

ADMINISTRATIVE PANEL DECISION

Jupiter Investment Management Group Limited v. Eric Benz, EricBenz
Case No. D2022-3694

1. The Parties

The Complainant is Jupiter Investment Management Group Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Eric Benz, EricBenz, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <jupiterholdings.net> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 6, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 6, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 14, 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 October 19, 2022.

The Center verified that the Complaint together with the amendment to 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 October 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2022.

The Center appointed Andrew Sim as the sole panelist in this matter on November 30, 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 an asset manager since 1985, offering a range of actively managed strategies in the United Kingdom (“UK”) and elsewhere, including equities, fixed income, multi-asset and alternative. The Complainant’s business is registered at the UK Companies House in the name of “Jupiter Investment Management Group Limited”, with Company No. 00792030, since February 14, 1964.

The Complainant is the owner of trademark registrations of JUPITER across various jurisdictions, including Swiss trademark registration No. P-558389, registered on November 24, 2006; UK trademark registration No. UK00900641712, registered on March 16, 1999; European Union trademark registration No. 000641712, registered on March 16, 1999; and United States trademark registration No. 3144288, registered on September 19, 2006.

The Complainant maintains its presence on the Internet through its primary website “www.jupiteram.com”. The Complainant owns this domain name which has been registered on July 24, 2002.

The Respondent registered the disputed domain name, <jupiterholdings.net>, on July 4, 2022. According to the evidence provided by the Complainant, the disputed domain name resolved to a website offering an investment platform where Internet users can register for a trading account and deposit a sum of money. However, individuals were unable to withdraw money from the account when they attempted to do so.

At the time of drafting this Decision, the disputed domain name resolves to an inactive site and is not being used.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its JUPITER trademark. The additional term “holdings” alludes to the Complainant’s business which further supports the confusing similarity between the disputed domain name and the Complainant’s trademark.

The Complainant further contends that the Respondent is not affiliated with the Complainant. The Complainant has not given the Respondent license, authorization or permission to use the Complainant’s trademark in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name. In addition, the Respondent was using a privacy Whois service at the time of filing of the complaint. Prior to the suspension of the disputed domain name, the disputed domain name resolved to an investment platform that could potentially be used for fraudulent commercial gains and identity theft. Internet users could deposit money on the platform and would be requested to provide ID documents, but when trying to withdraw money, individuals were unable to. This use fails to constitute a *bona fide* offering of goods or services. After the suspension of the disputed domain name, it has been resolving to a blank page and is not being used. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which it 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.

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark JUPITER.

The test for confusing similarity involves the comparison between the trademark and the disputed domain name. It is well established that the generic top-level domain ".net" may be ignored in accessing the confusing similarity between the disputed domain name and the Complainant's trademark.

The disputed domain name incorporates the Complainant's trademark JUPITER in its entirety, with the word "holdings" added at the back. The addition does not prevent a finding of confusing similarity between the Complainant's JUPITER trademark and the disputed domain name.

Thus, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that it has no connection with the Respondent, and has not authorized the Respondent the use its trademark in any manner. The Panel agrees with the Complainant that the Respondent, which is identified as "Eric Benz", does not resemble the Complainant's trademark or the disputed domain name in any manner.

The Complainant also contends that the website was used for fraudulent activities, and produced evidence that before the disputed domain name was suspended, the website offered investment services using the genuine name and information of the Complainant in Switzerland, Jupiter Asset Management (Switzerland) AG. Such use cannot constitute a *bona fide* offering of goods or services. The Panel accepts that on a balance of probabilities these allegations were soundly based and the Complainant has established a *prima facie* case. The burden of production to prove its rights or legitimate interests in respect of the disputed domain name shifts to the Respondent and the Respondent failed to submit a response. The Panel concludes that the Respondent has no answer to those allegations.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the Respondent most likely was aware of the Complainant's business when the Respondent registered the disputed domain name. It is evident from the fact the Respondent's website appeared to provide similar financial services as the Complainant under the trade

name “Jupiter Holdings”. The Respondent posed to be authorized as “Jupiter asset management”, which is descriptive of the Complainant’s main business, and the Respondent used the genuine name, address and CHE number of the Complainant’s business in Switzerland on the website.

As indicated in section B above, the Complainant has satisfied the Panel that the Respondent is using the disputed domain name for fraudulent commercial purposes by relying on the fame of the Complainant’s trademark.

The Panel is therefore satisfied that the disputed domain name was registered and being used in bad faith within the meaning of paragraphs 4(a)(iii) and 4(b) 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 <jupiterholdings.net> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: December 13, 2022