

## **ADMINISTRATIVE PANEL DECISION**

### **The View Hotels Pty Ltd v. MARGARET HUERTA Case No. D2023-0281**

#### **1. The Parties**

The Complainant is The View Hotels Pty Ltd, Australia, represented by Corrs Chambers Westgarth, Australia.

The Respondent is MARGARET HUERTA, United States of America (“United States”), represented by DOT Consulting, Mexico.

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

The disputed domain names <hotelsview.com>, <theviewbrisbane.com>, <theviewhotel.com>, <theviewmelbourne.com>, <theviewshotels.com>, <theviewsydney.com>, <viewhotels.co>, and <viewhotels.com> are all registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2023. On January 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 24, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On January 30, 2023, the Complainant filed an amended Complaint and withdrew the domain name <viewbrisbane.com> from its Complaint.

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 the Respondent of the Complaint, and the proceedings commenced on February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Response was filed with the Center on February 21, 2023. On February 24, 2023, the Parties exchanged correspondence regarding the possibilities for

suspension of the proceeding for the purposes of eventual settlement. On February 27, 2023, the Complainant confirmed that it did not wish the proceeding to be suspended.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 6, 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 is an Australian hotel group established in 1989. It owns and operates three 4-star hotels, located in Sydney, Melbourne, and Brisbane, and employs about 191 employees. In 2002, the Complainant changed its name to “The View Hotels Pty Ltd”, and started to operate its hotels under the name “View Hotels”. In 2013, the Complainant (through its subsidiaries) registered the business names “View Melbourne”, “View Brisbane”, and “View Sydney”.

The Complainant is the owner of the following trademark registrations for the sign V VIEW HOTELS (the “VIEW HOTELS trademark”):

- the Australian trademark V VIEW HOTELS with registration No. 2048388, registered on June 11, 2020 for services in International Class 43;
- the Australian trademark V VIEW HOTELS with registration No. 2048871, registered on June 16, 2020 for services in International Class 35;
- the Australian trademark V VIEW HOTELS with registration No. 2048873, registered on June 16, 2020 for services in International Class 44;
- the United Kingdom trademark VIEW HOTELS with registration No. UK00003450172, registered on August 10, 2020 for services in International Classes 35, 43, and 44;
- the French trademark V VIEW HOTELS with registration No. 4606162, registered on December 9, 2019 for services in International Classes 35, 43, and 44;
- the United States trademark V VIEW HOTELS with registration No. 6220392, registered on December 15 2020 for services in International Class 43;
- the United States trademark V VIEW HOTELS with registration No. 6220414, registered on December 15, 2020 for services in International Class 35; and
- the United States trademark V VIEW HOTELS with registration No. 6255208, registered on January 26, 2021 for services in International Class 44.

The Complainant is the owner of the domain name <viewhotels.com.au> which resolves to the Complainant’s official website.

The disputed domain names were registered and are being used as follows:

<b>Disputed domain name</b>	<b>Date of initial registration</b>	<b>Associated website</b>
<viewhotels.com>	January 24, 1999	A website that offers this disputed domain name for sale
<hotelsview.com>	July 20, 2004	A website that offers this disputed domain name for sale
<theviewhotel.com>	June 27, 2015	A website that offers this disputed domain name for sale
<theviewshotels.com>	September 19, 2019	A parked webpage
<viewhotels.co>	September 19, 2019	A parked webpage
<theviewsydney.com>	September 22, 2019	A parked webpage
<theviewmelbourne.com>	September 22, 2019	A parked webpage
<theviewbrisbane.com>	September 22, 2019	A parked webpage

As discussed below in this decision, the correspondence between the Parties shows that the Respondent was not the original registrant of and acquired the disputed domain names <viewhotels.com>, <hotelsview.com>, and <theviewhotel.com> around the time she registered the other disputed domain names in September-October 2019.

