

## **ADMINISTRATIVE PANEL DECISION**

Lagardere SA v. Francis Anderson, Cyberpeak technologies  
Case No. D2024-5061

### **1. The Parties**

Complainant is Lagardere SA, France, represented by GPI MARQUES, France.

Respondent is Francis Anderson, Cyberpeak technologies, Pakistan.

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

The disputed domain name <hachettepublishinghouse.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 9, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 2024, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on December 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 10, 2024.

The Center verified that the Complaint together with the amended 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 14, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on January 17, 2025. 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 states that it is “one of the world’s leading companies in the media sector with annual revenue exceeding €8000 million in 2023”; that it is “structured around two main business lines: Lagardère Publishing, Lagardère Travel Retail”; that “Lagardère Publishing is the world’s third-largest book publisher for the general public and educational markets, and the leader in France”; that “[a]mongst the subsidiaries of the Group Lagardère, the company HACHETTE BOOK GROUP is a leading US general-interest book publisher... and a division of the French company Hachette Livre which is a subsidiary of the Complainant”; that “[y]early, HACHETTE BOOK GROUP publishes approximately” 2,100+ adult books, 500 books for young readers, and 750 audiobook titles; and that “[i]n 2022, the company had 200 books on the New York Times bestseller list, 28 of which reached rank one.”

Complainant further states, and provides evidence in support thereof, that it is the owner of the following trademark registrations (the “HACHETTE Trademark”):

- French Reg. No. 1356085 for HACHETTE (registered April 25, 1985)
- European Union Reg No. 003608551 for HACHETTE (registered June 30, 2005)
- Int’l Reg. No. 1038697 for HACHETTE (stylized) (registered December 11, 2009)

The Disputed Domain Name was created on October 8, 2024, and is used in connection with, as the Complaint states, “a website displaying the HACHETTE trademark, a copyright ‘© 2024, Hachette Publishing House’ and offering ghostwriter services as well as book publishing services amongst others.” Further, the Complaint states that the website “requires users to provide their identity, email address and a telephone number to schedule a consultation.” The Complaint also states that the “contact address” on the website “does not exist” and that “an email server is configured with the domain name.”

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name. Notably, Complainant contends that:

- The Disputed Domain Name is confusingly similar to the HACHETTE Trademark because, inter alia, the Disputed Domain Name “reproduces entirely the famous trademark ‘HACHETTE’ associated with the generic terms ‘publishing’ and ‘house’,” which “do[] not avoid the finding of a confusing similarity with the Complainant’s trademark” and actually “this association increases the likelihood of confusion since these terms refer to the main activities of the Complainant and to the service offered under the trademark HACHETTE.”

- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent is not affiliated with the Complainant in any way, nor has been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark”; “Respondent does not appear to be commonly known by the disputed domain name”; the Disputed Domain Name “is used in relation to a fraudulent/phishing/counterfeiting website reproducing the trademark HACHETTE”; and “given the use of the domain name for fraudulent purposes and the current use, the Respondent fails to show any intention of non-commercial or fair use of the disputed domain name.”

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, “[i]t is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name”; and the Disputed Domain Name “is used in relation to a fraudulent/phishing/counterfeiting website reproducing the trademark HACHETTE.”

## **B. Respondent**

Respondent did not reply to Complainant’s contentions.

## **6. Discussion and Findings**

### **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 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 trademark registrations cited in the Complaint, Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, that is, the HACHETTE Trademark. [WIPO Overview 3.0](#), section 1.2.1.

As to whether the Disputed Domain Name is identical or confusingly similar to the HACHETTE Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “hachettopublishinghouse”), as it is well-established that the Top-Level Domain (i.e., “.com”) may be disregarded for this purpose. [WIPO Overview 3.0](#), section 1.11: “The applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

The entirety of the HACHETTE Trademark is reproduced within the Disputed Domain Name. As set forth in [WIPO Overview 3.0](#), section 1.7, “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 the HACHETTE Trademark is recognizable within the Disputed Domain Name. Furthermore, although the Disputed Domain Name contains the additional, descriptive word “publishing” and “house,” [WIPO Overview 3.0](#), section 1.8, states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

Accordingly, the Disputed Domain Name is confusingly similar to the HACHETTE Trademark for the purposes of the Policy, and 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 a respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. 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 Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or 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 registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant'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 registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

As set forth in section 3.1.4 of [WIPO Overview 3.0](#), "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.... [G]iven that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith." Further, as numerous decisions under the Policy have made clear, creating a website that appears to be a website for a complainant, as Respondent has done in the instant case, is "likely fraudulent" and "indicates an intent to deceive or, at a minimum, act in bad faith with the intent for commercial gain." *DocuSign, Inc. v. Traffic CPMiPV, Maria Carter*, WIPO Case No. [D2010-0344](#). See also, e.g., *Emu (Aus) Pty Ltd. and Emu Ridge Holdings Pty Ltd. v. Antonia Deinert*, WIPO Case No. [D2010-1390](#) ("a reasonable person who visited the Respondent's website was likely to be misled in relation to the source, sponsorship, affiliation, or endorsement of the website and the products purportedly made available for online sale on the website").

Accordingly, the Panel finds that Complainant has established the third element of the Policy.

### **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 <hachettepublishinghouse.com> be transferred to Complainant.

/Douglas M. Isenberg/

**Douglas M. Isenberg**

Sole Panelist

Date: January 27, 2025