Decision for dispute CAC-UDRP-102466

Case number	CAC-UDRP-102466
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Domain names	hitachi-hihgtech.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Hitachi, Ltd.

Complainant representative

Organization	RODENBAUGH LAW

Respondent

Name	Zlatan Irving

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is owner of several Trademarks, especially a Nigerian wordmark "Hitachi", Reg. No. 19204 since June 26, 1967 and Japan No. 1492488 since December 25, 1981.

FACTUAL BACKGROUND

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

COMPLAINT

I. Introduction

The Complaint was submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy), approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), approved by ICANN on September 28, 2013, and in effect as of July 31, 2015, and the UDRP Supplemental Rules for the Czech Arbitration Court (the Supplemental Rules) in effect as of the date of this filing.

II. The Parties

The Complainant in this administrative proceeding is Hitachi, Ltd.

According to the concerned registrar's Whois database, the Respondent in this administrative proceeding is "Zlatan Irving". All information known to the Complainant regarding how to contact the Respondent is as follows:

III. The disputed domain name and the registrar

This dispute concerns the domain name <HITACHI-HIHGTECH.COM>.

The registration service provider with which the domain names are registered is: PDR Ltd. d/b/a PublicDomainRegistry.com

IV. Language of Proceedings

The language of the Registration Agreement is in English.

V. Jurisdictional Basis for the Administrative Proceeding

This dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name that is the subject of this Complaint is registered, incorporates the Policy. A true and correct copy of the Domain Name Registration Agreement that applies to the domain name in question can be found at:

https://publicdomainregistry.com/ and https://publicdomainregistry.com/

VI. Factual and Legal Grounds

The Complaint is based on the following grounds:

FACTUAL BACKGROUND

Complainant's Business And Trademarks

Hitachi, Ltd. ("Hitachi" or "Complainant") is a Japanese multinational company that offers innovative, world class consumer, business, government products, and services. Hitachi's products range from telecommunications and infrastructure solutions to construction machinery and electronic systems and equipment. The Complainant is commonly referenced as the "Hitachi Group", comprised of Hitachi, Ltd. and hundreds of subsidiaries present on a global scale. The Hitachi Group currently employs over 300,000 people worldwide and provides products and services around the globe, including in Nigeria (via its group company HITACHI VANTARA NIGERIA LTD and others such as various local partners), where Respondent is located. Information about both Complainant and the Hitachi Group in general, including details on their respective products can be found at the website <hitachi.com> ("Complainant's Website").

Hitachi was founded in 1910, and has continuously used the HITACHI mark in global commerce since then - for well over

100 years. Hitachi has also registered the HITACHI mark in numerous jurisdictions throughout the world, including but not limited to Nigeria, the United States, Japan, the European Union and many more.

HITACHI - Jurisdiction: United States of America, Registration No.: 0701266, Registration Date: 1960-07-19;
HITACHI - Jurisdiction: EUTM, Registration No.: 000208645, Registration Date: 1999-12-21;
HITACHI - Jurisdiction: Japan, Registration No.: 1492488, Registration Date: 1981-12-25;
HITACHI - Jurisdiction: Nigeria, Registration No.: 19204, Registration Date: 1967-06-26.

Hitachi has invested copious amounts of time and money to promote the ubiquitous HITACHI brand, worldwide. As such, consumers around the world have come to associate Hitachi with the HITACHI marks and brand. Through such longstanding and exclusive use by Hitachi, the HITACHI mark is famous in Japan, the United States, and throughout the world - including in Nigeria where the Respondent purportedly resides.

Respondent's Bad Faith Registration and Use Of The Disputed Domain Name

The Whois information for the <hitachi-hihgtech.com> domain name (the "Disputed Domain") indicates that it is registered to an individual called "Zlatan Irving", located in Nigeria. The Disputed Domain was registered on or about November 13, 2018. Id. The Disputed Domain does not seem to be currently active but has been registered to be used as a typo domain for Hitachi Group company "Hitachi High-Technologies Corporation", which uses <hitachi-hightech.com> as a domain for their official website.

