

## **ADMINISTRATIVE PANEL DECISION**

So Bold Limited v. Daniel Lahoti, TechOps, VirtualPoint Inc.  
Case No. D2022-1100

### **1. The Parties**

The Complainant is So Bold Limited, United Kingdom, represented by Carstens & Cahoon, LLP, United States of America (“United States”).

The Respondent are Daniel Lahoti and TechOps, VirtualPoint Inc., United States, represented by Lewis & Lin, LLC, United States.

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

The disputed domain name <sobold.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2022. The Response was filed with the Center on April 23, 2022.

The Center appointed John Swinson as the sole panelist in this matter on May 3, 2022. 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 May 5, 2022, the Complainant filed a supplementary submission with exhibits.

On May 9, 2022, the Respondent filed a response to the Complainant's supplementary submission.

#### 4. Factual Background

The Complainant is a private company formed in 2014 in London, England, that provides website development services.

The Complainant owns a trademark registration for SOBOLD, being UK registration number UK00003721057 that was filed on November 12, 2021 and registered on February 4, 2022.

The Complainant uses the domain name <sobold.co.uk> for the Complainant's website.

The Respondent VirtualPoint Inc. is a California corporation with a principal place of business in Irvine, California, United States. The Respondent does not give details of its business although it appears from previous cases under the Policy that the Respondent is a web development company that, *inter alia*, purchases domain names and develops websites (see, for example, *Chandler Systems, Incorporated v. Tech Admin, Virtual Point*, WIPO Case No. [D2017-1665](#) and *Laboratoires Thea v. Tech Admin, Virtual Point Inc.*, WIPO Case No. [D2018-0039](#)). As stated in a prior case under the Policy that was referred to by the Respondent in the Response, "it is clear that the Respondent is a dealer in domain names, sometimes termed a 'domainer'". *Mr. Gildo Pallanca-Pastor v. Tech Admin, Virtual Point Inc.*, WIPO Case No. [D2020-1698](#). The Respondent has been a respondent in about 10 prior disputes under the Policy, in which the Respondent was mostly successful. According to PACER database searches conducted by the Panelist of United States federal court cases, the Respondent has commenced seven court cases seeking declarations regarding its ownership of domain names. According to one of the complaints filed by the Respondent in one of these court cases,<sup>1</sup> the Respondent owned (at the time of that pleading in 2010) many domain names including <udrpsearch.com>, <sonicgames.com>, <jimmyfallon.com> and domain names involving loans, credit, and lending.

The Respondent Daniel Lahoti appears to control VirtualPoint Inc.

The Respondent Daniel Lahoti was also a party in the Ninth Circuit appeals case, *Lahoti v. Vericheck, Inc.*, 586 F.3d 1190 (9th Cir. 2009). In the court's decision, he was described by the appeals court as a cybersquatter. The court affirmed "the district court's conclusion reached on summary judgment that Lahoti acted in bad faith". The court stated:

"This case does not reflect the first time Lahoti has registered domain names that were similar to the names or trademarks of other companies. Lahoti had previously registered more than four hundred domain names containing the trademarks of other companies, including nissan.org, 1800 mattress.com, and ebays.com. In at least two cases, the United Nations World Intellectual Property Organization ordered Lahoti to give up control of some of his domain names because they infringed on a trademark. In 2000 the United States District Court for the Central District of California in *E-Stamp Corp. v. Lahoti* (the 'E-Stamp Case'), No. CV-99-9287, 2000 WL 33732808, concluded that Lahoti was a 'cybersquatter' and that his registration, attempted sale, and use of the <estamps.com> domain name violated federal trademark law and the ACPA." *Lahoti v. Vericheck, Inc.*, 586 F.3d 1190, 1194-95 (9th Cir. 2009).

For the remainder of this decision, the Panel will refer to all Respondents as "the Respondent" unless explicitly stated otherwise.

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<sup>1</sup> The Panel obtained this complaint from the public PACER court records database. *VirtualPoint Inc. v. Pratima Raichur*.

For completeness, the Complaint referred to Ravi Lahoti. Ravi Lahoti appears to be Daniel Lahoti's brother. Ravi Lahoti is also a domainer and appears to have domain name cases decided against him in both courts and under the Policy. Ravi Lahoti does not appear to have any involvement regarding the disputed domain name. He is not a respondent in this case.

