

## **ADMINISTRATIVE PANEL DECISION**

President and Fellows of Harvard College v. Ron Willardson  
Case No. D2023-3085

### **1. The Parties**

The Complainant is President and Fellows of Harvard College, United States of America (“United States”), represented by Sunstein LLP, United States.

The Respondent is Ron Willardson, United States.

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

The disputed domain name <chgeharvard.org> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 20, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 2023, 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 July 28, 2023.

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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 30, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on September 7, 2023. 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 owns and operates Harvard University. Harvard University was founded in 1636 and is the oldest institution of higher education in the United States. Harvard University has an enrollment of more than 18,000 students and comprises several renowned schools.

The Complainant owns the trademark HARVARD (the "Mark") which was initially registered with the United States Patent and Trademark Office under Registration No. 1,608,533, dated July 31, 1990, with the year of 1827 as its first use. The Complainant also owns many trademark registrations incorporating the Mark. The Mark is among the world's most famous and well-known trademarks. *President and Fellows of Harvard College v. Rachel McGhin*, Website, WIPO Case No. [D2016-1220](#) (transferring <harvard-review.com>).

The Complainant owns the domain <hsph.harvard.edu> which resolves to the Complainant's school of public health website.

The disputed domain name was registered on January 15, 2014. When the Complaint was filed, the disputed domain name resolved to a website with the same look and feel of the Complainant's school of public health website. See Annex 5 of the Complaint. Currently, the disputed domain name redirects to the domain name <datamax.org> that also resolves to a website purporting to offer "health focused education."

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

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

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name adopts the entire Mark. The Complainant asserts that the prefix of the disputed domain name consists of four apparently random letters which in conjunction with the Mark are designed to mimic the domain name of the Complainant's website.

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant never authorized the Respondent to use the disputed domain name, and the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant also asserts that the Respondent registered and used the disputed domain name in bad faith with actual or constructive knowledge of the Complainant's ownership of the Mark to attract unsuspecting Internet users to the Respondent's website for commercial gain.

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

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark. The disputed domain name wholly incorporates the entire Mark. A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy when, as here, the Mark is clearly recognizable within the disputed domain name notwithstanding the addition of the meaningless prefix "chge". 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, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"). In this case, the Mark is clearly recognizable in the disputed domain name.

The generic Top-Level Domain of the disputed domain names, in this case ".org", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

### B. Rights or Legitimate Interests

The Panel finds on the evidence presented that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. The Complainant has established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. Moreover, the disputed domain name will likely confuse unsuspecting Internet users into believing the disputed domain name would resolve to a website associated, sponsored, or affiliated with the Complainant.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's 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 on-line 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.

The Panel finds on the evidence presented that the disputed domain name was registered and used in bad faith.

The Complainant's Mark is internationally well-known, and especially so in the United States where the Respondent is located. It strains credulity to believe that the Respondent innocently and unknowingly registered and used the disputed domain name composed of the Mark and a meaningless prefix. There is simply no plausible good faith explanation why the Respondent, who has no affiliation to the Complainant, registered and used the disputed domain name to resolve to a website offering services competitive with the Complainant's services. It is beyond doubt that the Respondent has attempted to attract Internet users to the Respondent's website by using the Mark in the disputed domain name. As further evidence of bad faith registration and use, the disputed domain name currently redirects to another domain name, <datamax.org>, that resolves to another website offering health related educational services.

Finally, even ignoring the above compelling evidence of bad faith registration and use, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) (where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred).

The Complainant has met its burden 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 disputed domain name <chgeharvard.org> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: September 13, 2023