

## **ADMINISTRATIVE PANEL DECISION**

### **C. Hager & Sons Hinge Manufacturing Company v. Lotus Gold, Coldlotus Case No. D2024-1382**

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

The Complainant is C. Hager & Sons Hinge Manufacturing Company, United States of America (“United States” or “US”), represented by Sandberg Phoenix and von Gontard P.C., United States.

The Respondent is Lotus Gold, Coldlotus, China.

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

The disputed domain name <hagerdoor.com> (the “Disputed Domain Name”) is registered with CNOBIN Information Technology Limited (the “Registrar”).

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 4, 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 (John Doe), and contact information in the Complaint. The Center sent an email communication to the Complainant on April 5, 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 April 10, 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 April 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 7, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on May 20, 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 Complainant is incorporated in the United States and operates a business producing door hardware and electronic access controls relating to doors and hinges that generates turnover exceeding USD 150 million annually. The Complainant holds registrations for the trademark HAGER and variations of it in the US, including, inter alia, Registration No. 836571 for HAGER, registered on October 10, 1967; Registration No. 1419741 for HAGER, registered on December 09, 1986; and Registration No. 1700179 for the H logo, registered on July 14, 1992.

The Complainant owns the domain name <hagerco.com>, which was registered on June 4, 2001, from where its main website operates.

The Respondent registered the Disputed Domain Name on August 14, 2023. The Disputed Domain Name resolves to a website prominently displaying the HAGER trademark and H logo, and purports to sell door hardware and hinges.

#### **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 cites its trademark registrations in the US for the mark HAGER and variations of it, as prima facie evidence of ownership.

The Complainant submits, in essence, that its rights in that the mark HAGER mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name is comprised of the HAGER trademark and that the addition of the word "door" is not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the "Respondent has never been authorized by Complainant to use the HAGER Mark or any of the HAGER Marks" and that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant's trademark, and advances the argument that the use of the Disputed Domain Name to purport to sell door hardware and hinges "cr[e]ates the false impression that Respondent's Website is related to, authorized by, or affiliated with Complainant" and is use in bad faith.

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

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that 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 Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark HAGER in the US.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the HAGER trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark HAGER; (b) followed by the word "door"; (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Name, specifically: "hagerdoor".

The Panel finds that the entirety of the mark is reproduced 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 the word "door", 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.

Based on the available record, 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 Disputed 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 Panel notes the evidence that the Disputed Domain Name resolves to a webpage that prominently displays the Complainant's trade marks, and purports to sell door furniture and hinges, without any disclaimer disclosing the lack of relationship between the Parties, which supports the Complainant's submission on that point and finds that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the evidenced reputation and goodwill of the Complainant's mark or capacity to otherwise mislead Internet users.

The Panel also notes that the Disputed Domain Name contains the word "door", which this Panel accepts the Complainant's submission that this creates the false impression that the Respondent's website is related to, authorized by, or affiliated with the Complainant, particularly considering the Complainant owns the domain name <hagerco.com>.

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.

Based on the available record, the Panel finds the second element of the Policy has been established for the Disputed Domain Name.

### **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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the distinctive nature of the Complainant's trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant's trademark HAGER when it registered the Disputed Domain Name. The Complainant has held registered rights in the trade mark for 57 years and has been in business since around the year 1850. It is clearly an established brand.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's well-known trademark. [WIPO Overview 3.0](#), section 3.1.4.

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name some 57 years after the Complainant established registered trademark rights in the HAGER mark.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name resolves to a website where Internet users can supposedly purchase HAGER branded goods such as door hardware and electronic access controls relating to doors and hinges.

Panels have held that the use of a domain name for illegal activity here, alleged impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In the circumstances, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

Based on the available record, 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, <hagerdoor.com>, be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: May 30, 2024