



## DECISION

Hashkey Digital Asset Group Limited v. Yan Chang Xin

Claim Number: FA2104001939997

### PARTIES

Complainant is **Hashkey Digital Asset Group Limited** ( “ Complainant ” ), represented by **J. Damon Ashcraft** of **SNELL & WILMER L.L.P**, Arizona, USA. Respondent is **Yan Chang Xin** (燕长信)(“Respondent”), China.

### REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is **<hashkeyprime.com>**, registered with **Alibaba Cloud Computing (Beijing) Co., Ltd.**

### PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

David L. Kreider, Chartered Arbitrator (UK), as Panelist.

### PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on April 1, 2021; the FORUM received payment on April 1, 2021. The Complaint was submitted in both Chinese and English.

On April 6, 2021, Alibaba Cloud Computing (Beijing) Co., Ltd. confirmed by e-mail to the FORUM that the **<hashkeyprime.com>** domain name (the “Disputed Domain Name”) is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. and that Respondent is the current registrant of the name. Alibaba Cloud

Computing (Beijing) Co., Ltd. has verified that Respondent is bound by the Alibaba Cloud Computing (Beijing) Co., Ltd. registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On April 9, 2021, the FORUM served the Complaint and all Annexes, including a Chinese and English language Written Notice of the Complaint, setting a deadline of April 29, 2021 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent's registration as technical, administrative, and billing contacts, and to postmaster@hashkeyprime.com. Also on April 9, 2021, the Chinese and English language Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, and to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts.

A timely Response was received and determined to be complete on April 27, 2021.

On April 29, 2021, the Complainant submitted an Additional Submission. Having discretion to accept or consider the additional unsolicited submission, the Panel elects to disregard the Complainant's Additional Submission, which was not requested by the Panel, in accordance with Supplemental Rule 7.

On April 30, 2021, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the FORUM appointed David L. Kreider as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph

2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2.

## **RELIEF SOUGHT**

The Complainant requests that the domain name be transferred from the Respondent to the Complainant.

## **PRELIMINARY ISSUE: LANGUAGE OF THE PROCEEDING**

The Panel notes that the Registration Agreement is written in Chinese, thereby making the applicable language of the proceedings the Chinese language in accordance with Rule 11(a). The Panel finds that the language requirement has been satisfied through the Chinese language Complaint and Commencement Notification. The Panel determines that the remainder of the proceedings may be conducted in English.

## **PARTIES' CONTENTIONS**

### **A. Complainant**

#### **[a.] The Disputed Domain Name Is Virtually Identical to the Complainant's mark.**

The Complainant, Hashkey Digital Asset Group Limited, describes itself as a leading digital asset management and financial technology leader, offering digital asset management and financial technology services in the Blockchain and fintech industries for institutions, offices, funds, and professional investors since at least 2018. The Complainant owns (in part through its parent company Shanghai Wanxiang Blockchain Co., Ltd.) the trademark "HASHKEY®," and substantially related marks, used in connection with financial services throughout the world (collectively, the "HASHKEY Marks"). The Complainant is the owner of

the Marks pursuant to trademark registrations in The People's Republic of China and elsewhere around the world.

The Complainant uses the HASHKEY Marks in commerce through various domains and associated websites, including <hashkey.com>; <hashkeyfin.com>; <hash-key.com>; <hashkeytechnology.com>; <hashkeywallet.com>; <hashkeywallet.io>; <hashkey.io>; and <hashkey.capital> (the "HASHKEY Domains"), including the domain <hashkeyprimehk.com>.

The Complaint alleges that the Complainant's operation, which was founded in 2018, "has become one of the most recognizable names in the cryptocurrency field" and that, on September 9, 2020 – over two years after Complainant began acquiring rights in the HASHKEY Marks, the Respondent sought to exploit the Complainant's success by registering <hashkeyprime.com> and to confuse consumers as to the source and ownership of the Disputed Domain Name and attract consumers to Respondent's website in violation of Complainant's trademark rights.

Beginning at least as early as February 15, 2021, the Complaint alleges, the Disputed Domain Name has resolved to an inactive website.

