the absence of any license or permission from a complainant to use a widely-known trademark, no actual or contemplated *bona fide* or legitimate use of the domain name reasonably could be claimed (, *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Respondent has not and cannot assert that, before any notice of this dispute, it was using, or had 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, in accordance with paragraph 4(c)(i) of the Policy.

The disputed domain name resolves to a parking page displaying commercial links targeting the Complainant's field of activity. This direction to a parking page with PPC that are likely to generate revenues cannot be considered as a use of the disputed domain name in connection with a *bona fide* offering of goods and services. The Respondent fails to show any intention of noncommercial or fair use of the disputed domain name.

Email servers have been configured on the disputed domain name. There might be a risk that the Respondent is engaged in a phishing scheme. This is not a legitimate use of the disputed domain name.

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

Bad faith can be found where a respondent "knew or should have known" of a complainant's trademark rights, but registered a domain name with no rights or legitimate interest (WIPO Case No. [D2009-0320](#), *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*; WIPO Case No. [D2009-0113](#), *The Gap, Inc. v. Deng Youqian*).

It is implausible that the Respondent was unaware of the Complainant when the disputed domain name was registered.

ACCOR is a well-known trademark throughout the world, including the United States. Several panels have acknowledged its worldwide reputation, making it unlikely that Respondent was not aware of Complainant's rights in said trademarks (*Accor v. Xu Guo Xing*, WIPO Case No. [D2017-0192](#), *Accor v. Domains By Proxy, LLC / Abdulrahman Almarri*; WIPO Case No. [D2015-0777](#), *Accor v. Domain Whois Protection Service Whois Agent/Iijewe*, WIPO Case No. [D2014-1482](#), *Accor and Soluxury HMC v. "m on"*, WIPO Case No. [D2012-2262](#)).

The composition of the disputed domain name being confusingly similar to the Complainant's well-known trademark and the fact that the disputed domain name incorporates the Complainant's trademark ACCOR and associates it to the generic term "jobs", clearly demonstrates that the Respondent registered the disputed domain name based on the attractiveness of the Complainant's trademark, in order to divert Internet traffic to its illegitimate website.

Prior panels have held that bad faith can be found where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith (WIPO Case No. [D2013-0091](#), *LEGO Juris A/S v. store24hour*; WIPO Case No. [D2008-0226](#), *Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*; WIPO Case No. [D2006-0464](#), *Caixa D'Estalvis I Pensions de Barcelona ("La Caixa") v. Eric Adam*). Given the reputation of Complainant's trademarks, registration in bad faith can be inferred.

The Complainant's trademark rights predate the registration date of the disputed domain name. It has been held in previous cases that knowledge of a corresponding trademark at the time of the registration of the domain name suggests bad faith (WIPO Case No. [D2000-0270](#), *Document Technologies, Inc. v. International Electronic Communications Inc.* and WIPO Case No. [D2006-0464](#), *Caixa D'Estalvis I Pensions*

*de Barcelona ("La Caixa") v. Eric Adam*). Panels also have established that knowledge of a complainant's intellectual property rights, including trademarks, at the time of registration of a disputed domain name proves bad faith registration (WIPO Case No. [D2008-0287](#), *Alstom v. Domain Investments LLC*; WIPO Case No. [D2007-0077](#), *NBC Universal Inc. v. Szk.com*).

A quick trademark search on ACCOR would have revealed to the Respondent the existence of the Complainant and its trademarks. The Respondent's failure to do so is a contributory factor to its bad faith (WIPO Case No. [D2008-0226](#), *Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*).

As stated in another Policy case, "it would have been pertinent for Respondent to provide an explanation of its choice in the disputed domain name, failing which the Panel draws the conclusion that the disputed domain name was registered in bad faith with intent to create an impression of an association with Complainant and its products" (WIPO Case No. [D2007-1325](#), *Bouygues v. Chengzhang, Lu Ciagao*). The Respondent neither tried to defend the choice nor stated any valid arguments to justify the registration of the disputed domain name in response to the Complainant's cease-and-desist letter.

