

ADMINISTRATIVE PANEL DECISION

HRS GmbH v. ddasd dfsdada, adad and 向荣 欣欣
Case No. D2024-0323

1. The Parties

The Complainant is HRS GmbH, Germany, internally represented.

The Respondents are ddasd dfsdada, adad and 向荣 欣欣, China.

2. The Domain Names and Registrar

The disputed domain names <hrs-app.com>, <luxuryhrs-aifg.com>, <luxuryhrs-jkl.com>, <optimizationhrs-e.com>, and <travelhrs-org.com> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2024. On January 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 25, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Protection Services, Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 30, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or, alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amendment to the Complaint on January 31, 2024.

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 Respondents of the Complaint and the proceedings commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondents did not submit any response.

Accordingly, the Center notified the Respondents' default on February 26, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on March 6, 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. Procedural issue –Complaint filed against multiple Respondents

The Complainant requests the consolidation of the Complaint against the two disputed domain name registrants pursuant to paragraph 10(e) of the Rules. In support of its application, it says that the contact details provided for each of the named Respondents are incomprehensible and therefore incorrect. The email addresses specified in the contact details for each of the disputed domain names are very similar. The websites to which each disputed domain name resolves are identical as are the registrant, administrative and technical contacts. Moreover, all the disputed domain names were registered with the Registrar. For these reasons, the Complainant alleges that all the disputed domain name registrants are either the same entity or are under common control.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. Whilst neither the Policy nor the Rules expressly provides for the consolidation of claims against multiple respondents into a single administrative proceeding, the principles applied by panels considering requests for consolidation are set out at section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which explains that: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario." See also *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

The Complainant is not quite correct in asserting that the registrant, administrative and technical contacts for each disputed domain name are the same; three of the disputed domain names use one term for all three contacts and the remaining two disputed domain names use another term. Nonetheless, with this qualification, the Panel accepts that, for the reasons given by the Complainant, the evidence, in combination, points to all the disputed domain names being under common control. The Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. The Panel notes also that none of the Respondents has challenged the Complainant's assertions in this respect.

In these circumstances, it is procedurally efficient, as well as fair and equitable to all parties, for the Complainant's case in respect of all the disputed domain names to be dealt by means of a single Complaint. The Panel accordingly grants the Complainant's request for consolidation and the Respondents are referred to in the remainder of this decision as "the Respondent".

5. Factual Background

The Complainant company was founded in 1972. It has its head office in Cologne, Germany and provides services in the field of hotel booking. It says it is now one of the largest intermediaries for business travelers worldwide. Its brand name is HRS, which is an acronym for "Hotel Reservation Service", and the Complainant owns trade marks to protect its trading style including German trade mark for HRS, registration number DE1024011, registered on October 8, 1981, in classes 35, 39, 41 and 43. It also owns and operates domain names which comprise its mark, including <hrs.de> and <hrs.com>.

The disputed domain names were registered on various dates between November 10, 2023, and January 1, 2024. Each of them resolves to login pages which invite the visitor to insert their 'phone number or user name and their password, save that disputed domain name <hrs-app.com> no longer resolves to an

active website. The login pages do not bear the Complainant's HRS mark although they feature a small logo at the foot of each page which has previously been used by the Complainant. The Complainant has provided evidence that, at least, the disputed domain name <luxuryhrs-jkl.com> has been used in a scam in which the Respondent, or associates of it, claims to be employees of the Complainant and ostensibly seeks to recruit the victim to work for it, the scam culminating in the victim being asked to deposit cryptocurrency with the Respondent. The Complainant has provided a redacted excerpt of an online chat between the Respondent and an intended victim of the fraud which shows it in operation. In particular, as part of the scam, the intended victim was invited to login at the URL of the disputed domain name <luxuryhrs-jkl.com>.

6. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names. Notably, the Complainant contends that;

- each of the disputed domain names is identical or confusingly similar to a trade mark in which it has rights. Each of the disputed domain names contains the Complainant's HRS mark in its entirety and adds one of the terms "app", "travel", "optimization" or "luxury". In each disputed domain name, the Complainant's HRS mark retains its distinctive character and each of the additional terms has a conceptual connection to the business of the Complainant;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not affiliated with, nor connected to, the Complainant, who would not allow the Respondent to use its trade marks for fraudulent schemes;
- the disputed domain names were registered and are being used in bad faith. The disputed domain names have been used in connection with a scam in which victims were contacted by WhatsApp and informed about a part-time job offer, the scam ultimately involving the victim being deceived into making a deposit in cryptocurrency in favour of the Respondent. It is a necessary part of the scam that the brand by whom the fraudsters are purportedly employed is well-known, so as to lend respectability to it.