The disputed domain name was registered by the Respondent on October 6 or 9, 2021. The Respondent acquired the disputed domain name for USD 2,048 in a "drop catch" auction run via the website "www.dropcatch.com".

The Respondent owns or owned other domain names that start with "so" namely <sogreen.com>, <sopure.com>, and <somod.com>.

On October 26, 2021, an employee of the Complainant (Ms. Ridick) contacted the Respondent and offered to buy the disputed domain name for USD 400. She referred to the disputed domain name as SobOld.com. Ms. Ridick followed up on November 12, 2021, expressing interest in the disputed domain name up to GBP 1,000, stating that she had just moved into a house with the name "SoBold".

Correspondence continued between the parties. After the Respondent made a counteroffer at USD 23,000, the correspondence between the parties became less civil.

On December 22, 2021, the disputed domain name resolved to a website that stated "SoBold.com Site Name For Sale. Expected: 16,300 USD. BUY IT NOW" and included on the right side of that webpage "15 Public Site Names Start With SoBold". The website then listed several domain names including the Complainant's domain name <sobold.co.uk> and one other domain name owned by the Complainant.

At the present time, the disputed domain name redirects to a website at "harrietridickliar.com/sobold.com-complaint.html". This website is titled "VirtualPoint Inc. vs SoBold Ltd" includes the Complainant's logo, some of the correspondence from Ms. Ridick and a photograph of Ms. Ridick copied from the Complainant's website. The webpage also includes links to blog posts about this dispute and what appears to be a court complaint prepared by the Respondent's attorneys against the Complainant seeking declarations from a California district court. The webpage also includes photographs of the Complainant's and the Respondent's attorneys.

## **5. Parties' Contentions**

### **A. Complainant**

In summary, the Complainant makes the following submissions:

The Complainant was formed in 2014 and is a recognised leader in providing websites to "cause-based" organisations.

The Complainant owns the trademark registration set out in section 4 above.

The Complainant has used this trademark since at least March 2014 and has obtained common law rights in SOBOLD. Examples of use were provided in an Annex to the Complaint.

The disputed domain name is identical to the SOBOLD trademark.

The Respondent does not have any legitimate interest in the SOBOLD trademark. The Complainant has no relationship with the Respondent, has not authorized the Respondent to use the disputed domain name, and not licensed or authorized any use of the SOBOLD trademark. The Respondent does not own any trademark applications or registrations for SOBOLD. The Respondent has not used or made preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The

Respondent is not commonly known by the disputed domain name, and is not making a noncommercial or fair use of the disputed domain name.

The Respondent uses a business alias to conceal his identity. Thus, the Respondent is not commonly known by the disputed domain name.

The Respondent registered the disputed domain name primarily to sell it at a profit to the Complainant. In responding to an offer from the Complainant to purchase the disputed domain name for USD 1,000, the Respondent counter-offered USD 23,000.

The Respondent has a well-documented history and pattern of registering domain names to prevent trademark owners from registering domain names reflecting their trademarks. The Respondent is a serial cybersquatter. The Respondent uses several business aliases and works with family members to amass a vast portfolio of domain names with the hopes of extorting large sums from trademark owners.

This dispute is just another case in a long pattern of the Respondent registering domain names to extort large settlements from a previously established brand.

## **B. Respondent**

In summary, the Respondent makes the following submissions:

The Complaint is a textbook “Plan B” attempt by the Complainant to reverse hijack the disputed domain name from the Respondent. The Complaint contains no serious argument that would entitle the Complainant to relief, and instead the Complaint simply attempts to attack the Respondent personally. Yet, it does so by completely mis-identifying the Respondent as a defendant in a string of wholly unrelated cases and UDRP decisions that the Complaint cites and attaches, when even a cursory look at the cited “authority” shows that the Respondents (David Lahoti and/or Virtual Point Inc.) were not parties to those cases.

The disputed domain name is comprised of ordinary and often-juxtaposed dictionary words suitable for any number of brands. It was only after the Respondent registered the disputed domain name and after the Complainant attempted to purchase the disputed domain name from the Respondent that the Complainant filed for a UK trademark for SOBOLD.