## 5. Parties' Contentions

### A. Complainant

The Complainant states that each of the disputed domain names is confusingly similar to its VIEW HOTELS trademark or to the Complainant's common law trademarks VIEW SYDNEY, VIEW BRISBANE and VIEW MELBOURNE, and advances the following arguments in this regard:

The disputed domain name <viewhotels.com> incorporates the prominent word elements of the V VIEW HOTELS trademark without any other elements. The disputed domain name <hotelsview.com> is confusingly similar to the Complainant's VIEW HOTELS trademark because it incorporates the word elements of this trademark, although in reverse order. The disputed domain name <theviewshotels.com> is confusingly similar to the VIEW HOTELS trademark, as the only differences are the addition of the word "the" and the pluralization of "view" and "hotel". The disputed domain name <theviewhotel.com> is confusingly similar to the VIEW HOTELS trademark, as the only differences are the addition of the word "the" and non-pluralization of "hotels". Finally, the disputed domain name <viewhotels.co> is identical to the Complainant's VIEW HOTELS trademark. The disputed domain name <theviewsydney.com> is identical or confusingly similar to the Complainant's common law trademark VIEW SYDNEY and the addition of the word "the" does not sufficiently distinguish this disputed domain name, as the VIEW SYDNEY mark is its dominant feature and is recognizable in this disputed domain name. The disputed domain name <theviewbrisbane.com> is identical or confusingly similar to the Complainant's common law trademark VIEW BRISBANE as the only difference is the addition of the word "the", and the disputed domain name <theviewmelbourne.com> is identical or confusingly similar to the Complainant's common law trademark VIEW MELBOURNE.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain names, because they were registered or acquired by the Respondent on instructions from the Complainant to register them and on the understanding that they would be registered in the Complainant's name, and the Complainant has not authorized the Respondent to acquire or use the disputed domain names in her personal capacity. The Complainant also states that the "View Hotels", "View Sydney", "View Brisbane", and "View Melbourne" names have become associated with the Complainant's business and services by reason of its activities, and the Respondent was acutely aware of those rights as she was engaged as the Complainant's Global Director of Business Development and was responsible for developing the Complainant's new website. The Complainant notes that in the context of that role, the Respondent was actively seeking to develop the Complainant's reputation in those marks. According to the Complainant, there is no indication of any attempt by the Respondent to make demonstrable preparations to use the disputed domain names or make any *bona fide* offerings through the disputed domain names in her personal capacity. The Complainant adds that the Respondent in her personal capacity is not, and has never been, known by any of the disputed domain names. Rather, the Respondent only became aware of and registered the disputed domain names as a result of her involvement with the Complainant. In the Complainant's view, there is no indication that the Respondent is making a legitimate noncommercial or fair use of any of the disputed domain names, and none of the disputed domain names currently resolve to an active website. The Complainant provides the following description of the events related to the registration and subsequent use of the disputed domain names:

The Respondent was engaged by the Complainant as a consultant pursuant to an agreement dated January 26, 2019. The key services which the Respondent was engaged to provide for the Complainant included advising the executive management on creative direction and managing the process to develop the Complainant's new website to completion. Between October 10 and 24, 2019, the Respondent registered and acquired five of the disputed domain names acting on oral instructions from a co-owner of the