The Complainant submits that the Disputed Domain Name is confusingly similar to its HASHKEY Marks as the Disputed Domain Name incorporates the HASHKEY Mark in its entirety. It is well-settled that where a domain name includes an identical match to a complainant's mark, the complainant satisfies the burden of proving identical or confusing similarity under paragraph 4(a)(i) of the Policy. *See, e.g., Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. Polygenix Group Co.*, WIPO Case No. D2000-0163. Furthermore, the addition of the generic term "prime" does not add sufficient distinctiveness so as to avoid a finding of similarity between the Disputed Domain and the HASHKEY Marks.

Prior panels have held that the addition of the generic term prime does not prevent a finding of confusing similarity with a complainant's trademark. *See Philip Morris Brands S.rl v. Domain Admin, Whois Privacy Corp*, WIPO Case No. D2017-2043.

**[b.] The Respondent Has No Rights or Legitimate Interests in the Disputed Domain Name.**

The Complaint avers that the Respondent is not sponsored or endorsed by the Complainant, and the Complainant has never authorized or licensed to the Respondent any rights in or to the Complainant's HASHKEY Marks. Prior panels have held that a respondent has no rights or legitimate interests in a domain name which includes another party's trademark and which resolves to an inactive webpage. *See Regeneron Pharmaceuticals, Inc. v. Ron Smith*, WIPO Case No. D2017-0219.

The Respondent's use of the Disputed Domain Name has not been registered in connection with any right or legitimate interests, as the Respondent is not a licensee of Complainant, nor is the Respondent authorized in any way by the Complainant to use the HASHKEY Marks. The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain. The Respondent is not known by the Disputed Domain Name.

**[c.] The Disputed Domain Name Was Registered and Is Being Used, in Bad Faith.**

The Respondent sought to exploit the Complainant's success by registering the Disputed Domain years after Complainant acquired protectable trademark rights in HASHKEY and years after Complainant began building its digital asset management business under the HASHKEY Marks.

When the Respondent registered the Disputed Domain, the Complainant alleges, the Respondent had actual knowledge of the Complainant's rights in the HASHKEY Marks, which is evident through the Respondent's use of the HASHKEY Marks in the Disputed Domain Name. Nevertheless, despite Respondent's actual knowledge of the Complainant and the HASHKEY Marks, the Respondent proceeded to register the Disputed Domain Name. A respondent's actual knowledge of a complainant's trademark when registering a domain name which incorporates that trademark is sufficient to support an inference of bad faith. *See Valio Oy v. Muhammad Tayab, Dairy Engineering Int'l, WIPO Case No. D2017-2376*. Moreover, even if the Respondent only had a reckless disregard of Complainant's trademark rights when registering the Disputed Domain Name, that is sufficient to support a finding of bad faith. *See Mr. Hubert Barbier dit Barrere v. Kun Yang Liu, WIPO Case No. D2020-1506*.

#### B. Respondent

The Response asserts that the Respondent is a blockchain and cryptocurrency enthusiast who registered the Disputed Domain Name "to understand and research the related knowledge of blockchain and the storage of virtual currencies". The Respondent has registered other blockchain-related domain names, such as micro-hash.com; innohash.com and rhywallet.com for the same reason, with no intention to create confusion with the Complainant or the HASHKEY Marks. The Respondent has not set up a website in bad faith to attract the Complainant's customers as alleged in the Complaint.

The Respondent alleges that the Complainant lacks standing to oppose the Respondent's registration of the Disputed Domain Name because "everyone can distinguish the difference between HASHKEY and HASHKEYPRIME". The Respondent argues that, by analogy and following along the Complainant's logic and reasoning, the Complainant could seek to recover the domain "hash.com"

from its owner, and the owner of the “hash.com” domain name could in turn seek to recover the domain name “has.com” from its owner.

The Respondent asserts that the present administrative proceeding under the UDRP reflects both “motive and suspicion” that the Complainant has engaged in reverse domain name hijacking “as defined by ICANN”, as it appears from the Complaint that, during the two year period between the Complainant’s registration of its HASHKEY Marks in 2018 and the Respondent’s registration of the Disputed Domain Name <hashkeyprime.com>, the Complainant never registered the Disputed Domain Name <hashkeyprime.com>, yet waited another year thereafter before instituting the present UDRP proceeding to seek to obtain this same Disputed Domain Name from the Respondent.

## FINDINGS

The Complainant is a global digital asset management and financial technology leader and the owner of the HASHKEY trademarks used in connection with a variety of products and services marketed to consumers worldwide, including virtual currencies and tokens. The Complainant claims rights in the HASHKEY Marks through, *inter alia*, its registration with China’s State Administration for Industry and Commerce (“SAIC”) (*e.g.* Reg. No. 37,611,695, registered Dec. 14, 2019).

