

ADMINISTRATIVE PANEL DECISION

Six Continents Hotels, Inc. and Six Continents Limited v. Bo Wu Case No. D2022-4846

1. The Parties

Complainants are Six Continents Hotels, Inc., United States of America (“United States”) (“Complainant No.1”) and Six Continents Limited, United Kingdom (“Complainant No. 2”) (collectively “Complainants”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

Respondent is Bo Wu, China.

2. The Domain Names and Registrar

The domain names <ihgmembers-aus.com> (“disputed domain name No. 1”) and <ihgmembers.com> (“disputed domain name No. 2”) (collectively “disputed domain names”) are registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 17, 2022. On December 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 29, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainants on the same date, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amendment to the Complaint on December 29, 2022.

The Center verified that the Complaint together with the amendment to 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 January 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 25, 2023.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on February 3, 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

Complainant No. 1 is a company organized under the laws of the United States, while Complainant No. 2 is a company organized under the laws of the United Kingdom. Complainants are related corporate entities both belonging to the larger IHG Hotels and Resorts group of companies (“IHG Group”), one of the world’s largest hotel groups represented in about 100 countries and territories around the world.

Complainants have provided evidence that Complainant No. 2 owns, in part by way of assignment, registered trademark rights relating to the company name and brand IHG, *inter alia*, but not limited to the following:

- word mark IHG, United States Patent and Trademark Office (“USPTO”), registration number: 3544074, registration date: December 9, 2008;
- word mark IHG, USPTO, registration number: 86584272, registration date: March 22, 2016.

Moreover, Complainants, together with the IHG Group, enjoy rights in various domain names relating to the IHG trademark, including since 1998 the domain name <ihg.com> which resolves to the IHG Group’s official website at “www.ihg.com”, promoting the IHG Group’s hotels and related services worldwide.

Respondent, according to the disclosed Whois information for the disputed domain names, is a resident of China who registered the disputed domain name No. 1 on December 8, 2022, and the disputed domain name No. 2 on December 7, 2022. Complainants have provided evidence that on December 16, 2022, the disputed domain names resolved to websites at “www.ihgmembers-aus.com” and “www.ihgmembers.com”, respectively, which copied substantial parts of the IHG Group’s official website at “www.ihg.com” including the official IHG logo, along with a “sign in” form as part of a scam inducing Internet users into making fake booking reviews against commission fees, which were promised once an upfront payment of those Internet users has been made to unlock the account to which they had signed in.

Complainants request that the disputed domain names be transferred to Complainant No. 2.

5. Parties’ Contentions

A. Complainants

Complainants submit that the disputed domain names are confusingly similar to the IHG trademark, as they both contain the latter in its entirety, with the addition of the word “members” and, in one case, the addition of a hyphen and the letters “aus” (the abbreviation for “Australia”). Moreover, Complainants assert that Respondent has no rights or legitimate interests in respect of the disputed domain names since (1) Complainants have never assigned, granted, licensed, sold, transferred, or in any way authorized Respondent to register or use the IHG trademark in any manner, (2) Respondent has never been commonly known by the disputed domain names and has never acquired any trademark rights therein, and (3) Respondent is using the disputed domain names in connection with a scam to impersonate Complainants and to misleadingly divert consumers into believing that Respondent’s website is somehow associated with Complainants. Finally, Complainants argue that Respondent has registered and is using the disputed domain names in bad faith since (1) the IHG trademark is famous or widely known, (2) Respondent registered two disputed domain names reflecting this trademark, (3) Respondent is using the disputed domain names as part of a scam to impersonate Complainants, and (4) to enhance its fraudulent

impersonation of Complainants, Respondent copied substantial parts of the IHG Group's official website at "www.ihg.com" including the official IHG logo.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainants carry the burden of proving:

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

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainants, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Consolidation of Multitude of Complainants

As regards the multitude of Complainants, given that Complainant No. 1 and Complainant No. 2 are related corporate entities belonging to the same IHG Group, both Complainants obviously have a specific common grievance against Respondent, which is why it is appropriate in the case at hand and in line with the UDRP panelists' majority view to accept this Complaint filed by multiple complainants (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1).

B. Identical or Confusingly Similar

The Panel concludes that the disputed domain names are confusingly similar to the IHG trademark in which Complainants have rights.

The disputed domain names both incorporate Complainants' IHG trademark in its entirety, simply added by the term "members" and, in one case, by a hyphen and the letters "aus". Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, 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 trademark (see [WIPO Overview 3.0](#), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among UDRP panels, that the addition of other terms (whether e.g. descriptive, geographic or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP (see [WIPO Overview 3.0](#), section 1.8). Accordingly, the addition of the term "members" and/or "aus" in either disputed domain name does not prevent confusing similarity arising from the incorporation of Complainants' entire IHG trademark in the disputed domain names.

Therefore, Complainants have established the first element under the Policy as set forth by paragraph 4(a)(i).

C. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainants' undisputed contentions that Respondent has not made use of the disputed domain names in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain names, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent apparently has neither been granted a license nor has it been otherwise authorized by Complainants to use the IHG trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain names and Respondent does not appear to have any trademark rights associated with the term "ihg" on its own. To the contrary, Respondent, at some point before the filing of the Complaint, was running websites under the disputed domain names at "www.ihgmembers-aus.com" and "www.ihgmembers.com", respectively, which copied substantial parts of the IHG Group's official website at "www.ihg.com" including the official IHG logo, along with a "sign in" form as part of a scam inducing Internet users into making fake booking reviews against commission fees, which were promised once an upfront payment of those Internet users has been made to unlock the account to which they had signed in, without any authorization by Complainants to do so. Such use of the disputed domain names neither qualifies as *bona fide* nor as legitimate noncommercial or fair within the meaning of the Policy. Rather, such use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13.1). Moreover, the nature of the disputed domain names, namely the combination of Complainants' undisputedly well-known IHG trademark in its entirety with either the term "members" or, in one case, "aus" (which can be interpreted as a three-letter code for "Australia"), is inherently misleading and carries a risk of implied affiliation as it effectively suggests sponsorship or endorsement by Complainants which is not the case (see [WIPO Overview 3.0](#), section 2.5.1).

Accordingly, Complainants have established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain names. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating such rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, Respondent has not met that burden.

The Panel, therefore, finds that Complainants have also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

D. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain names were registered and are being used by Respondent in bad faith.

Given the nature of the disputed domain names and the fact that Respondent registered even two domain names more or less at the same point of time which are confusingly similar to Complainants' undisputedly well-known IHG trademark, leaves no doubt that Respondent was well aware of Complainants' trademark rights when registering the disputed domain names and that the latter are directly targeting such trademark. Moreover, resolving the disputed domain names, which include Complainants' IHG trademark in its entirety, to websites at "www.ihgmembers-aus.com" and "www.ihgmembers.com", which copied substantial parts of the IHG Group's official website at "www.ihg.com" including the official IHG logo, along with a "sign in" form as part of a scam inducing Internet users into making fake booking reviews against commission fees which were promised once an upfront payment of those Internet users has been made to unlock the account to which they had signed in, without any authorization by Complainants to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainants' IHG trademark as to the source, sponsorship, affiliation or endorsement of Respondent's websites. Such circumstances are evidence of registration and use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain names since, according to the email correspondence between the Center and the postal courier DHL, the Center's written communication dated January 4, 2023, could not be delivered due to a bad address. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainants have also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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 <ihgmembers-aus.com> and <ihgmembers.com> be transferred to Complainant No. 2.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: February 16, 2023