Complainant on the understanding that the registration would be done in the name of the Complainant. On October 10, 2019, the Respondent sent an email to the Complainant's co-owner stating that she had secured the disputed domain names <theviewsydney.com>, <hotelsview.com>, <theviewmelbourne.com>, <theviewshotels.com>, <theviewhotel.com>, and <viewhotels.co>, and that she had placed a bid on the disputed domain name <viewhotels.com>. On October 22, 2019, the Respondent sent an email to the Complainant's co-owner and an employee of the Complainant, stating that she had secured the disputed domain name <viewhotels.com>. On October 23, 2019, the Respondent sent an email to individuals from an external digital creative agency engaged by the Complainant to develop its new website, informing them that "we were able to acquire" this disputed domain name <viewhotels.com>. On or around October 24, 2019, the Respondent sent an email to the Complainant's co-owner stating that "per our conversation this morning", she had secured the disputed domain name <hotelsview.com>. On December 29, 2019, the Respondent sent an email to an employee of the Complainant, claiming the expenses she had incurred for the period September to December 2019, which expenses included amounts for the registration, acquisition, and privacy protection services for the disputed domain names. On June 15, 2020, the Respondent sent an email to the Chief Financial Officer of the Complainant, seeking reimbursement for the renewal expenses she had incurred in relation to some of the disputed domain names for the period between May 1, 2020 and June 15, 2020. On July 21, 2022, the Registrar sent an email to the Respondent's personal email address confirming that she had renewed the registration of the disputed domain name <hotelsview.com>. On July 25, 2022, the Respondent sent a copy of this renewal receipt to the Chief Financial Officer of the Complainant, seeking reimbursement for the cost of renewal. On August 19, 2022, the Respondent's contract with the Complainant was terminated, following which the Complainant discovered that the disputed domain names were registered in the name of the Respondent. Since September 19, 2022, the Complainant has demanded the Respondent to transfer the disputed domain name <viewhotels.com> to it, but has not received a response which addresses this demand. On January 7, 2023, the Respondent terminated the Complainant's access to the disputed domain name <viewhotels.com>, and it ceased to display the Complainant's official website. Since January 10, 2023, the Respondent has made attempts to sell the disputed domain name <viewhotels.com> for the price of AUD 400,116.

The Complainant also submits that between December 2003 and November 12, 2019, it was primarily conducting its business online through the website located at the domain name <viewhotels.com.au>. Between November 12, 2019 and September 1, 2022, the Complainant was primarily conducting its business through the website located at the disputed domain name <viewhotels.com>. Between September 1, 2022 and October 2022, the disputed domain name <viewhotels.com> redirected visitors to the domain name <viewhotels.com.au>, and since late October 2022, the Complainant has conducted its online business through the website located at the domain name <viewhotels.com.au>.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the Respondent passively holds the disputed domain names and offers to sell the disputed domain name <viewhotels.com> for a six-figure amount. The Complainant notes that the Respondent failed to transfer the disputed domain names to the Complainant despite its request and terminated the Complainant's access to the disputed domain name <viewhotels.com> which caused the Complainant's official website associated to it to cease operating from this disputed domain name and had to be reactivated at a different domain name, which caused damages to the Complainant in the form of lost sales and damage to reputation.

The Complainant states that the Respondent registered the disputed domain names in her name rather than the name of the Complainant without license or authority, and in circumstances where she was aware that the disputed domain names should be registered in the name of the Complainant. According to the Complainant, the Respondent was plainly aware that the Complainant had an extensive reputation in respect of the disputed domain names and the trademarks VIEW HOTELS, VIEW SYDNEY, VIEW BRISBANE, and VIEW MELBOURNE. The Complainant points out that the Respondent was instructed by the Complainant's co-owner to register the disputed domain names for the Complainant on the understanding that the Complainant would be listed as the registrant organization. He adds that the Respondent then stated to individuals within the Complainant's organization and external individuals that "we" had secured or acquired the disputed domain name <viewhotels.com>. The Complainant maintains that as part of her role with the

Complainant, the Respondent was aware that other brand assets held by the Complainant were in the name of the Complainant. In particular, shortly after registering the disputed domain names, the Respondent assisted to instruct a law firm in the United States to file trademark applications for the VIEW HOTELS trademark in the name of the Complainant. The Complainant states that the Respondent was made aware on March 18, 2019 that the business names "View Sydney", "View Brisbane", and "View Melbourne" had been registered to the respective operating companies of the Complainant and that the general practice of the Complainant's employees (such as members of the IT team) who had been instructed to register or secure domain names on behalf of the Complainant registered them in the name of the company.