The Complaint presents no evidence that the Complainant had any common law rights to SOBOLD at the time of registration (or at any other time including now). Nor is there any evidence that the Respondent knew of the Complainant or its alleged UK trademark – for which the Complainant had not applied at the time that the Respondent acquired the disputed domain name – or that the Respondent was somehow specifically targeting the Complainant’s niche United Kingdom web services company when the Respondent participated in, and ultimately won, an online public auction for the disputed domain name that lasted three days concluding on October 9, 2021.

The Respondent never solicited or in any way initiated contact with the Complainant.

There is no dispute that the Complainant owns a registered trademark for SOBOLD in the United Kingdom. There is also no dispute that the disputed domain name is identical to the Complainant’s registered trademark.

In addition to the obvious branding potential of such words, “so bold” is also a common English inspirational phrase that is used to mean “to act or speak in a daring and confident way”, which is the definition given by Merriam-Webster, which also happens to be the first search result when Googling “so bold”.

There is nothing in the Policy that prohibits the purchase and sale of domain names. A person who legitimately owns a domain name is entitled to sell it for as little or as much as one likes or thinks they can get away with.

The Complainant presents no evidence of how the Respondent could have known about the Complainant prior to its registration of the disputed domain name. The Complainant had no trademark applications or registrations at the time of registration anywhere in the world and presents no evidence of any common law rights to the SOBOLD trademark.

Without any registered or common law trademark rights, and without demonstrating any presence whatsoever – let alone in the United States where the Respondent lives – it is highly unlikely that the Respondent could have known about the Complainant, and the Respondent Lahoti confirms this in his sworn declaration. The Respondent had never heard of the Complainant before the Complainant's unsolicited offer to purchase the disputed domain name from the Respondent in November 2022

The Complainant has failed to put forth any evidence that the Respondent is seeking to capitalize on the Complainant's goodwill.

The Respondent registered the disputed domain name because it is a root domain name comprised of a common inspirational phrasing that can unquestionably be used in many ways by many different businesses. Indeed, the Complainant is not the first one to coin or use this phrase as a commercial brand moniker – many other businesses use “so bold” as a trademark, or part of a trademark, and in their domain names, in many ways (and there are entities with trademark rights to the phrase dating back to 2006).

Recent UDRP decisions, and the Respondent's record of success in UDRP disputes generally, strongly support its good faith activities.

The Respondent seeks a finding for Reverse Domain Name Hijacking. Here, not only should the Complainant have known its case was fatally weak (Complainant is a UK company, providing niche Web services, with no registered marks at the time of the disputed domain name's registration, has provided no evidence of common law trademark rights, is not the exclusive user of the common phrase “so bold”, etc.), but Complainant also only brought this Complaint after it failed on a series of separate occasions to purchase the disputed domain name from the Respondent.

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The onus of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

### **A. Complainant's Supplementary Submission**

Before entering into the merits of the case, the Panel addresses the issue of the unsolicited supplemental filings submitted by both the Complainant and the Respondent.

No provision concerning supplemental filings is made in the Rules or Supplemental Rules, except at the request of the panel according to paragraph 12 of the Rules, which states the panel, in its sole discretion, may request any further statements or documents from the parties it may deem necessary to decide the case.

According to paragraph 10 of the Rules, the panel has the authority to determine the admissibility, relevance, materiality, and weight of the evidence, and also to conduct the proceedings with due expedition, ensuring that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.6, unsolicited supplemental filings are generally discouraged – unless specifically requested by the panel – and the party submitting an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response.

Accordingly, UDRP panels generally accept supplemental filings only when they provide material new evidence or a fair opportunity to respond to arguments that could not reasonably have been anticipated. See, for example, *Welcomemat Services, Inc. v. Michael Plummer Jr., MLP Enterprises Inc.*, WIPO Case No. [D2017-0481](#).

The Complainant's supplemental submissions relate to the website at the domain name <harrietriddickliar.com> to which the disputed domain name is redirected. This domain name was registered after the Complaint was filed, and the Complainant made submissions that the content on this website is further evidence of the Respondent's bad faith.

The Respondent responded to the Complainant's supplemental submissions, both objecting to the submissions as not being permitted under the Rules and providing further submissions as to the substance of the Complainant's supplemental submissions.