Four email servers have been configured on the disputed domain name. There is a high risk that the Respondent is engaged in a phishing scheme. The Respondent can mislead Internet users into revealing personal and financial information. The disputed domain name is not used in any type of legitimate business or services. It might deceive Internet users, who incorrectly understand that they are referred to the Complainant's *bona fide* services.

Previous panels have considered that in the absence of any license or permission from a complainant to use a widely-known trademark, no actual or contemplated *bona fide* or legitimate use of the domain name reasonably can be claimed (WIPO Case No. [D2000-0055](#), *Guerlain S.A. v. Peikang*, WIPO Case No. [D2008-0281](#), *Alstom, Bouygues v. Webmaster*).

The Respondent cannot assert a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain. The direction of the disputed domain name towards a parking page with commercial links related to the Complainant's field of activity evidences an intent misleadingly to divert consumers by taking unfair advantage of the goodwill and reputation of the Complainant's trademark ACCOR.

Panels have held that the use of domain names to divert Internet users and to direct them to a webpage providing revenues through click to a respondent evidences bad faith. The Respondent is taking undue advantage of the Complainant's trademark potentially to generate profits. The use of a well-known trademark to attract Internet users to a website for commercial gains constitutes a use in bad faith pursuant to the Policy (WIPO Case No. [D2007-0956](#), *F Hoffmann-La Roche AG v. Anna Valdieri*, WIPO Case No. [D2009-1231](#) *L'Oréal SA v. LV Kefeng*, and WIPO Case No. [D2007-1736](#), *Alstom v. FM Laughna*).

Where a disputed domain name is confusingly similar to a complainant's trademark and domain name, previous panels have ruled that "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from Complainant's site to Respondent's site" (WIPO Case No. [D2012-1765](#), *MasterCard International Incorporated ("MasterCard") v. Wavepass AS*; WIPO Case No. [D2006-1095](#), *Edmunds.com, Inc. v. Triple E Holdings Limited*).

The Respondent did not reply to the Complainant's cease-and-desist letter. Such behaviour has been considered as an inference of bad faith by previous panels (, *Bayerische Motoren Werke AG v. (This Domain Is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant has provided ample evidence that it has rights in the ACCOR trademarks. The disputed domain name incorporates the entirety of the Complainant's marks. That alone has been held to support a finding that a domain name is confusingly similar. See section 1.7 of the [WIPO Overview 3.0](#).

As noted by the Complainant, the addition of the gTLD ".com" is not relevant.

The addition of the word "jobs" does not prevent a finding of confusing similarity. 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 nature of such additional term(s) may bear on assessment of the second and third elements. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant's trademarks in which the Complainant has rights. The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(i).

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

The Complainant did not authorize the Respondent to use its name and mark. The Respondent has not been identified with the Complainant's name and mark. The Respondent has advanced no explanation for using the Complainant's name and mark or any legitimate interest or rights in the Complainant's name and mark.

The Complainant notes that the Respondent has configured email servers to create a risk of phishing with the opportunity improperly to obtain financial information from Internet users. If used in such manner, that would not be a legitimate use of the disputed domain name.

The addition of the word "job" to the Complainant's trademark ACCOR in the disputed domain name adds to the risk of confusion. Internet users are likely to assume that the disputed domain name is linked to jobs with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#). I am not sure why this belongs here and not under the first head.

The Respondent does not have rights to or a legitimate interest in the disputed domain name. The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(ii).

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

The Policy establishes that, for the purposes of paragraph 4(a)(iii), bad faith registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark.

The inherently misleading disputed domain name resolves to a parking page displaying sponsored links targeting the Complainant's field of activity, which are likely to generate revenues. The disputed domain name is also set up with an email server and potentially could be used for phishing.

The Panel finds that the Respondent registered and is using the disputed domain name for commercial gain and potentially improperly to obtain financial information from Internet users. This is done by capitalizing on the well-known trademark of the Complainant.

The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(iii).

## **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 <jobsaccor.com> be transferred to the Complainant.

*/Edward C. Chiasson K.C./*

**Edward C. Chiasson K.C.**

Sole Panelist

Date: September 16, 2022