The Respondent, Yan Chang Xin, registered the Disputed Domain Name <hashkeyprime.com> on September 9, 2020.

The Disputed Domain Name incorporates Complainant’s entire HASHKEY Mark and is identical or confusingly similar to the HASHKEY Marks pursuant to Policy ¶ 4(a)(i). The Respondent has adduced no evidence to show any right or legitimate interest in the Disputed Domain Name.

The Response does not meet the mandatory requirements of Rule 5(c), in that it does not, *inter alia*, conclude with the signature of the Respondent and a certification that the information contained in the Response is, to the best of Respondent's knowledge, complete and accurate and is not being presented for any improper purpose.

## DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

### Identical and/or Confusingly Similar

The Panel finds that the Respondent's <hashkeyprime.com> domain name is virtually identical and confusingly similar to Complainant's HASHKEY Marks because it incorporates the entirety of the Mark, and simply adds the generic term "prime" and the ".com" generic top-level domain ("gTLD"). The addition of a generic term and a gTLD to a mark is insufficient to differentiate a disputed domain name from the mark it incorporates pursuant to Policy ¶ 4(a)(i). *See Wiluna Holdings, LLC v. Edna Sherman*, FA 1652781 (FORUM Jan. 22, 2016)



(Finding the addition of a generic term and gTLD is insufficient in distinguishing a disputed domain name from a mark under Policy ¶ 4(a)(i).).

The Complainant has satisfied the first element under Policy ¶ 4(a)(i).

### **Rights or Legitimate Interests**

The Complaint alleges that the Respondent has no legitimate right to the Disputed Domain Name in that it has not used or received permission to use the mark and is not commonly known by the mark pursuant to Policy ¶ 4(c)(ii). Furthermore, the Respondent is not using the Disputed Domain Name for a legitimate non-commercial or fair use pursuant to Policy ¶ 4(c)(iii), because the Respondent has not placed any content on the website to which the Disputed Domain Name resolves.

It is well established under UDRP jurisprudence that a complainant must first make out a *prima facie* case that the respondent lacks rights and legitimate interests in the disputed domain name under Policy ¶ 4(a)(ii), then the burden shifts to the respondent to show it does have rights or legitimate interests. *See Advanced International Marketing Corporation v. AA-1 Corp*, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its *prima facie* case and satisfy Policy ¶ 4(a)(ii)); *see also Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (FORUM Apr. 12, 2014) (“Under Policy ¶ 4(a)(ii), Complainant must first make out a *prima facie* case showing that respondent lacks rights and legitimate interests in respect of an at-issue domain name and then the burden, in effect, shifts to respondent to come forward with evidence of its rights or legitimate interests”).

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights and legitimate interests in the Disputed Domain Name

under Policy ¶ 4(a)(ii), and that the Respondent has failed to meet its burden to adduce evidence showing it does have rights or legitimate interests thereto.

The Panel finds that Respondent's Response does not meet the mandatory requirements of Rule 5(c), in that it does not, *inter alia*, conclude with the certification and signature of the Respondent that the information contained in the Response is, to the best of Respondent's knowledge, complete and accurate and is not being presented for any improper purpose.

Even assuming, *arguendo*, that the Response was submitted in the form required by Rule 5, Respondent has adduced no evidence whatsoever to show it does have rights or legitimate interests in the Disputed Domain Name. Rather, the unsigned and uncertified Response merely asserts that the Respondent is a blockchain and cryptocurrency enthusiast who registered the Disputed Domain Name to gain a better understanding of blockchain-related knowledge and the storage of virtual currencies.

The Panel finds on the Complainant's evidence that the Respondent has failed to meet its burden to show it has rights or legitimate interests in the Disputed Domain Name.

Complainant has satisfied the second element under Policy ¶ 4(a)(ii).

#### **Registration and Use in Bad Faith**

The Complainant describes itself as "a one-stop digital assets management platform". The Complainant has adduced evidence reflecting its status as a leading digital asset management and financial technology leader who advises and acts throughout the investment cycle and participates in high-potential investment opportunities to deliver solutions across the digital asset ecosystem, including, *inter alia*, institutional crypto investment; the financing of blockchain

startups; the trading of virtual currencies and non-fungible tokens (“NFTs”); the provision of trading platforms and blockchain investment funds, crypto wallets, decentralized storage structures and other custody solutions.