The website "www.harrietriddickliar.com" did not exist when the Complaint was filed. The Respondent had the fair opportunity to submit a response. The Panel found both the Complainant's and the Respondent's supplemental submissions to be helpful. The Panel has decided to consider both supplemental submissions.

Nevertheless, the Panel notes that, should the Panel not have admitted supplemental submissions, the outcome of the case would have been the same.

## **B. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Panel need not dwell on this topic as both parties agree that the disputed domain name is identical to the Complainant's trademark in all material respects. The Panel shares their opinion and so finds.

The Complainant owns a trademark registration for SOBOLD. The disputed domain name is identical to the SOBOLD trademark.

The Complainant succeeds on the first element of the Policy in relation to the disputed domain name.

## **C. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or 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; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is 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 trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts the Complainant has no relationship with the Respondent, has not authorized the Respondent to use the disputed domain name, and not licensed or authorized any use of the SOBOLD trademark. The Complainant also asserts that, after conducting United States Patent and Trademark Office searches and other trademark searches, the Respondent does not have any legitimate interest in any SOBOLD trademark. The Complainant also asserts that the Respondent has not used or made preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Complainant also asserts that the Respondent is not commonly known by the disputed domain name, and is not making a noncommercial or fair use of the disputed domain name.

The Panel considers that, based upon the above, the Complainant has established a *prima facie* case and thereby the burden shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent asserts rights or legitimate interests in the disputed domain name because (in summary):

1. the Respondent acquired the disputed domain name via a public auction process.
2. "so" and "bold" are common English words.
3. "so bold" is a common expression.
4. the Respondent has purchased, more than six years ago, other "so" domain names, such as <sogreen.com>, <sopure.com>, and <somod.com>.
5. buying a domain name for speculation, or selling a domain name for a high price, is within the Respondent's rights.

Common words and descriptive terms have been repeatedly held by UDRP panels to be legitimately subject to registration as domain names on a "first come, first served" basis (*Zero International Holding GmbH & Co. Kommanditgesellschaft v. Beyonet Services and Stephen Urich*, WIPO Case No. [D2000-0161](#)) and where the goods or services offered on a website specifically relate to the generic or descriptive meaning of the domain name, the registrant is making the very kind of *bona fide* offering that is sufficient to establish legitimate interests under the Policy (see, e.g., *EAuto, L.L.C. v. EAuto Parts*, WIPO Case No. [D2000-0096](#) and *Commune of Zermatt and Zermatt Tourismus v. Activelifestyle Travel Network*, WIPO Case No.

[D2007-1318](#); *Foundation Fitness LLC v. Jiang Zhou*, WIPO Case No. [D2015-1054](#).)

However, it does not appear that the Respondent has ever used the disputed domain name for its common or dictionary meaning.

The Panel notes the Respondent's claim that "so bold" is a common expression, and that "so" can be the start of other domain names. However, none of the examples provided by the Respondent demonstrate that the Respondent is commonly known by or associated with the disputed domain name. See *Koninklijke KPN N.V. v. John Mal*, WIPO Case No. [D2019-0872](#).

Merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent, particularly if it can be shown that doing so sought to trade off of a third party trademark.

Offering a domain name for sale – while certainly not prohibited – does not, of itself, constitute a legitimate interest under the second element of the Policy. *Khadi & Village Industries Commission v. Michael F Mann, Domain Asset Holdings, LLC*, WIPO Case No. [D2021-3242](#). Absent some genuine use, or intended use, of a domain name in a way that relates to the asserted descriptive meaning and does not trade off of a third party trademark, merely offering such a domain name for sale does not by itself give rise to rights or legitimate interests in it. *Supermac's (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#) ("Supermac").

Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. At the same time a finding here is inextricably intertwined with the third element.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent has registered and used the disputed domain name in bad faith.

This is a close case. Ultimately, the Panel concludes on the basis of the specific facts established by the evidence, that the Complainant has not carried its burden of proving the Respondent's bad faith as required by the Policy.