Finally, the Complainant submits that the Respondent has acted in bad faith by seeking to capitalize upon a corporate asset of the Complainant especially by seeking to sell the disputed domain name <viewhotels.com> for over AUD 400,000.

## **B. Respondent**

The Respondent states that the Complainant failed to prove that the Respondent had or currently has control over the disputed domain names. According to the Respondent, the Complainant is using this proceeding as pressure against the Respondent to return control over the disputed domain names. The Respondent states that from reviewing the information provided by the Complainant, it is not clear how it can prove its allegations. The Respondent maintains that the Complainant failed to address that there is human rights violation proceeding filed by the Respondent against the Complainant and the co-owner of the Complainant. The Respondent submits that the documents provided by the Complainant include personal and financial information of the Respondent and their disclosure in the present proceeding is a misuse of personal information and a violation of data privacy laws and regulations.

According to the Respondent, the Complainant does not provide any evidence to prove that it discovered that the disputed domain names were under the name of the Respondent only after her alleged employment termination, specifically August 19, 2022.

The Respondent adds that the Complainant contradicts itself by stating that "[name], the Group Revenue & Analytics Manager of the Complainant had access to Ms Huerta's GoDaddy account prior to about early September 2022. [name] had access to Ms Huerta's GoDaddy including to ensure that <viewhotels.com> was displaying the View Hotels website. [name] has confirmed that prior to the termination of that access by Ms Huerta he observed that each of the disputed domain names was contained in Ms Huerta's GoDaddy account". According to the Respondent, the claimed contradiction refers to whether the above took place in August or September 2022.

According to the Respondent, it is not understandable how the Complainant would claim to reimburse the amount of USD 16,794.92 (the amount of expenses related to the registration of the disputed domain names) and now is claiming common rights over an intangible property. According to the Respondent, another contradiction is that the Complainant refers to a previous UDRP decision where a director of an organization registered domain names under their personal name, but at the same time, the Complainant denies having such relationship with the Respondent.

The Respondent concludes that the Complainant at no time proved that the Respondent blocked the access of the Complainant to the disputed domain names.

## **6. Discussion and Findings**

### **6.1. Procedural issue – concurrent legal proceedings**

The Respondent maintains that there is human rights violation proceeding filed by the Respondent against the Complainant and the co-owner of the Complainant. The evidence submitted by the Respondent contains certain information about case # QI 22021 445 693 pending before the Australian Police in relation to an alleged sexual harassment against the Respondent.

The Respondent however does not explain how this proceeding may be related to the subject matter of the dispute between the Parties under the Policy, and in any case does not request the suspension or termination of the present proceeding.

Under paragraph 18 of the Rules, the Panel has discretion to decide whether to suspend, terminate or proceed to a decision where court proceedings are instituted during administrative proceedings under the Policy.

In view of the above, the Panel finds no basis to conclude that the proceeding referred to by the Respondent has any connection to the present dispute between the Parties and could somehow affect its outcome. For this reason, the Panel will proceed with the issuance of the present decision on the merits of the dispute in relation to the disputed domain names.

## **6.2. Procedural issue – Privacy protection**

The Respondent submits that the documents provided by the Complainant include personal and financial information of the Respondent and their disclosure in the present proceeding is a misuse of personal information and a violation of data privacy laws and regulations. The Respondent however does not specify which of the documents and information submitted by the Complainant it refers to, and does not elaborate the basis on which the disclosure of such documents or information should be regarded as misuse of personal information and a violation of data privacy laws and regulations. In any case, the Respondent does not claim privilege and does not request the exclusion of any particular piece of evidence from the evidentiary record of the case. The contents of those documents are not in any event recorded in this decision.

## **6.3. Substantive issues**

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain names:

- (i) each of the disputed domain names 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 names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that it is the owner of the V VIEW HOTELS trademark and has thus established its rights in this trademark for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” and “.co” TLDs of the disputed domain names.

