

## **ADMINISTRATIVE PANEL DECISION**

BLUE SAS v. cai shen

Case No. D2023-1789

### **1. The Parties**

The Complainant is BLUE SAS, France, represented by Studio Legale Bird & Bird, Italy.

The Respondent is cai shen.

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

The disputed domain names <jetcosthotels.com>, <jetcosttask.com>, and <jetcosttaskhotel.com> are registered with Gname.com Pte. Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 20, 2023. On April 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 30, 2023.

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 May 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 30, 2023.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on June 12, 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 a United States based company operating the website “Jetcost” at <jetcost.com> (and related localized websites), which is a travel metasearch engine available in 17 languages across 38 countries and more than 80 domains.

The Complainant is the holder of various JETCOST trademarks including:

- United States Reg. No. 5139888 for the word mark JETCOST (registered February 14, 2017) in class 39;
- European Union Reg. No. 008142481 for the word mark JETCOST (registered July 29, 2009) in classes 39, 42, and 43;
- United Kingdom Reg. No. UK00908142481 for the word mark JETCOST (registered July 29, 2009) in classes 39, 42, and 43

The Complainant holds and promotes its business on the website under the domain name <jetcost.com> registered on April 30, 2006 and launched on June 1, 2006.

The disputed domain names were registered on February 18, 2023, and they are not directed to an active website at the time of the decision.

#### **5. Parties’ Contentions**

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

The Complainant asserts that the disputed domain names are confusingly similar to the Complainant’s trademark JETCOST and that the addition of the descriptive terms “ask”, “hotel”, and “ask hotel” do not prevent the association between the disputed domain names and the Complainant’s trademark.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain names, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark JETCOST.

Lastly, the Complainant says that the disputed domain names were registered and are used in bad faith. It is evident that the Respondent had full knowledge of the Complainant’s rights in its mark by the confusingly similarity of the disputed domain names, which use its JETCOST mark in its entirety within the website redirected through the disputed domain names. The Complainant, therefore, claims that the Respondent is using the disputed domain names with the aim to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark and for the purpose of disrupting the Complainant’s business and targeting the Complainant’s trademark and its clients. Doing that, the Respondent has used privacy shield in order to hide its identity, which together with other elements, reinforces the bad faith.

##### **B. Respondent**

The Respondent did not reply to the Complainant’s contentions.

#### **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove the followings:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the 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.

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

The Panel finds that the disputed domain names are confusingly similar for the purpose of the Policy to the Complainant's trademark JETCOST.

The disputed domain names wholly incorporate the Complainant's trademark and the addition of the terms "ask", "askhotel" and "hotel". These additions do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) at section 1.8.

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test.

For the reasons mentioned above, the Panel finds that the disputed domain names are confusingly similar to the Complainant's JETCOST trademark.

The Complainant has thus fulfilled paragraph 4(a)(i) of the Policy.

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

The onus is on the Complainant to make out at least a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and it is then for the Respondent to rebut this case. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts the Complainant's submissions that the Respondent does not appear to be known by the disputed domain names, has not used, or made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain names, and has no consent from the Complainant to use its trademark.

The Respondent has not filed a Response.

The Complainant have made out its *prima facie* case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeeds in relation to the second element of the Policy.

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

At the time of registration of the disputed domain names, the Complainant's trademark JETCOST was a famous trademark for a very long time throughout the world. As the Complainant submits, it is inconceivable that the Respondent would not have known of the Complainant's trademark.

The Panel finds that the Respondent is using the disputed domain names to intentionally attempt to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's famous trademark.

As a matter of fact, considering:

- the use of the Complainant's famous trademark within the disputed domain names;
- the striking similarity of the websites;
- the use of the Complainant's trademark on the websites under the disputed domain names; and
- the mention of the Complainant's official domain name on the websites under the disputed domain names,

it is clear that the Respondent has targeted the Complainant and its famous trademark to benefit its own commercial activities. The Respondent's registration of the disputed domain names incorporating the Complainant's mark that are resolving to websites impersonating the Complainant clearly constitutes bad faith use, and registration.

Therefore, the only reason for the registration of the disputed domain names by the Respondent must have been with bad faith intent to use it to exploit, for commercial gain, the Complainant's reputation. The Respondent has used the disputed domain names for precisely that purpose.

Given the Respondent's lack of participation in this proceeding, the lack of any credible good-faith use to which the confusingly similar disputed domain names could be put, and the Respondent's active use of the Complainant's trademark on the websites under the disputed domain names, the totality of circumstances supports an inference of bad faith.

Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, 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, <jetcosthotels.com>, <jetcosttask.com>, and <jetcosttaskhotel.com> be transferred to the Complainant.

*/Emre Kerim Yardimci/*

**Emre Kerim Yardimci**

Sole Panelist

Date: July 3, 2023