The factors that the Panel found relevant in making this decision are as follows:

1. The Complainant's SOBOLD trademark is not famous or unique or from what the Panel can see even particularly widely known. The Complainant provided no evidence of its reputation or claimed common law rights. The Complainant provided no rationale as to why the Respondent would likely have been aware of the Complainant or the disputed domain name. *Kelin S.r.l. v. Privacy Service provided by Withheld for Privacy ehf / Vincent Cammarata*, WIPO Case No. [D2022-0746](#). An Internet search of "so bold" and "sobold" conducted by the Panel from Australia resulted in many search results for this term, not just for the Complainant but for online dictionaries (that defined "so bold"), use in the title of books, and for the names of other businesses (for example, So Bold Entertainment, located at <[www.soboldent.com](http://www.soboldent.com)>).

The Panel wishes to be clear here however that the mere existence of third party usage of a trademark would not give a would-be registrant a free pass, but that each such case must be judged on its own merits and if the facts show an intent to target a trademark owner (or owners) the registration would be considered to be in bad faith. Here, the Complainant's arguments notwithstanding, the Complainant has not met its burden of showing that this would be the case.

2. The disputed domain name was acquired by the Respondent prior to the Complainant filing for or obtaining a registered trademark for SOBOLD. Accordingly, evidence of common law reputation is even more important in this case. As stated above, the Complainant provided no such evidence.



3. The Respondent asserts in a signed statement that the Respondent was not aware of the Complainant when acquiring the disputed domain name at auction.

The Panel notes that the Respondent's statement is silent as to its possible knowledge of the other businesses it listed on the website at the disputed domain name (merely stating that it was not aware of the Complainant when it acquired the disputed domain name); while this does give the Panel some pause as to the overall credibility of the Respondent, the fact remains that the Complainant has not shown with evidence why the Respondent would have known of and targeted it.

4. The Complainant established its business knowing that the disputed domain name was not available to the Complainant. (The disputed domain name was registered and owned by others prior to the Respondent acquiring it and prior to 2014 when the Complainant was established.)

5. The Respondent owned or previously owned other domain names starting with "So" that have no connection to the Complainant.

Based on the evidence before the Panel, the Panel cannot conclude that it is more probable than not that the Respondent was aware of the Complainant when selecting the disputed domain name. Because the Complainant's trademark is, arguably, a common term, the Complainant needs strong evidence to support its case of bad faith registration, and the Complainant did not provide such evidence.

In reaching this decision, the Panel also carefully considered other factors and the arguments made Complainant's detailed submissions. These factors and arguments, discussed in more detail below, do not persuade the Panel to reach a different conclusion.

The Respondent's explanation of why the Respondent acquired the disputed domain name, provided in a sworn declaration, is as follows:

"I decided to participate in the auction due to my belief that the [disputed domain name] is of high quality. Since it is comprised solely of the words and phrase 'so bold', it has great potential for use as a corporate moniker and branding scheme. Indeed, this type of domain name fits into Virtual Point's business model of acquiring high quality and the best available root domain names."

The Respondent acquired the disputed domain name at a public auction for USD 2,048 and immediately relisted it for sale for USD 16,300. This is not by itself conclusive of bad faith. Although it is not the place of panelists to determine the fair value of domain names, one could conclude that this price, which does not seem to be outrageous, was set based on factors other than the trademark value to the Complainant. Compare *Finwise BV v. Anne-Jan Hempenius, NameAvenue*, WIPO Case No. [D2020-3135](#) – in that case, the trademark was considered by the respondent to be a "top brand" before he successfully bid for the domain name at auction.

The Respondent's webpage that advertised the disputed domain name for sale also referred to the Complainant and a list of other businesses that had trademark rights to or prior use of SOBOLD. This, of itself, does not demonstrate that the Respondent knew of the Complainant or that the USD 16,300 price for the disputed domain name was because of its value to trademark owners. The list of other businesses was, according to the Respondent, computer-generated, and was created after the disputed domain name was acquired. The list does not demonstrate that the Respondent was aware of the Complainant when the Respondent acquired the disputed domain name. At best, the list is a factor that could be used to demonstrate that Respondent acquired the disputed domain name with the aim of selling it for a profit to a trademark or brand owner – which could have been any or all of the businesses on that list, but to succeed on this, the Complainant (or any other targeted brand owner) would need evidence that "SO BOLD" is likely to be known by the Respondent to be a brand, and no such evidence was provided. (It is curious that the Respondent discusses how and when this list was created without explaining why it was created, but this does not by itself assist the Complainant.)