On or about December 2018, Complainant became aware that the Disputed Domain was being used for fraudulent purposes, specifically to host a "spearphishing" campaign targeted to Hitachi's business partners. More specifically, Respondent was using the e-mail address 'xxxxxx(first name).xxxxxx(family name).yg@hitachi-hihgtech.com' (redacted for privacy) to contact unsuspecting business partners of Hitachi High-Technologies Corporation and ask them if they could process their next due payment to a new and different account presumably controlled by Respondent - attempting a bank transfer scam. It is to be noted that name used by the perpetrator is the name of a real employee of Hitachi High-Technologies Corporation who uses the very similar xxxxxx(first name).xxxxxx(family name).yg@hitachi-hightech.com as her e-mail address, (same user@, the only difference being the high/hihg replacement in the domain name) - proving an impersonation fraud attempt.

No Business Relationship Exists Between the Parties

Obviously, Respondent does not have, and never has had, permission to use the HITACHI trademark.

A. THE DISPUTED DOMAIN IS CONFUSINGLY SIMILAR TO A TRADEMARK IN WHICH THE COMPLAINANT HAS RIGHTS

Complainant Hitachi Has Prior, Valid Trademark Rights in the HITACHI Mark

A complainant may satisfy the threshold requirement for standing under Paragraph 4(a)(i) of the Policy by demonstrating ownership of a valid trademark. See F. Hoffmann-La Roche AG v. Relish Enterprises, Case No. D2007-1629 (WIPO December 17, 2007) (quoting "WIPO Decision Overview" at §1.1). Here, Complainant's United States, Japanese, European and Nigerian trademark registrations for the HITACHI mark establish Hitachi's prior rights pursuant to paragraph 4(a)(i) of the Policy. Complainant's trademark rights in the HITACHI mark date back to at least 1960, when the mark was first registered in the United States; whereas, the <hitachi-hihgtech.com> Disputed Domain was not even created until February 2018, some fifty-eight years after Complainant registered its HITACHI mark in the US, and over sixty years after the HITACHI mark was registered in India, where Respondent is purportedly located.

The Disputed Domain Is Confusingly Similar to Complainant's Trademark

The burden to establish confusing similarity is low, but in this case is extremely obvious. Research in Motion Limited v. One Star Global LLC, Case No. D2009-0227 (WIPO Apr, 9, 2009). A showing of confusing similarity only requires a "simple comparison of the mark relied upon with the domain name in issue." Id. Here, a simple comparison of the HITACHI mark and the Disputed Domain demonstrates that the Disputed Domain is not only confusingly similar, but nearly identical to the HITACHI mark. The Disputed Domain <hitachi-hihgtech.com> is comprised of the HITACHI trademark (in its entirety) merely adding a misspelled version of the generic term 'high tech'.

It is well established that the incorporation of a well-known trademark within a domain name (as is the case here) is alone enough to sustain a finding of confusing similarity. See, e.g., Fujitsu Ltd. v. Thomas Ruben, Case No. 101592 (CAC Jul. 18, 2017) (finding the <fujitsu-global.com> domain name confusingly similar to complainant's FUJITSU mark); SoftCom Technology Consulting Inc. v. Olariu Romeo/Orv Fin Group S.L., Case No. D2008-0792 (WIPO Jul. 8, 2008) (finding the domain name <myhostingfree.com> to be confusingly similar to complainant's MYHOSTING mark, stating, "This similarity is established whenever a mark is incorporated in its entirety, regardless of other terms added to the domain name.); Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., Case No. D2000-1525 (WIPO Jan. 29, 2001) (finding confusing similarity between numerous "magnum"-formative domains and complainant's MAGNUM trademark).

Moreover, the mere addition of a generic term(s) to a trademark does not avoid a finding of confusion. Sharman License Holdings, Limited v. Mario Dolzer, Case No. D2004-0935 (WIPO Jan. 31, 2006); see also, e.g. Fujitsu Ltd. v. Thomas Ruben, Case No. 101592 (CAC Jul. 18, 2017) (stating, "It is well established that the addition of a generic term to a trademark does not avoid a finding of confusion."). It is to be noted here that the name "Hitachi High-Tech" is a common short name for Hitachi High-Technologies Corporation, adding even more confusion in using these names combined in the Disputed Domain.

