

## **ADMINISTRATIVE PANEL DECISION**

Hajoca Corporation v. Ben Lee Lee  
Case No. D2022-3017

### **1. The Parties**

Complainant is Hajoca Corporation, United States of America (“United States”), represented by Sisun Law, United States.

Respondent is Ben Lee Lee, United States.

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

The disputed domain name <hajocausa.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 August 16, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 26, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on August 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 22, 2022.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on October 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.

#### 4. Factual Background

Complainant holds numerous trademark registrations for its HAJOCA family of marks, including for example, United States Trademark Registration Reg. No. 5,133,927, registered January 31, 2017 in class 35, with a first use in commerce dating from 1911.

The disputed domain name was registered on June 9, 2022. The disputed domain name does not resolve to an active webpage.

#### 5. Parties' Contentions

##### A. Complainant

Complainant avers that the disputed domain name was used as part of a fraudulent scheme by Respondent to secure confidential financial information from Complainant and its customers.<sup>1</sup>

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the above grounds, Complainant requests transfer of the disputed domain name.

##### B. Respondent

Respondent did not reply to Complainant's contentions.

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's HAJOCA trademarks.

UDRP Panels commonly disregard Top Level Domain ("TLD") suffixes in determining whether a disputed domain name is identical or similar to a complainant's marks. See, e.g., *HUK-COBURG haftpflicht-Unterstützungs-Kasse kraftfahrender Beamter Deutschlands A.G. v. DOMIBOT (HUK-COBURG-COM-DOM)*, WIPO Case No. [D2006-0439](#); *VAT Holding AG v. Vat.com*, WIPO Case No. [D2000-0607](#); *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#).

Omitting the TLD suffix, the disputed domain name incorporates the entire HAJOCA mark. The Panel finds therefore that the disputed domain name is confusingly similar to Complainant's marks. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition section 1.7 ("[WIPO Overview 3.0](#)") (UDRP panels often determine that disputed domain names are confusingly similar to a complainant's marks where the disputed domain names fully incorporate a complainant's marks).

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<sup>1</sup> Annexed to the Complaint is a copy of an email requesting submission to the sender of allegedly confidential financial data. The Complaint alleges that the email falsely represented that it was sent by one of Complainant's employees. The annex shows that the email emanated from an address employing the disputed domain name.

## B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

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: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The disputed domain name does not resolve to an active webpage. The Panel accepts the Complainant's undisputed allegations that Respondent has no authorization or license to use its trademarks in the disputed domain name. The Panel further accepts the Complainant's allegations that Respondent is not commonly known by the disputed domain name.

The Panel also accepts the Complainant's undisputed allegations that the disputed domain name has been used by Respondent to send fraudulent emails.<sup>2</sup> The Panel finds, therefore, that Respondent is not making a legitimate or fair use of the disputed domain name.

Since the record indicates that the disputed domain name does not route to an active webpage, the Panel also finds that Respondent is not making a *bona fide* use of the disputed domain name.

Complainant establishes a *prima facie* case. Omitting to submit a response, Respondent has neither contested nor rebutted that *prima facie* case.

The Panel holds, therefore that Respondent has no rights or legitimate interests in use of the disputed domain name.

## C. Registered and Used in Bad Faith

Finally, the Panel concludes that registration and use of the disputed domain name in bad faith has been established, as elaborated below.

Respondent chose to register a domain name incorporating Complainant's inherently distinctive marks, which have been used in the United States for over 100 years. The disputed domain name combines Complainant's HAJOCA mark with "usa," the common abbreviation for United States of America. Both Respondent and Complainant are based in the United States.

Under these circumstances, it appears beyond dispute that Respondent was aware of Complainant's HAJOCA marks and sought to exploit them through registration of the confusingly similar disputed domain name. The Panel holds therefore that Respondent registered the disputed domain name in bad faith. *E.g.*, [WIPO Overview 3.0](#), sections 3.2.1 & 3.2.2.

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<sup>2</sup> The Panel notes that Complainant's annex incorporating the allegedly fraudulent email is without any form of authentication. However the Panel accepts the annex as credible evidence of the use of the disputed domain name (1) to impersonate personnel of Complainant and (2) to solicit the sending outside of Complainant's organization of confidential information by using an email address that includes Respondent's confusingly similar disputed domain name.

As detailed above, the record contains evidence that Respondent was using the disputed domain name to send emails in pursuance of a fraudulent scheme to obtain confidential financial information. This is evidence of bad faith use. Respondent's passive holding of the disputed domain name and his failure to submit a response to the Complaint are cumulative evidence of use in bad faith. *Id.* section 3.3; *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel holds therefore that Respondent registered and used the disputed domain name 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 <hajocausa.com> be transferred to Complainant.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: October 15, 2022