

## **ADMINISTRATIVE PANEL DECISION**

Hastings Insurance Services Limited v. Nikhil Kumar  
Case No. D2024-0009

### **1. The Parties**

The Complainant is Hastings Insurance Services Limited, United Kingdom (“U.K.”), represented by Dehns, U.K.

The Respondent is Nikhil Kumar, India.

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

The disputed domain name <hastingsdirectclaims.com> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2024, 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 (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 9, 2024, 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 January 11, 2024.

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 January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on February 12, 2024. 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**

According to information in the Complaint, the Complainant was founded in 1996 and is one of the leading general insurance providers to the U.K. market. As of December 31, 2022, the Complainant held over 8% of the U.K. car insurance market, with over 3.1 million live HASTINGS DIRECT-branded customer policies. The Complainant has over 3,300 employees. According to evidence with the Complaint, the Complainant's HASTINGS DIRECT trademark is ranked as the 14th most popular insurance brand in the U.K.

The Complainant owns several registered trademarks containing "hastings direct" or "hastings" covering the U.K. and European Union ("EU"), including the U.K. trademark registration No. 3818513 for HASTINGS DIRECT registered as of November 4, 2022, for the classes of goods and services 9, 35, 36 and 42, the U.K. trademark registration No. 2637197 for HASTINGS registered as of April 25, 2014, for class 36 of services, and the EU trademark registration No. 006436786 for HASTINGS DIRECT registered as of October 23, 2008, for classes of services 35 and 36, all registered in respect of insurance services. The Complainant also owns since January 12, 2000, the domain name <hastingsdirect.com> that it uses as its official website.

The Respondent is an individual based in India.

The disputed domain name was registered on December 26, 2022. It resolves to a website that purports to offer an insurance claims assistance service of the Complainant's insurance products. The website provides a telephone number which does not correspond to that of the Complainant, below a heading that reads, "Hastings Direct Claims Line". As per evidence with the Complaint, there were more than one formal customer complaint being directed at the Complainant, and one such complaint was escalated to the U.K. Financial Ombudsman Service.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that the dominant portion of the disputed domain name ("hastingsdirect") is identical to the Complainant's marks/names, to which the term "claims" has been added, which is insufficient to distinguish the disputed domain name. Therefore, the disputed domain name is confusingly similar to the Complainant's mark/name when considered in its entirety, insofar as the Complainant's mark is wholly contained within the relevant portion of the disputed domain name, and forms the dominant element of the disputed domain name.

As regards the second element, the Complainant argues that the Respondent is not and has never been connected to the Complainant, and the Respondent is not licensed or permitted to use the Complainant's trademark. Also, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. As such, the disputed domain name resolves to a website featuring a telephone number that professes to be the "Hastings Direct Claims Line". By using the Complainant's HASTINGS DIRECT and HASTINGS trademarks/names in this way, in relation to identical, similar, and/or complimentary services for which the Complainant uses and has registered its trademarks, the Respondent is seeking to pass itself off as being the Complainant, or otherwise associated with, or endorsed by, the Complainant. Moreover, customers of the Complainant have reported that these activities of the Respondent

have resulted in them being misled into using a third-party vehicle recovery and claims management service that is not authorized by, or affiliated with, the Complainant. To the best of the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name.

With respect to the third element, the Complainant argues that it has both registered and unregistered rights in the trademarks HASTINGS DIRECT and HASTINGS which far predate the Respondent's registration of the disputed domain name in December 2022. Further, the Complainant's website at "www.hastingsdirect.com" was registered and fully operational at the time the disputed domain name was registered. The Complainant's prior rights and activity, the near-identity of the trademark and disputed domain name, and the nature of the content on the website to which the disputed domain name resolves all taken in combination mean that the inference can be drawn that the Respondent knew of the Complainant's business and reputation when it registered the disputed domain name, and registered and is using the disputed domain name for the purpose of intentionally impersonating and targeting the Complainant for commercial gain.