Further, the addition of the generic top-level domain ".com" does nothing to distinguish the Disputed Domain from Complainants mark. See InfoSpace.com, Inc. v. Ofer, D2000-0075 (WIPO Apr. 27, 2000) (finding that "[t]he domain name 'info-space.com' is identical to Complainant's INFOSPACE trademark. The addition of a hyphen and .com are not distinguishing features"); CVC Capital Partners Finance Limited v. Registration Private, Domains By Proxy LLC / Tho Hong Hamp, Case No. D2016-1043 (WIPO July 19, 2016).

A simple comparison of the HITACHI mark and the Disputed Domain demonstrates that the two are confusingly similar, and any additions of generic terms or top-level domains are negligible. Therefore, Complainant has established the first element of the Policy under paragraph 4(a).

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN

The second element of a UDRP claim only requires that the complainant make a prima facie showing that respondent lacks a right or legitimate interest in the disputed domain name. Accor v. Eren Atesmen, Case No. D2009-0701 (WIPO Jul. 10, 2009). Once a complainant has made such a showing, the burden shifts to the respondent to demonstrate that it has rights or legitimate interest in the disputed domain name. See, e.g., Mile, Inc. v. Michael Burg, Case No. D2010-2011 (WIPO Feb. 7, 2011).

In this case, it is clear that Respondent has no rights or legitimate interest in the Disputed Domain. Respondent not only registered the Disputed Domain many decades after Complainant's rights in the HITACHI mark were registered, but is using the Disputed Domain to attempt to criminally scam Hitachi Group companies' business partners into paying their invoices to a new bank account controlled by the Respondent. Conversely, Complainant has demonstrated longstanding, exclusive use of the HITACHI trademark, and Complainant's rights predate any registration or use of the Disputed Domain by Respondent by almost 60 years.

In considering whether a respondent has a right or legitimate interest in a disputed domain under Paragraph 4(c) of the Policy, the panel may consider: (i) whether the respondent is using the disputed domain in connection with a bona fide

offering of goods or services; (ii) whether the respondent is commonly known by the disputed domain; and (iii) whether the respondent is making a legitimate noncommercial use or fair use of the disputed domain.

Respondent Does Not Use, and Has Not Used, the Disputed Domain in Connection with a Bona Fide Offering of Goods or Services

The use of a domain name that is confusingly similar to a complainant's mark for spearphishing, i.e. to send out fraudulent e-mails in an attempt to commit criminal bank theft, is clearly not a bona fide offering of goods and services. There is currently no website associated with the Disputed Domain; and the Disputed Domain is only used to scam business partners by contacting them from e-mail addresses that are confusingly similar to those used by legitimate employees of the Complainant. Further, Complainant cannot locate any evidence that the Disputed Domain is being used for anything other than this fraud scheme. Respondent is therefore not providing any service, but is committing fraud upon unsuspecting employees of Hitachi High-Technologies Corporation's business partners, in an attempt to get them to fall for his scheme and send him money.

Numerous panels have found that this type of activity constitutes bad faith under the Policy. See The Lincoln Electric Company v. David Vargo, Claim No. FA1704001725364 (Nat. Arb. Forum May 10, 2017) (finding inactive use of a domain name is not a bona fide offering of goods or services, and further, that using the disputed domain as part of a "phishing" scheme "is not a bona fide offering of goods or services"); Chevron Intellectual Property LLC v. Thomas Webber / Chev Ronoil Recreational Sport Limited, Claim No. FA 1661076 (Nat. Arb. Forum Mar. 15, 2016) (finding that the respondent had failed to provide a bona fide offering of goods or services because "[r]espondent is using an email address to pass themselves off as an affiliate of Complainant." The Panelist further found that the evidence showed that the "email address that Respondent has created is used to solicit information and money on false pretenses."); Chevron Intellectual Property LLC v . Richard Bailey / Jacobs, Claim No. FA1588430 (Nat. Arb. Forum Dec. 9, 2014) (finding no bona fide offering of goods or services where the respondent's use of the disputed domain name was in furtherance of fraudulent activity under the misleading guise of the domain name and associated email addresses).

