

## **ADMINISTRATIVE PANEL DECISION**

### **Jupiter Investment Management Group Limited v. Bukola Olapade Case No. D2022-3734**

#### **1. The Parties**

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

The Respondent is Bukola Olapade, Nigeria.

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

The disputed domain name <jupiterholdingsltd.com> (the “Domain Name”) is registered with Whogohost Limited (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 6, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 17, 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 the same day, 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 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 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. The Respondent did not submit any formal response, but made an informal communication on October 19, 2022. Accordingly, the Center commenced the Panel appointment process on November 9, 2022.

The Center appointed Nicholas Smith as the sole panelist in this matter on November 11, 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 a UK company that has, since 1985, offered an array of asset management and investment services to its customers. The Complainant is a member of the FTSE 250 index and has assets under management of USD 59.3 billion as of July 2022. The Complainant offers its asset management and investment services under the trademark JUPITER (the “JUPITER Mark”). It has a presence on the Internet through its primary website at “www.jupiteram.com” (the “Complainant’s Website”).

The Complainant is the owner of trademark registrations for the JUPITER Mark in various jurisdictions including a UK trademark with a registration date of March 16, 1999 (registration number UK00900641712) and a European Union trademark with the same registration date (registration number 000641712), both for services in classes 35 and 36.

The Domain Name <jupiterholdingsltd.com> was registered on July 29, 2022. The Domain Name is presently inactive but prior to the commencement of the proceeding resolved to a website (the “Respondent’s Website”) that purported to offer investment services under the JUPITER Mark. The Respondent’s Website included fake company registration information that contained the Complainant’s address and the names of the Complainant’s senior management. The Respondent’s Website contained a page that purportedly allowed visitors to upload their identification documents, which could be used for identity theft. The Complainant also asserts, and this is not contradicted by the Respondent, that the Respondent’s Website allowed parties to deposit funds with the Respondent for the purpose of investment but the Respondent refused to allow the withdrawal of those funds.

#### **5. Parties’ Contentions**

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

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant’s JUPITER Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the JUPITER Mark, having registered the JUPITER Mark in the European Union and other jurisdictions. The Domain Name is confusingly similar to the JUPITER Mark, the only differences being the addition of the word “holdings” and the abbreviation “ltd”.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent is not commonly known by the Domain Name nor does the Respondent have any authorization from the Complainant to register the Domain Name. The Respondent is not making a legitimate noncommercial or fair use of the Domain Name. Rather the Respondent is using the Domain Name to pass off as the Complainant for the purpose of committing a fraud.

The Domain Name was registered and is being used in bad faith. By using the Domain Name to resolve to a website which contains documents that indicate the Respondent is impersonating the Complainant, the Respondent is using the Domain Name to divert Internet users searching for the Complainant to the

Respondent's Website for the purpose of committing a fraud on them. Such conduct amounts to registration and use of the Domain Name in bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. The Respondent sent an informal response to the Center on October 19, 2022 but that communications did not address the contentions, the Policy, or provide any information about the Respondent or its use of the Domain Name.

## **6. Discussion and Findings**

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

To prove this element the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the JUPITER Mark, having registrations for the JUPITER Mark as a trademark in the UK and the European Union.

The Domain Name consists of the JUPITER Mark with the addition of the word "holdings" and abbreviation "ltd". Other UDRP panels have repeatedly held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's JUPITER Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the JUPITER Mark or a mark similar to the JUPITER Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use.

The Respondent has used the Domain Name to operate a website that, through the inclusion of documents that refer to the Complainant's address and senior management, is clearly designed into confusing visitors into thinking that they are dealing with the Complainant. Furthermore, based on the claims made in the Complaint (supported by a document provided by the United Kingdom Financial Conduct Authority), and in the absence of any explanation of its conduct by the Respondent, it appears that the Respondent's Website was being used in order to defraud individuals by persuading them to provide their identity details or funds to the Respondent on the misapprehension that they were investing with the Complainant. Such conduct does not, on its face, amount to the use of the Domain Name for a *bona fide* offering of goods or services.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a Response, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (Policy, paragraph 4(b)).

The Panel finds that the Respondent was aware of the Complainant and its reputation in the JUPITER Mark at the time the Domain Name was registered. The Respondent's Website contains details about the Complainant's senior management. The registration of the Domain Name in awareness of the JUPITER Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel finds, on the balance of probabilities, that the Respondent has used the Domain Name, which wholly incorporates the JUPITER Mark, to take advantage of user confusion in order to obtain funds or identification documents of visitors who provide them to the Respondent under the impression that they are engaging with the Complainant. Consequently, the Panel finds that the Respondent has intentionally

attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and the Complainant's JUPITER Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website (Policy, paragraph 4(b)(iv)). The fact that the Domain Name presently resolves to an inactive website does not change the Panel's findings.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 Domain Name, <jupiterholdingsltd.com>, be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: November 18, 2022