The disputed domain names <viewhotels.com> and <viewhotels.co> incorporate the prominent word elements of the V VIEW HOTELS trademark without any other elements. The disputed domain name <hotelsview.com> also incorporates the word elements of the Complainant’s V VIEW HOTELS trademark,

but in reverse order. The trademark is plainly recognizable (moreover noting the pattern here) even with this difference. The disputed domain names <theviewshotels.com> and <theviewhotel.com> also incorporate the prominent word elements of the V VIEW HOTELS trademark, with the only differences being the addition of the word “the”, removal of the letter “v” and the pluralization of “view” and “hotel” in the first of these disputed domain names, and the non-pluralization of “hotels” in the second of them. These differences have limited effect, and the V VIEW HOTELS trademark remains recognizable in these disputed domain names. The disputed domain name <theviewsydney.com>, <theviewbrisbane.com>, and <theviewmelbourne.com> all incorporate the dominant “view” element of the V VIEW HOTELS trademark with the addition of the word “the” and the geographic terms “Sydney”, “Brisbane”, and “Melbourne” and are all plainly drawn from the Complainant’s operations.

As discussed in sections 1.7 and 1.8 of the [WIPO Overview 3.0](#), in cases 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. In cases where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (such as geographic terms) would not prevent a finding of confusing similarity under the first element.

In view of the above, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names, because they were registered or acquired by the Respondent on instructions from the Complainant to register them and on the understanding that they would be registered in the Complainant’s name, and not in the Respondent’s personal capacity. The Complainant states that the Respondent was well aware of the Complainant’s rights in the VIEW HOTELS trademark and in its hotel business, as she was engaged as the Complainant’s Global Director of Business Development and was responsible for developing the Complainant’s new website. The Complainant adds that the Respondent has never been known by any of the disputed domain names, and that she, in her personal capacity, has not made any demonstrable preparations to use the disputed domain names, to make any *bona fide* offerings through them, or to carry out any legitimate noncommercial or fair use of any of the disputed domain names. The Complainant adds that none of the disputed domain names currently resolve to an active website. Thus, the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent does not claim having rights or legitimate interests in the disputed domain names and does not explain why she has chosen to register the disputed domain names in her own name, why she has kept them following her dismissal as Director of the Complainant, and how she intends to use them. The Respondent however makes several points that will be discussed in turn.

Firstly, the Respondent states that the Complainant failed to prove that the Respondent had or currently has control over the disputed domain names. The Registrar has however confirmed that the Respondent is currently listed as registrant of the disputed domain names, and the Respondent does not dispute the correspondence between the Parties that was submitted by the Complainant, which contains statements by the Respondent that it has secured the disputed domain names and claims by the Respondent for the recovery of the expenses she had incurred for the registration, acquisition, and privacy protection services for the disputed domain names. The evidence in the case therefore confirms that the Respondent is the registrant of the disputed domain names and has control over them.

Secondly, the Respondent maintains that the Complainant failed to address the issue that there is human rights violation proceeding filed by the Respondent against the Complainant and the co-owner of the Complainant. As however discussed in section 6.1 above, the Respondent does not explain how this proceeding relates to the subject matter of the present proceeding and how it could possibly affect its

outcome. In any case, no such relation is evident from the evidence submitted by the Respondent. Therefore, the Panel concludes that the proceeding referred to by the Respondent has no connection to, and cannot affect the present dispute between the Parties and the Panel's substantive conclusions.