Nor can it be said that demonstrable preparations to use the Disputed Domain in connection with a bona fide offering of goods and services have been made. See, e.g., Euromarket Designs, Inc. v. Domain For Sale VMI, WIPO Case No.D2000-1195 (Oct. 26, 2000) (noting that respondent was a passive holder of the disputed domain name <crateandbarrel.org> in that "the domain name does not resolve to a site" and ruling that "the Respondent has not made, nor taken any preparatory steps to make," any legitimate use of the domain name); Teachers Insurance and Annuity Association of America v. Wreaks Communications Group, WIPO Case No. D2006-0483 (Jun. 15, 2006) (finding that there was "no evidence that Respondent has made any use of the domain name in connection with a bona fide offering of goods or services", and further, that passive holding of a domain name does not constitute a bona fide offering of goods or services); Prada S.A. v. Y.B. el Bakkali, WIPO Case No. DNL2012-0074 (Mar. 27, 2013). The Disputed Domain does not resolve to any active webpage, but rather is used to attempt to a scam by e-mail. This means that Respondent has made no steps towards any legitimate use of the Disputed Domain.

Respondent Is Not Commonly Known by the Disputed Domain

There is no evidence that Respondent is commonly known by the Disputed Domain. See Braun Corp. v. Loney, Claim No. 699652 (NAF July 7, 2006) (finding respondent was not commonly known by the disputed domain names where neither the Whois record or any other evidence of record indicated such). Here, the Whois record indicates the Respondent is known by the name 'Zlatan Irving' and Complainant is not aware of any other evidence that would indicate that Respondent is commonly known by the Disputed Domain. Rather, the fact that the Disputed Domain is effectively identical to Complainant's HITACHI mark and one of Hitachi's group company names indicates that Respondent is attempting to use the Disputed Domain to profit from Complainant's goodwill in that famous mark.

Respondent Does Not Use the Disputed Domain for any Legitimate or Non-commercial Fair Use

Obviously, the use of a disputed domain to commit criminal fraud is not a legitimate or non-commercial fair use. Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, WIPO Case No. D2009-1017 (Oct. 2, 2009). In this case, the Respondent is clearly attempting to commit a fraud as evidenced by the e-mails sent to Hitachi High-Technologies Corporation's business partners, and use of a confusingly similar domain. See Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, WIPO Case No. D2009-1017 (Oct. 2, 2009) (finding that it was not fair use when respondent was using the disputed domain to commit a fraud, "[t]he essence of the fraud is that the Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives"); Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 (Apr. 7, 2015) (finding that "[u]sing a domain name for apparently illegal activities cannot be the basis of rights or legitimate interests in a domain name." The respondent had used the domain to "perpetrate fraud" by using "the Domain Name to pose as senior executive of the Complainant and to send false emails on behalf of that executive making the emails look like genuine emails coming from that executive"); Chevron Intellectual Property LLC v. Thomas Webber / Chev Ronoil Recreational Sport Limited, Claim No. FA1661076 (Nat. Arb. Forum Mar. 15, 2016) (stating that, because the "disputed domain name is being used to cause the recipients of these emails to mistakenly believe Respondent has a connection with Complainant", using the domain was not "a legitimate non-commercial or fair use").

Hitachi has proved indisputably that the Respondent has no rights or legitimate interest in the Disputed Domain. As such, the burden shifts to the Respondent to rebut Complainant's showing. However, the evidence strongly demonstrates that Respondent cannot meet this burden.

C. THE DISPUTED DOMAIN WAS REGISTERED AND IS USED IN BAD FAITH

Respondent Intentionally Attempted to Divert Internet Users by Creating Likelihood of Confusion

A respondent has registered and/or used a domain name in bad faith where the purpose of the registration is to cause confusion as to the source of a website or other service associated with the domain. Under Paragraph 4(b)(iv) the Panel may make a finding that the respondent has registered and used a domain name in bad faith where "by using the domain name, [the registrant has] intentionally attempted to attract, for commercial gain, Internet users to [its] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [registrant's] web site or location or of a product or service on [registrant's] web site or location." Respondent's use of the Disputed Domain is confusing because it is used as a typo-domain for sending e-mails from addresses that are similar to those of Complainant's real employees, giving the impression that Respondent is somehow affiliated with Complainant, and is being used to commit criminal fraud and attempted theft. See, The Lincoln Electric Company v. David Vargo, Claim No. FA1704001725364 (Nat. Arb. Forum May 10, 2017) (finding that the domain "<lincollnelectric.com> creates confusion as to the source, sponsorship, affiliation, or endorsement of its website for the purpose of furthering a phishing scheme to obtain a commercial benefit", and therefore, the domain was registered "in bad faith under Policy paragraph 4(b)(iv)."); VideoLink, Inc. v. Xantech Corporation, FA1503001608735 (Nat. Arb. Forum May 12, 2015) ("Failure to actively use a domain name is evidence of bad faith registration and use.").

