

## **ADMINISTRATIVE PANEL DECISION**

Havells India Limited, QRG Enterprises Limited v. John Polidoro, PSI Lighting  
Case No. D2022-1020

### **1. The Parties**

The Complainants are Havells India Limited and QRG Enterprises Limited, India, represented by Scriboard Advocates & Legal Consultants, India.

The Respondent is John Polidoro, PSI Lighting, United States of America.

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

The disputed domain name <havells.lighting> 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 March 24, 2022. On March 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 25, 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 March 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 19, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on April 26, 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 Complainants operates in the field of electrical goods covering products such as lighting, cables and wires amongst others. The Complainants own hundreds of trademark registrations for HAVELLS and HAVELL'S such as:

- Indian registration No. 2338944 registered on May 28, 2012
- Indian registration No. 290541 registered on September 1, 1973
- United States of America registration No. 4889744 registered on January 19, 2016

The use of the trademark HAVELLS dates back to 1942. The trademark HAVELLS is recognized as well-known by national courts and WIPO panels. It is a coined word as it reflects the first five letters of the Complainants' predecessor Mr. Haveli.

The disputed domain name was registered on October 23, 2017 and resolves to a parked webpage hosting pay-per-click ("PPC") sponsored links.

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

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

The Complainants contend that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainants have rights. The disputed domain name duplicates the Complainants' trademark and the domain name extension is descriptive of one of the Complainants' key products. Although the extension should typically be ignored, in the current instance, it increases the likelihood of confusion. The Complainants' trademarks are registered, well-known and identifier of the Complainants and their products.

The Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainants did not authorize the Respondent to use their trademark in the disputed domain name. The Respondent is not commonly known by the disputed domain name or the trademark HAVELLS and has no connection with the Complainants. The Respondent is a cyber-squatter.

The Complainants contend that the disputed domain name is registered and is being used in bad faith. The Respondent knew of the Complainants' trademark as the trademark is well-known. This is further evidenced by the fact that the disputed domain name contains an extension indicating products of the Complainants. Clearly, there is an intent to create an impression of association with the Complainants. The Respondent aims at misleading users into believing that the disputed domain name is owned, operated or approved by the Complainants in order to attract Internet users. The disputed domain name directs to a parking page containing PPC advertisements in order to generate revenue.

##### **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

#### **6. Discussion and Findings**

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

The Complainants own trademark registrations for HAVELLS. The Panel is satisfied that the Complainants have established their ownership of the trademark HAVELLS.

The disputed domain name incorporates the Complainants' trademark HAVELLS in its entirety. The "lighting" generic Top Level Domain ("gTLD") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The meaning of such gTLD may however be relevant to a panel's assessment of the second and third elements. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the Panel finds that the disputed domain name is identical to the trademark of the Complainants and that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainants assert that the Respondent is not authorized by the Complainants to use its trademark. Therefore, the Complainants have established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and goodwill of the complainant's mark. The Panel, pursuant to paragraph 10(a) of the Rules, independently visited the website to which the disputed domain name resolves, more than once. The website contains a variety of PPC links which offer products such as lighting, bathroom products and services, home moving service, etc. Bearing in mind that the Complainants are active in the field of lighting products, it is the Panel's view that the Respondent is trying to capitalize on the reputation and goodwill of the Complainants' mark. In *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#), it was found that the Respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve to pay-per-click advertising websites and collect click-through revenue from advertising links. Such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit. There is no indication on the website that the Respondent has made a *bona fide* use of the disputed domain name". Moreover, the Panel finds that the nature of the disputed domain name carries a high risk of implied affiliation with the Complainants. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainants have satisfied paragraph 4(a)(ii) of the Policy.

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

The Respondent must have been aware of the Complainants' trademark as HAVELLS is a well-known trademark. Furthermore, the use of the extension ".lighting" only confirms such knowledge. So does the fact that the Respondent seems to be a company operating in the field of lighting. The disputed domain name resolves to a parked page with sponsored links. Such use here constitutes bad faith. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#) the Panel found that "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use". The use of the extension ".lighting" reinforces the impression that the website at the disputed domain name is the Complainants' website as the Complainants manufacture lighting products.

Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Given the above, the Panel believes that the Respondent has registered the disputed domain name in order to trade off the reputation of the Complainants' trademark. Accordingly, the Panel finds that the Complainants have satisfied 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, <havells.lighting> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: May 2, 2022