The Panel has also considered the *Supermac* case, referred to above, where it was decided in similar circumstances that “it can be seen that the value of the disputed domain name derives primarily from the fact that it is the Complainant’s trademark, rather than from the fact that it contains arguably a descriptive term.” However, there is one significant difference here to *Supermac*. In *Supermac*, the Complainant was a prior owner of the domain name and let it lapse accidentally. That is not the case here. In the circumstance of the present case, the Panel cannot conclude that the registrant’s only meaningful use of the disputed domain name is to offer it for sale to the Complainant.

In short, there is not sufficient evidence for the Panel to conclude that the Respondent targeted the Complainant in the present case.

The present case is more like *Displays Depot, Inc. v. GNO, Inc.*, WIPO Case No. [D2006-0445](#) than *Supermac*, in which the Panel concluded that where the respondent certifies that the respondent was not aware of the Complainant or its trademark, then the complainant must provide evidence that it was well-known or otherwise that the respondent was likely to be aware of the complainant or its trademark.

Where a respondent has registered a domain name consisting of a dictionary term because the respondent has a good faith belief that the domain name’s value derives from its generic qualities, that may constitute a legitimate interest and the offer to sell such a domain name is not necessarily a sign of bad faith. *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#).

The Panel wishes to clarify that this finding is not intended to suggest that speculation in domain names is always legitimate and in good faith (nor is it always in bad faith); where the case circumstances point to a speculative registration for the specific purpose of targeting existing brand owners, this runs afoul of good faith.

In reaching this decision, the Panel does not need to consider in detail the content of the website at “www.harrietridickliar.com” to which the disputed domain name currently diverts. This website, which was established shortly after the Complaint was filed, has disparaging statements about an employee of the Complainant and includes text of what appears to be a federal court complaint (that at the time of this decision, does not appear to have been filed despite being published on this website for some time). The Response does not explain the purpose of this website. The Respondent’s conduct in establishing this website is unseemly and is not how a professional typically behaves. In the supplementary materials, the Respondent states that this website was created for the purpose of the Respondent exercising First Amendment rights to “expose” the Complainant, but this does not explain why an unfiled court complaint and copyright photographs of the Complainant’s staff were included on this website. The Respondent states that “any suggestion that the HarrietRiddickLiar Website is Respondent’s attempt to bring Complainant to the table to negotiate a sale, or to ‘extort’ Complainant, is quite remarkable and laughable”. Although the purpose of the HarrietRiddickLiar Website is unclear, it is not relevant to the question of whether the Respondent registered the disputed domain name in bad faith. The Respondent was not aware of Harriet Riddick until she contacted the Respondent after the Respondent had registered the disputed domain name. This website may be done in poor taste, but it is not relevant to the issue bad faith and the Complainant’s burden thereunder.

The Panel does not take into account that the Respondent has both lost and won prior cases involving domain names. Of course, losing in a prior UDRP or court case would not mean one is always in bad faith and prevailing in a prior UDRP or court case does not immunize a respondent from a bad faith finding in a later case, as the facts of each case must be considered on their own. *TranScrip Partners LLP, TranScrip Limited v. Abstract Holdings International Ltd, Domain Admin*, WIPO Case No. [D2021-2220](#). (Moreover, the Complainant has not provided evidence that the Respondent currently has a practice of registering the trademarks of others as domain names or that the Respondent currently owns other domain names that correspond to third party brands.)

The Complainant fails to demonstrate that the Respondent registered the disputed domain name in bad faith as required by paragraph 4(b)(i) of the Policy.

#### **E. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that if “after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking, or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding”. “Reverse Domain Name Hijacking” is defined in paragraph 1 of the Rules as “using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a domain name”.

The Respondent alleges that the Complainant has engaged in reverse domain name hijacking.

The Panel does not find that the Complaint was brought in bad faith. This is a close case, and the Complainant could reasonably believe, based on the content on the website at the disputed domain name that provided links to the Complainant’s own website, that the Respondent registered the disputed domain name in bad faith.

The fact that the Complainant tried to mislead the Respondent when the Complainant contacted the Respondent to negotiate purchase of the disputed domain name is not relevant to whether the Complainant is using the UDRP in bad faith.

#### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: June 6, 2022