

## **ADMINISTRATIVE PANEL DECISION**

**BlackRock Fund Advisors v. WhoisSecure / Koi Ming, Irx inc and Dura Moore  
Case No. D2022-2047**

### **1. The Parties**

The Complainant is BlackRock Fund Advisors, United States of America (“United States”), represented by Day Pitney LLP, United States.

The Respondent is WhoisSecure, United States / Koi Ming, Irx inc, United States and Dura Moore, Nigeria.

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

The disputed domain names <ishareshk.com> and <isharesihk.com> are registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 15, 2022 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 June 17, 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 June 22, 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 June 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 21, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on July 29, 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, BlackRock Fund Advisors, along with BlackRock, Inc. and all of their related subsidiaries and affiliates (collectively, “BlackRock”), comprise one of the world’s largest asset management firms and a premier provider of global investment management, risk management, and advisory services to institutional, intermediary, and individual investors around the world. With assets totalling over USD 9 trillion under its care, BlackRock manages a broad range of investment portfolios on behalf of governments, corporations and individuals worldwide.

In addition to the BLACKROCK trademark, BlackRock’s ISHARES trademark is a major asset of the Complainant, and an important symbol of its reputation and goodwill. BlackRock has widely used and promoted the ISHARES trademark throughout the United States and internationally, and has secured numerous trademark registrations for the same. Since the ISHARES brand was launched in 2000, ISHARES funds have become globally renowned as the world’s leading exchange-traded funds (or “ETFs”) with nearly USD 2 trillion under management.

The Complainant has proven to be the owner of the ISHARES trademark, which enjoys protection through numerous registrations worldwide.

The Complainant is, *inter alia*, the owner of:

- United States trademark ISHARES, registration number 5,146,723, registered on February 21, 2017;
- United States trademark ISHARES, registration number 6,176,829, registered on October 13, 2020;
- Hong Kong, China trademark ISHARES, registration number 300915741, registered on September 21, 2009.

The disputed domain names were registered on December 25, 2021 and February 11, 2022, respectively.

The Complainant’s trademark registrations predate the registration of the disputed domain names.

The first disputed domain name resolves to an inactive website, whereas the second redirects to the Complainant’s official website, at least at the date of filing of the Complaint. Moreover, the Complainant provided evidence that the disputed domain names were used in connection to the sending of email communications impersonating an employee of the Complainant.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain names are confusingly similar to the ISHARES trademark, that the Respondents have no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

Regarding the Respondents’ identity, the Complainant has requested a consolidation of multiple disputed domain names and the Respondents. In support of the above request, the Complainant claims that:

1. both Respondents are related, to the extent that a sufficient unity of interest exists such that they may

essentially be treated as a single domain name holder for the purposes of Policy paragraph 3(c) of the Rules;

2. the disputed domain names were registered by the same Registrar;
3. the registration information for the disputed domain names contains several details in common, including the same email addresses;
4. both disputed domain names were used in an email scam purporting to be sent from an employee of Complainant's affiliate BlackRock Hong Kong and offering a funding opportunity;
5. both disputed domain names target the Complainant's ISHARES trademark and follow the same naming pattern, incorporating the Complainant's ISHARES trademark followed by "hk" or "ihk"; and,
6. consolidation of proceedings would be fair and equitable to all parties.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Consolidation of Multiple Respondents**

According to the registration information verified by the Registrar, the disputed domain names were registered with different registrant details. The Complainant asserts however that the disputed domain names were registered by the same domain name holder, or are at least under common control.

In accordance with the Rules, paragraph 3(c), a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. Although the names of the registrants of the disputed domain names are different, the Panel on the evidence available (including, for example, the fact that the disputed domain names were registered with the same Registrar, that the registrants share the same email address, that both disputed domain names target the Complainant's ISHARES trademark, that both disputed domain names were used in an email scam purporting to be sent from an employee of BlackRock Hong Kong, and finally that neither of the Respondents denied the Complainant's claims) finds that the disputed domain names identified in the Complaint, on the balance of probability, are registered by the same domain name holder or are at least under common control.

The Panel, therefore concludes in the circumstances of this case that consolidation would be fair and equitable to all the Parties and procedurally efficient, and therefore accepts the Complainant's request to address the disputed domain names in one case under the Rules, paragraphs 10(e) and 3(c). Accordingly, the Respondents will be collectively referred to as the "Respondent" hereinafter.

### **6.2. Substantive Issues**

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

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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

The Complainant has established rights in the ISHARES trademark.

Here the disputed domain names incorporate the Complainant's trademark in its entirety, adding the letters "hk" and "ihk", presumably standing as an abbreviation for, or a slight variation of an abbreviation for, "Hong Kong".

This Panel agrees with the Complainant's view that the ISHARES trademark is clearly recognizable and that the addition of the other terms do not avoid a finding of confusing similarity.

See 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". Furthermore, the applicable generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

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

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

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. The Respondent does not appear to be commonly known by the name "ishareshk", "isharesihk", or by any similar name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. In fact it appears that the Respondent is using the disputed domain names to impersonate the Complainant and its ISHARES brand in an effort to solicit payment and personal information from victims under the guise of providing a funding opportunity. This is neither a *bona fide* offering nor a legitimate noncommercial or fair use within the meaning of the Policy. The Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain names.

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

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

The Panel, on the basis of the evidence presented, finds that the disputed domain names were registered and have been used in bad faith.

The fact that the disputed domain names were registered more than 20 years after the Complainant had registered and started using its ISHARES trademark, combined with the fact that the disputed domain names have both been used to redirect to the Complainant's official website, and also used to impersonate the Complainant, is a strong inference of the Respondent's awareness of the Complainant's trademark when registering the disputed domain names.

Consequently, the Panel finds that the Respondent knew of the Complainant's trademark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain names.

The Panel also agrees with the Complainant's assertions that the Respondent's use of the disputed domain names to send fraudulent emails is clear evidence of bad faith registration and use.

Further inference of bad faith registration and use of the disputed domain names, in context of the above, is given by the activation of a privacy protection service, and also that the Respondent apparently provided incorrect, or possibly even false, details of its contact information to the Registrar.

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 paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <ishareshk.com> and <isharesihk.com>, be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: August 11, 2022