Thirdly, the Respondent submits that the Complainant does not provide any evidence to prove that it discovered that the disputed domain names were under the name of the Respondent only after her employment termination on August 19, 2022. The Respondent however does not claim having informed the Complainant about this earlier or having obtained its consent to the registration and acquisition of the disputed domain names in her own name. The evidence in the case shows that the Respondent's statements made in her communications to the Complainant's owners and employees and to third parties do not disclose this important circumstance, but rather refer to "we" when mentioning the acquisition and ownership over the disputed domain names. The Respondent does not deny that she was the Complainant's Global Director of Business Development until August 19, 2022, so she was well aware of the business of the Complainant and its trademarks and trade names (and while not itself dispositive to the case, could reasonably be said to have owed a fiduciary duty of loyalty to the Complainant). It is reasonable to accept the references to "we" made by her in her business emails to the Complainant's owners and employees and to third parties while she was such Global Director would be understood by their recipients as referring to the Complainant and not to herself as a private person. In addition, the evidence shows that the Respondent requested the Complainant to cover the expenses for the registration and maintenance of the disputed domain names, which a reasonable person would regard as a further indication that the Complainant was the entity enjoying the rights to the disputed domain names. There is no evidence to support a conclusion that the Complainant was somehow made aware that the Respondent has registered them in her own name prior to her dismissal from her position with the Complainant, and no evidence that the Complainant has somehow instructed or has expressly or tacitly given its consent to the Respondent to acquire the disputed domain names in her own name. Rather, it appears to the Panel that the Respondent has through her conduct and statements led the Complainant to believe that the Complainant had itself obtained the ownership over the disputed domain names. Following her dismissal from her position with the Complainant, the Respondent did not transfer the disputed domain names to the Complainant and did not secure its continuous usage of them, but offered for sale the disputed domain name <viewhotels.com> for over AUD 400,000. To the Panel, this is an indication that the Respondent's conduct in relation to the disputed domain names was not motivated by loyalty to the Complainant, but rather by an intent to receive financial gain to its detriment. The Respondent's conduct therefore does not appear as legitimate and giving rise to rights or legitimate interests in the disputed domain names. See also *The Gloria Kaufman Dance Foundation and Gloria Kaufman v. Carolyn B. Baker & Associates and "Gloria Kaufman Dance Foundation," formerly Domains By Proxy, Inc.*, WIPO Case No. [D2010-0034](#).

On this basis, the Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain names.

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

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

As discussed in section 3.2 of the [WIPO Overview 3.0](#), in addition to the above specific Policy criteria, Panels have applied a range of considerations in assessing bad faith. Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include, among others, the timing and circumstances of the registration, a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or other indicia generally suggesting that the respondent had somehow targeted the complainant.

As discussed in the section on rights or legitimate interests, the Respondent, while being the Complainant's Global Director of Business Development, registered or acquired the disputed domain names in her own name without the knowledge and authorization of the Complainant, did not disclose this important information to the Complainant, but rather made misleading statements to the Complainant's co-owner, employees and third parties that “we” had acquired the disputed domain names, and requested payment from the Complainant of the expenses for the registration and maintenance of the disputed domain names. It is clear that the Respondent was at the time of the registration, and respectively the acquisition of the disputed domain names, perfectly well aware of the Complainant's hotel business, its trademarks and trade names. Following her dismissal as Director of the Complainant, the Respondent did not transfer the disputed domain names to it, but offered for sale to the public one of them that was extensively used by the Complainant for its official website for the amount of AUD 400,116, which is in any case well in excess of the amounts related to its acquisition, as such amounts were already repaid to her by the Complainant while she was still holding her position with it. The Respondent has given no explanation why she has chosen to register the disputed domain names in her own name, rather than in the name of the Complainant, why she has kept them following her dismissal, and how she intends to use them. In the lack of any allegation or evidence to the contrary, this conduct of the Respondent supports a conclusion that the Respondent's actions in relation to the disputed domain names were motivated by an intent to receive financial gain at the expense of the Complainant and its rights.

The disputed domain names are inactive, but in view of the circumstances discussed above, the Panel is not aware of any use of them that would not be illegitimate without the Complainant's consent. Therefore, the non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain names have been registered and are being used 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 names <hotelsview.com>, <theviewbrisbane.com>, <theviewhotel.com>, <theviewmelbourne.com>, <theviewshotels.com>, <theviewsydney.com>, <viewhotels.co>, and <viewhotels.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: March 20, 2023