The Respondent is using the disputed domain name in connection with a website purporting to be associated with, or endorsed by, the Complainant when this is not the case. The website at the disputed domain name includes the following wording within the footer of the webpage: "ARE AN INDEPENDANT CLAIMS MANAGEMENT COMPANY AND ARE IN NO WAY AFFILIATED WITH OR WORK ON BEHALF OF ANY CAR INSURANCE PROVIDERS OR BROKERS, Logos are the intellectual property of the respective companies and we have only used them for illustration purposes. We are not related to or represent any of the insurance companies listed on this website." The Complainant contends that by including this wording on the website at the disputed domain name, which appears to be a form of disclaimer, the Respondent has acknowledged that it knew of the Complainant when registering and using the disputed domain name, and that such disclaimer, however, is insufficient to prevent the initial confusion with the Complainant. Further, the Complainant argues that the Financial Conduct Authority, a body that regulates the financial services industry in the U.K., has issued a public warning on its website against a firm named "Accident Claims Helpline", which lists the disputed domain name as one of the websites associated with this entity.

## **B. Respondent**

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

## **6. Discussion and Findings**

No Response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 has been registered and is being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “claims”), may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant has proved it holds rights over the trademark HASTINGS and HASTINGS DIRECT, and claims that the Respondent has no legitimate reason to register or acquire the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name. Rather, according to unrebutted evidence with the Complaint, the website at the disputed domain name allegedly offers similar services with those of the Complainant, impersonating the Complainant. The unrebutted evidence in the case file shows that the Complainant received fraud related complaints from its customers. Moreover, the website at the disputed domain name includes a form requesting personal data of Internet users. Such use does not in the circumstances of this case give rise to any rights or legitimate interests on the Respondent’s part. The website at the disputed domain name includes a disclaimer at the bottom of the home page indicating that “ARE AN INDEPENDENT [sic] CLAIMS MANAGEMENT COMPANY AND ARE IN NO WAY AFFILIATED WITH OR WORK ON BEHALF OF ANY CAR INSURANCE PROVIDERS OR BROKERS, Logos are the intellectual property of the respective companies and we have only used them for illustration purposes. We are not related to or represent any of the insurance companies listed on this website.” Such a statement, located at the end page of the website after a sizeable amount of text and information, does not specify the owner of the disputed domain name and gives no information whatsoever as to the identity of the operator of the website or the services provider, which in the Panel’s view cannot qualify as an accurate disclaimer. The Panel further considers that said disclaimer could easily go unnoticed by the Internet users, which has been the case considering the evidence provided in the Complaint as to actual confusion by the Complainant’s costumers.

Moreover, panels have held that the use of a domain name for illegal activity (such as impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

There is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

According to the unrebutted assertions of the Complainant, its HASTINGS DIRECT trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is confusingly similar with the Complainant's trademark, which includes said trademark in its entirety in the disputed domain name's construction, and the website at the disputed domain name displays the Complainant's trademark and allegedly offers related services with those of the Complainant. The Complainant denies extending an authorization for such use. Given the circumstances in the case, the Panel considers that the Respondent must have had knowledge of the Complainant's rights in the HASTINGS DIRECT trademarks when it registered the disputed domain name and it has intentionally created a likelihood of confusion with the Complainant's trademarks and website in order to attract Internet users for its own commercial gain, as envisaged by paragraph 4(b)(iv) of the Policy and/or to disrupt the business of the Complainant. The website at the disputed domain name contains a disclaimer, as described above. The Panel is of the view that where the overall circumstances of a case point to the Respondent's bad faith, the mere existence of a disclaimer cannot cure such bad faith, particularly here where such disclaimer is entirely inadequate in terms of detail and prominence.

The Complainant has also provided evidence suggesting that the Respondent, through use of the disputed domain name, is conducting what appears to be a fraudulent scheme to collect Internet users' personal data through a form on the website at the disputed domain name. Panels have held that the use of a domain name for illegal activity (such as impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Further, the Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions or provide any evidence of actual or contemplated good-faith use.

The Panel finds that the Complainant has established the third element 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 <hastingsdirectclaims.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: February 24, 2024