# Decision for dispute CAC-UDRP-102442

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| Case number | CAC-UDRP-102442 |
| Time of filing | 2019-05-03 10:08:38 |
| Domain names | bitmex.website, bitmex.stream |

## Case administrator

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| Name | Šárka Glasslová (Case admin) |

## Complainant

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| Organization | HDR Global Trading Limited |

## Complainant representative

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| Organization | RiskIQ, Inc. c/o Jonathan Matkowsky |

## Respondent

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| Name | JIN BAEK CHOI |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the Union trademark registration BITMEX 016462327, with a filing date of March 14, 2017, registered August 11, 2017.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

In accordance with non disputed explanations of the Complainant, it provides a Bitcoin-based Peer-to-Peer (P2P) crypto-products trading platform offering leveraged contracts bought and sold in Bitcoin. The platform has received widespread coverage in the global media, such as CNN.com, Fortune, CNBC, The New York Times, Bloomberg, Business Insider, TechCrunch, as well as in leading digital media for the crypto asset and blockchain technology community. The disputed domain names have been registered on April 26, 2018 and was, partly, used as a search directory the results of which displayed commercial advertising.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and have being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:
(i) The disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
(ii) The Respondent has no rights or legitimate interests with respect to the disputed domain names; and
(iii) The disputed domain names have been registered and is being used in bad faith.

A. Identical or Confusingly Similar
The Complainant has established the fact that it has valid trademark rights for “BITMEX”.
The disputed domain names are confusingly similar, i.e. identical to the Complainant´s mark, whereas the top level domain, here .website and .stream, are usually not considered as influencing the distinctiveness of a domain name.
The Panel therefore considers the disputed domain names to be confusingly similar to the trademark "BITMEX" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests
The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “BITMEX” or that the Respondent is using the disputed domain names in connection with a bona fide offering of goods or services.
The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.
In view of the non-disputed assessment that the Complainant is well visible in the business of a Bitcoin-based Peer-to-Peer crypto-products trading platform offering leveraged contracts bought and sold in Bitcoin and in view of the fact that Complainant´s trademark has no clear descriptive meaning, the Respondent must have been well aware of the Complainant and its trademark when registering the identical disputed domain names. The Complainant had not authorized the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of these particular disputed domain names without the Complainant's authorization.
The circumstances of this case indicate that the Respondent registered and used the disputed domain names primarily with the intention of attempting to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.
The Panel therefore considers the disputed domain names to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BITMEX.WEBSITE**: Transferred
2. **BITMEX.STREAM**: Transferred

## PANELLISTS

| Name | **Dietrich Beier** |
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DATE OF PANEL DECISION 2019-07-01

Publish the Decision