B. Respondent

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

7. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that a complainant proves each of the following three elements in relation to each of the domain names in issue in order to succeed in its complaint:

- (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 with respect to the domain name; and
- (iii) the 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 trade mark and the disputed domain name; see the [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of its HRS mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of each of the disputed domain names, is usually disregarded when assessing confusing similarity. The Complainant's HRS mark is reproduced in its entirety in each of the disputed domain names and is clearly recognizable within them. The incorporation of a hyphen in each of the disputed domain names is of negligible significance and neither the prefixes "travel", "optimization" and "luxury", nor the suffixes "app", "org", "e", "jkl" or "aifg", prevent a finding of confusing similarity between each of the disputed domain names and the Complainant's mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.8.

For the above reasons, based on the available record, the Panel finds that 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 by which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. Whilst 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 impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, any of the disputed domain names or a name corresponding to any of the disputed domain names in connection with a bona fide offering of goods or services; see paragraph 4(c)(i) of the Policy, and the [WIPO Overview 3.0](#), section 2.2; Dealing first with the disputed domain name <luxuryhrs-jkl.com>, previous UDRP panels have held that the use of a domain name for illegal activity, including phishing, distributing malware, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent; see section 2.13.1 of the [WIPO Overview 3.0](#). The Panel infers from the similar login pages to which each of the other disputed domain names has resolved that the Respondent's intention has been to use them for similar purposes. The Panel also takes into account the fact that the Respondent has chosen not to challenge the Complainant's assertions of fraudulent intent. In respect of the disputed domain name which is not used at present, namely <hrs-app.com>, non-use of a disputed domain name, self-evidently, does not comprise use in connection with a bona fide offering of goods and services;
- there is no evidence in the record that the Respondent has been commonly known by any of the disputed domain names. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3;

- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [WIPO Overview 3.0](#), section 2.4;
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain names.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The record shows that, within a few weeks after the Respondent's registration of the disputed domain names, at least one of them was being used for fraudulent purposes in the manner described above. This establishes both an awareness by the Respondent of the Complainant's HRS mark as at the date of registration of the disputed domain names and an intention on its part to take unfair advantage of it. As outlined above, although the Complainant has not been able to adduce direct evidence that the remaining disputed domain names are being, or are intended to be, used in the same manner, having regard to the fact that all the disputed domain names have resolved to similar or identical login pages, it is reasonable to suppose that they were all intended to be used for the same purpose. The Respondent's registration of the disputed domain names is accordingly in bad faith.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. Although the form of scam practiced by the Respondent has elements which extend beyond the login page to which the disputed domain name resolves, section 3.4 of the [WIPO Overview 3.0](#) explains that; "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution". See also section 3.1.4 of the [WIPO Overview 3.0](#): "[G]iven that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith". Finally, see, by way of example, *Six Continents Hotels, Inc., and Six Continents Limited v. ihg hiringj*, WIPO Case No. [D2023-3471](#). As indicated above, it is appropriate to infer that all the disputed domain names have been registered for the same purpose.

So far as the disputed domain name which no longer resolves to an active website, namely <hrs-app.com>, is concerned, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding; see the [WIPO Overview 3.0](#), section 3.3 and by way of example, *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Panel notes the Respondent has not challenged the Complainant's claim to be known internationally for its services; (ii) the Respondent has not provided a response to the Complaint nor is there any evidence of actual or contemplated good faith use of the disputed domain name; (iii) the contact addresses for the registrant are garbled and plainly spurious so the Respondent has effectively concealed its identity; and (iv) there is no plausible good faith use to which the disputed domain name can be put by the Respondent. In the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. See also, for example, *Alstom v. Contact Privacy Inc. Customer 1244065242 / Michelle Chung, Chung*

Limited Co, WIPO Case No. [D2019-2718](#).

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain names has been in bad faith.

8. 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 names <hrs-app.com>, <luxuryhrs-aifg.com>, <luxuryhrs-jkl.com>, <optimizationhrs-e.com> and <travelhrs-org.com> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: March 18, 2024