

## **ADMINISTRATIVE PANEL DECISION**

Six Continents Hotels, Inc., and Six Continents Limited v. Domains  
By Proxy, LLC / Peron Okin  
Case No. D2022-2867

### **1. The Parties**

The Complainants are Six Continents Hotels, Inc., United States of America (“United States”), and Six Continents Limited, United Kingdom, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Domains By Proxy, LLC, United States / Peron Okin, India.

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

The disputed domain name <ihgmerlin.online> (the “Domain Name”) 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 August 4, 2022. On August 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 4, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 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 amendment to the Complaint the same day.

The Center verified that the Complaint together with the amendment to 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 August 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 2, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on September 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.

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

The Complainant companies (the "Complainant") are part of the IHG Hotels & Resorts hotel group ("IHG"). Companies within IHG own, manage, lease or franchise, through various subsidiaries, over 6,000 hotels and almost 885,000 guest rooms in about 100 countries and territories around the world. The Complainant is the registrant of the domain name <ihg.com> created in May 1998, which is used to promote and arrange bookings for hotels within IHG. It is also the registrant of the domain name <ihgmerlin.com> that the Complainant uses in connection with a website for its employees and hotels.

The Complainant (or its affiliate companies) is the proprietor of numerous registered trademarks around the world comprising IHG including India trademark number 1515146, IHG, registered on December 19, 2006, and United States trademark number 3544074, IHG, registered on December 9, 2008.

The Domain Name was registered on September 26, 2018. It does not currently resolve to an active website, but at the time of filing of the Complaint it resolved to a website, whose home page was headed "IHG Merlin", which purported to provide a range of information about the Complainant's Merlin service including IHG employee benefits, careers, and rewards. It included a box inviting users to enter their username and password for IHG Merlin. The website also featured a number of advertisements for hotels in various towns and resorts and other products and services.

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

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

The Complainant contends that the Domain Name is confusingly similar to its IHG mark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

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

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

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

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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

The Complainant has uncontested rights in the Mark, both by virtue of numerous trademark registrations and as a result of the goodwill and reputation acquired through use of the Mark over many years. Ignoring the generic Top-Level Domain (“gTLD”) “.online”, the Domain Name comprises the entirety of the Mark together with the term “merlin”. The Panel does not consider that this addition prevents a finding of confusing similarity between the Domain Name and the Mark.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

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

The Complainant has made out a *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has used the Domain Name not in connection with a *bona fide* offering of goods or services, but for a website purporting to provide information about the Complainant’s Merlin service, and comprising advertisements for third party accommodation, products and services. The Panel struggles to comprehend what legitimate purpose there could be for the Respondent to operate a website dealing with IHG Merlin, an Intranet service provided for IHG’s employees and hotels. There is no suggestion that the Respondent has ever been known by the Domain Name (section 2.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)) and the Complainant has not authorised the Respondent to use the Mark. The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

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

In light of the nature of the Domain Name, comprising the entirety of the Complainant’s distinctive Mark with the addition of “merlin”, a reference to a service provided by the Complainant, and the use of the Domain Name by the Respondent for a website purporting to provide information about the IHG Merlin service, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. In the absence of any response by the Respondent, the Panel has no reason to doubt that the Respondent has used the Domain Name to mislead Internet users into believing that the website at the Domain Name is operated by or authorised by the Complainant. The legitimate inference is that the Respondent did so in order to draw users to the Respondent’s website with a view to their initiating pay-per-click advertising links and/or inputting personal information that might be used improperly by the Respondent. In the Panel’s view, the use of a domain name for such activity, no doubt with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

## **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 Domain Name <ihgmerlin.online> be transferred to the Complainant.

/Ilan Lowe/

**Ilan Lowe**

Sole Panelist

Date: September 19, 2022