The Complaint is accompanied by a declaration evidencing that, “beginning at least as early as February 15, 2021”, the Disputed Domain Name has resolved to an inactive website, with the result, the Claimant avers, that its customers are thereby being misled and confused into believing that Complainant is not operating an active website. The Panel notes that the Complainant maintains business offices in Hong Kong (among other key cities in Asia) and finds it significant that the Disputed Domain Name is identical to the Complainant’s official <hashkeyprimehk.com> domain name, save that the letters “hk” have been dropped.

The Panel notes that a simple “Google search” of the term HASHKEY, immediately brings up the Complainant and its various digital assets businesses.

In view of the Respondent’s own admission to being a blockchain and cryptocurrency enthusiast, who registered the Disputed Domain Name to gain a better understanding of blockchain-related knowledge and the storage of virtual currencies, the Panel finds that the Respondent must have known of the strength and valuable goodwill attaching to the Complainant’s HASHKEY Marks given the Complainant’s leading status in digital asset management and financial technology.

The Panel takes note that the noun “hash key” is defined in the Oxford Dictionary as “a button on a computer keyboard or telephone keypad that is marked with a # sign”. In the realm of social media, such as Twitter™ and Facebook™, pressing the hash key before typing in a keyword or phrase creates a “hashtag” (*e.g.*,

#hashtag), which enables other Internet users with similar interests to readily comment or facilitate a search in relation to the particular keyword or phrase.

Within the realm of digital assets, such as bitcoin, for example, secure custody is sought to be maintained through the use of pairs of public and private keys and one-way cryptographic functions, called “hash” functions, which provide a digital fingerprint of some binary input to generate a unique address on a blockchain.

The Respondent’s Response is devoid of any reference to the term “hashkey” or “hash key” in connection with any legitimate usage or application not associated with the Complainant’s businesses. Moreover, the Respondent, a self-described “blockchain and virtual currency enthusiast”, does not disclaim having knowledge of the Complainant’s digital asset businesses and HASHKEY Marks at the time of registration of the Disputed Domain Name.

The Panel considers that the Respondent’s expressed purpose in registering the Disputed Domain Name, *i.e.*, “to gain a better understanding of blockchain-related knowledge and the storage of cryptocurrencies”, further supports the inference that the Respondent was aware and had knowledge of the Complainant’s Marks and market leading role in digital assets and virtual currencies, and sought to target and freeride on the strength of the Complainant’s registered Marks, when he registered the Disputed Domain Name.

Actual knowledge of a complainant’s rights in a mark evidences a respondent’s bad faith under Policy ¶ 4(a)(iii) and may be shown by the entirety of the circumstances surrounding the registration and use of a domain name. *See AutoZone Parts, Inc. v. Ken Belden*, FA 1815011 (FORUM Dec. 24, 2018) (“Complainant contends that Respondent’s knowledge can be presumed in light of the substantial fame and notoriety of the AUTOZONE mark, as well as the fact that Complainant is the largest retailer in the field. The Panel here finds that

Respondent did have actual knowledge of Complainant's mark, demonstrating bad faith registration and use under Policy ¶ 4(a)(iii)."); *Yahoo! Inc. v. Butler*, FA 744444 (FORUM Aug. 17, 2006) (finding bad faith where the respondent was "well-aware" of the complainant's YAHOO! mark at the time of registration).

Here, the Complainant argues, and the Panel so finds based upon the evidence adduced (including, *inter alia*, the Respondent's hiding his identity as the Registrant of the Disputed Domain Name behind a privacy shield), that the Respondent had actual knowledge of Complainant's rights in the HASHKEY Marks based upon the Respondent's use of the entirety of the Complainant's famous mark in the Disputed Domain Name. Accordingly, the Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith within the meaning and purview of Policy ¶ 4(a)(iii).

#### **Reverse Domain Name Hijacking**

The Panel rejects as wholly without basis or merit the Respondent's claim of reverse domain name hijacking by the Complainant.

#### **DECISION**

The Complainant having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the **<hashkeyprime.com>** domain name be **TRANSFERRED** from the Respondent to the Complainant.



David L. Kreider, Esq.  
Panelist

David L. Kreider, Chartered Arbitrator (UK), Panelist

Dated: May 3, 2021