

## ADMINISTRATIVE PANEL DECISION

Six Continents Hotels, Six Continents Limited v. 十二新, 省公司  
Case No. D2024-0522

### 1. The Parties

The Complainants are Six Continents Hotels and Six Continents Limited, United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is 十二新, 省公司, China.

### 2. The Domain Name and Registrar

The disputed domain name <luxuriousihg-opt.com> is registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 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 (Redacted For Privacy / Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 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 amendment to the Complaint on February 7, 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 Respondent of the Complaint and the proceedings commenced on February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on March 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**

The Complainants are members of the international hotel group known as IHG Hotels & Resorts (as such, the Complainants will hereinafter be referred to as the “Complainant”). Companies within the group manage or own 6,261 hotels and 929,987 guest rooms in about 100 countries. The hotels operate under a number of brands, including IHG, and the Complainant owns many trade marks internationally which comprise or include its IHG mark, including by way of example, United States service mark for IHG, registration number 3,544,074, in class 35, registered on December 9, 2008. The Complainant also owns and operates many domain names which comprise or include the term IHG, including <ihg.com>.

The disputed domain name was registered on December 27, 2023. It resolves to a login page featuring an image which appears to be a view of a hotel lobby. The Complainant has provided evidence in the form of an email from a victim of the fraud that the disputed domain name is being used as part of a cryptocurrency employment scam in which the Respondent masquerades as the Complainant and purports to offer employment opportunities to victims who, at some point in the scam, are told they need to deposit funds with the Respondent in order to release future payments to them.

#### **5. 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 name. Notably, the Complainant contends that;

- the disputed domain name is identical or confusingly similar to a trade mark in which it has rights. It features the Complainant’s IHG mark in its entirety and adds the terms “luxurious” and “opt” as well as a hyphen. These additional terms do not prevent a finding of confusing similarity and, in fact, as they are at least partially descriptive of the Complainant’s services, serve to increase it;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never given the Respondent any authority to use its IHG trade mark in any manner. The Respondent’s use of the disputed domain name in connection with an employment scam does not constitute a bona fide offering of goods and services. The Respondent has never been commonly known by the disputed domain name and has never acquired any trade mark rights in it. By using the disputed domain name in connection with an employment/phishing scam, the Respondent’s actions are clearly commercial in nature and the Respondent cannot establish rights or a legitimate interests pursuant to paragraph 4(c)(iii) of the Policy;
- the disputed domain was registered and is being used in bad faith. The mere registration of a domain name that is identical or confusingly similar to a famous or widely known trade mark by an unaffiliated entity can create a presumption of bad faith. The Respondent knew or should have known that its registration would be identical or confusingly similar to the Complainant’s mark. As the disputed domain name is obviously connected with the Complainant, the Respondent’s actions suggest opportunistic bad faith. Numerous UDRP panels have found that use of a domain name in connection with employment scams constitutes bad faith use.

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

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

## 6. 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 in order to succeed in its complaint:

- (i) the domain name is identical or confusingly similar to a trade mark 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of its IHG mark for the purposes of the Policy; see the [WIPO Overview 3.00](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of the disputed domain names is usually disregarded when assessing confusing similarity. The Complainant's IHG mark is reproduced in its entirety in the disputed domain name and is clearly recognizable within it. The incorporation of a hyphen, the prefix "luxurious", and the suffix "opt", do not prevent a finding of confusing similarity between the disputed domain name 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 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 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, the disputed domain name or a name corresponding to the disputed domain name 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. 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](#) and also *Inter-Continental Hotels Corporation v. Registration Private, Domains By Proxy, LLC / James Onuoha Doe*, WIPO Case No. [D2018-2902](#). The Panel also takes into account the fact that the Respondent has chosen not to challenge the Complainant's assertions of fraudulent intent;
- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. 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 name, 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; and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

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 name in November 2023, it was being used as part of a scam of which one element involves victims being invited to log into the website to which the disputed domain name resolves, which is purportedly operated on behalf of the Complainant. This establishes both an awareness by the Respondent of the Complainant's IHG mark as at the date of registration of the disputed domain name and an intention on its part to take unfair advantage of it. It is well-established under the Policy that registration of a domain name by an unconnected party with knowledge of a complainant's trade mark registration and where the domain name is put to a misleading use can by itself establish a presumption of bad faith; see, for example, *Expedia, Inc. v. Dewen Zhong, DBG* WIPO Case No. [D2022-4203](#). The Respondent's registration of the disputed domain name 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, it performs a central function in the scam and 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 hiringji*, WIPO Case No. [D2023-3471](#).

Having regard to the above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

## 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 <luxuriousihg-opt.com> be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: March 26, 2024