

## **ADMINISTRATIVE PANEL DECISION**

### **SubSea 7 v. I am Dev, Not Applicable**

### **Case No. D2023-0670**

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

The Complainant is SubSea 7 SA, Luxembourg, represented by ZeroFox, United States of America.

The Respondent is I am Dev, Not Applicable, India.

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

The disputed domain name <subseas7ind.com> is registered with Hostinger, UAB (the “Registrar”).

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 13, 2023. On February 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 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 February 20, 2023. In response to a precision request from the Center on the wording of the disputed domain name in the first amended Complaint, the Complainant filed the second amended Complaint on February 21, 2023.

The Center verified that the Complaint together with the amended Complaints 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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on March 31, 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.

On April 28, 2023, a procedural order was issued to the Parties requesting the Complainant to clarify its relationship with Subsea 7 Limited in the United Kingdom (“UK”), the owner of the SUBSEA 7 trademarks. The Complainant responded on May 2, 2023.

#### **4. Factual Background**

Founded in 2001, the Complainant is based in Luxembourg and specializes in engineering, construction and services company in the offshore energy industry. It belongs to the Subsea 7 Group which is active worldwide.

Subsea 7 Limited in the UK, which is also part of the Subsea 7 Group, owns trademark registrations in SUBSEA 7, such as:

- International Trademark registration No. 1147789, in international classes 7, 37, 39, and 42, registered on December 14, 2012;
- Indian Trademark registration No. 3569116, in international classes 6, 7, 9, 11, 12, 19, 20, 37, 39, 40, and 42, registered on June 12, 2017.

The Respondent registered the disputed domain name on December 10, 2022. At the time of filing of the Complaint, the disputed domain name resolved to a website displaying a SUBSEA’S 7 sign. The website purported to offer job opportunities and notably mentioned in the “About Us” section:

“We Are Best Recruiters for SubSea’s7 Offshore and Gas Engineering Construction India Pvt. Ltd. Provide jobs To Applicant in Various Fields Like Cruise Ship, Shipyard, Oil Rig Offshore And Onshore, Seaport, Five Star Hotel Seaport Etc.”.

#### **5. Parties’ Contentions**

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

The Complainant argues to be the owner of several trademark registrations for SUBSEA 7 including in India where the Respondent is based. The Complainant contends that the disputed domain name incorporates the Complainant’s trademark in its entirety. The addition of the generic Top-Level Domain (“gTLD”) “.com” to end the disputed domain name does not diminish the nearly identical nature of the disputed domain name with the Complainant’s SUBSEA 7 trademark. Furthermore, the addition of the letter “s” after “subsea” and of “ind” misleads the Internet user into believing that they are viewing the Complainant’s official Indian website.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as it falsely implies that it is the official Indian website of the Complainant. Furthermore, the disputed domain name resolved to a job vacancy website untruly giving the impression to be operated by the Complainant. The Respondent reproduces the Complainant’s distinctive trademark in the disputed domain name in order to divert viewers to its website.

The Complainant underlines the bad faith use due to the redirection of the disputed domain name to a website, which falsely advertised jobs for the Complainant without authorization. By doing so, the Respondent has collected information of unsuspecting visitors to the website who uploaded their resumes to a position they believe they were applying for. The registration and use of the disputed domain name is

clearly for the purpose of disrupting the business of the Complainant and to attempt to attract Internet users to the Respondent's website which unduly copies the Complainant's trademark in order to dress itself up as the Complainant to lure Internet users to the Respondent's website.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent 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 domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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

The case file shows that Subsea 7 Limited in the United Kingdom is the owner of SUBSEA 7 trademarks in several jurisdictions.

At the Panel's request, the Complainant explained that "Subsea7 (Luxembourg) and [...] Subsea7 Limited in the UK [...] are the same. Subsea7 Limited is legally domiciled in Luxembourg, however their operational headquarters is in the UK". Based on this explanation, the Panel considers that these are two entities belonging to the same Group.

According to section 1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a trademark owner's affiliate such as a subsidiary of a parent or of a holding company is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. Furthermore, where multiple related parties have rights in the relevant mark on which a UDRP complaint is based, a UDRP complaint may be brought by any one party, on behalf of the other interested parties.

In light of the above, the Panel finds that the Complainant has shown to have trademark rights in SUBSEA 7, which is registered in many jurisdictions including in India where the Respondent is based.

According to section 1.7 of the [WIPO Overview 3.0](#), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a

dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark SUBSEA 7 since it contains this mark in its entirety. The addition of the letter "s" and of the term "ind" (which seems to be a reference to the country "India") in the disputed domain name does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, the gTLD ".com" is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

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

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) being commonly known by the domain name; or
- (iii) making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent is commonly known by the disputed domain name. Furthermore, the Complainant has shown that the disputed domain name was at the time of the filing of the Complaint linked to a website displaying a sign nearly identical to the Complainant's distinctive trademark with the obvious goal to unduly obtain data from Internet users by purportedly offering job opportunities ("phishing").

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in the proceeding.

Furthermore, the disputed domain name combines the trademark SUBSEA 7 in its entirety with the additional letter "s" and term "ind" for "India", which carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

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

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain

name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 holder'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 holder 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 the holder's respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's respondent's website or location or of a product or service on the holder's respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and is being used in bad faith.

Given the circumstances of the case, including the distinctive nature of the Complainant's trademark SUBSEA 7, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks.

Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name that its choice could attract Internet users in a manner that is likely to create confusion for such users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The Complainant has evidenced that the disputed domain name previously resolved to a website with the possibly phishing nature by using a sign that is similar to the Complainant's trademark and purportedly offering job opportunities. Indeed, the website gave the impression to be an official job application website for the Complainant on which potential job applicants could upload their file and data.

It has been established in many UDRP cases that the use of a domain name for possible phishing and identity theft, notably in order to obtain sensitive or confidential personal information from prospective job applicants falls under bad faith under the Policy (see [WIPO Overview 3.0.](#), section 3.4).

The silence of the Respondent in the proceeding is an additional evidence of bad faith in these circumstances.

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

## 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 <subseas7ind.com> be transferred to the Complainant.

*/Theda König Horowicz/*

**Theda König Horowicz**

Sole Panelist

Date: May 4, 2023