

## **ADMINISTRATIVE PANEL DECISION**

GoodData Corporation v. Weng Long Chen

Case No. D2023-2151

### **1. The Parties**

The Complainant is GoodData Corporation, United States of America (“United States”), represented internally.

The Respondent is Weng Long Chen, China.<sup>1</sup>

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

The disputed domain names, <gooddata-aim.com> and <gooddata-app.net>, 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 May 16, 2023. On May 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 18, 2023, 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 (WHOIS AGENT DOMAIN PROTECTION SERVICES, INC.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 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 a first amended Complaint on May 22, 2023.

On May 22, 2023, the Complainant requested the domain name, <gooddata-pro.com>, to be added to these proceedings. On May 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the domain name <gooddata-pro.com>. The Center sent an email communication to the Complainant on May 23, 2023, providing the registrant and contact information for multiple underlying registrants disclosed by the registrars, and inviting the Complainant to either amend the Complaint to add the registrar-disclosed registrants as the formal respondents and provide relevant arguments or evidence demonstrating that all the named respondents were, in fact, the same entity and that all domain names were under common control, or indicate which of the three domain names should no longer be included in the current Complaint. On May 26, 2023, the Complainant filed a second amended

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<sup>1</sup> The registration details for the disputed domain names, as confirmed by the Registrar, show the city as Singapore, but the country as China.

Complaint and requested a partial withdrawal with regard to the domain name <gooddata-pro.com>. On May 30, 2023, the Center sent a notification of requested partial withdrawal with regard to the domain name <gooddata-pro.com> and confirmed that the case would continue only in respect of the disputed domain names.

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 May 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 23, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on June 28, 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.

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

The Complainant provides data and analytics services.

The Complainant owns United States trade mark No. 3,586,511 for GOODDATA, filed on July 30, 2008, registered on March 10, 2009, in class 42.

The Complainant operates a website at "www.gooddata.com".

The disputed domain names, <gooddata-aim.com> and <gooddata-app.net> were registered on April 2, 2023, and April 21, 2023, respectively.

The disputed domain name <gooddata-aim.com> was used as part of a scheme whereby persons purporting to act for the Complainant approached individuals on WhatsApp, encouraging them to register on a website at the disputed domain name for a training account in order to allegedly earn commission. The WhatsApp messages included a bogus legal notice, which stated, amongst other things, that the Complainant operated and maintained the website at the disputed domain name, which had allegedly been created "for marketing tools and production data".

The Respondent did not reply to the Complainant's cease and desist communication sent on April 24, 2023.

#### **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 names.

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

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are 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 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 a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

While the addition of other terms (here, "aim" and "app") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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.

While 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 often 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. [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 Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

Furthermore, panels have held that the use of a domain name for illegal activity (e.g., phishing, 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.

### **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.

The Panel considers that the record of this case reflects that:

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Furthermore, panels have held that the use of a domain name for illegal activity (e.g., phishing, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In the present case, while the Complainant has not supplied evidence of misuse of the disputed domain name <gooddata-app.net>, the Panel notes that the Respondent has not appeared in this proceeding to dispute the Complainant's assertion that it was used in a similar manner to the disputed domain name <gooddata-aim.com>. The Panel also notes that the Respondent registered the disputed domain names within a few weeks of each other, and that they are in the same format, indicating that they are most likely part of a common fraudulent scheme.

Alternatively, the disputed domain name <gooddata-app.net> constitutes a passive holding in bad faith. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds the third element of the Policy has been established.

### **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 names, <gooddata-aim.com>, and <gooddata-app.net>, be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: July 11, 2023