Respondent Registered the Disputed Domain Primarily for the Purpose of Disrupting Complainant's Business

Respondent is using the Disputed Domain for no other reason than to disrupt Complainant's business. First, he is attempting to pose as an employee of Complainant's group company by sending fraudulent emails asking for due payment to be made on a different bank account, under his own control. This practice alone is enough to cause a disruption to Complainant's business as any reasonable person is likely to be confused about the contents of the emails. See, e.g., Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 (Apr. 7, 2015); Coldwell Banker Real Estate LLC v. piperleffler piperleffler, FA1529565 (Nat. Arb. Forum Dec. 27, 2013); National Oilwell Varco, L.P. v. Craig Wood/NOV, FA1575951 (Nat. Arb. Forum Sept. 22, 2014) Second, should the emails' recipients have been fooled, this could have led to an important financial loss on both Complainant's and their business partners' side, causing major disruption to Complainant's business.

See Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 (Apr. 7, 2015) (finding bad faith because the respondent had used the domain to "perpetrate fraud" by using "the Domain Name to pose as senior executive of the Complainant and to send false emails on behalf of that executive making the emails look like genuine emails coming from that executive").

Such use results in a disruption to Complainant's business and demonstrates Respondents bad faith use and registration of the Disputed Domain. Moreover, the fact that Respondent has undertaken such actions well after Complainant's trademark rights arose is further evidence of a bad faith registration for the sole purpose of disrupting Complainant's business for Respondents own commercial gain.

Respondent Was or Should Have Been Aware of Hitachi's Rights in the HITACHI Mark and Registered the Disputed Domain in Bad Faith

It can reasonably be inferred that Respondent was aware of Complainant's rights given that the minor differences in the Disputed Domain as compared to Complainant's own domain and Complainant's subsidiary as "Hitachi High-Technologies Corporation".

Alternatively, even if Respondent did not have actual knowledge of Complainant's Marks (which he obviously did), Respondent had a duty to ensure that the registration of the Disputed Domain would not infringe a third party's rights. See Collegetown Relocation, L.L.C. v. John Mamminga, FA 95003 (Nat'l Arb. Forum Jul. 20, 2000) (stating that "[w]hen registering domain names, the respondent has a duty to investigate and refrain from using a domain name that infringes on a third-party's rights"). Here, a simple Google search for "Hitachi High Tech" reveals that Respondent would have been made well aware of Complainant's rights in the HITACHI mark. The first six results are websites of Complainant and/or its worldwide affiliates when searching from within Nigeria. Accordingly, Respondent failed to discharge its duty to ensure that his registration of the Disputed Domain would not infringe Complainant's trademark rights, and the registration of the Disputed Domain was in bad faith.

Respondent Is Perpetuating a Common Fraud and Phishing Scam in an Attempt to Con IAS Employees and Consumers for Respondent's Own Profit

The bad faith factors outlined under the Policy are by no means exhaustive. Florida National University, Inc. v. Registration Private, Domains By Proxy, LLC / Toby Schwarzkopf, Case No. D2017-0138 (WIPO Mar. 14, 2017). "The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another." Id. Here, the Respondent is attempting to commit fraud. Respondent has registered the nearly identical Disputed Domain to create confusion, then made no attempt to develop the Disputed Domain (discussed infra), and instead the Respondent sent e-mails to Complainant's business partners in a deliberate attempt to defraud them for pecuniary gain. Panels have consistently ruled that attempted fraud is evidence of bad faith. See, e.g., National Oilwell Varco, L.P. v. Craig Wood/NOV, FA1575951 (Nat. Arb. Forum Sept. 22, 2014) (finding bad faith where respondent fraudulently attempted to induce wire transfers by sending e-mails purporting to be from complainant's President and CEO); Coldwell Banker Real Estate LLC v. piperleffler piperleffler, FA1529565 (Nat. Arb. Forum Dec. 27, 2013) (finding that use of an email address that used the contested domain name as the extension was found to be in bad faith because respondent used the fraudulent emails to pose as complainant in a fraudulent scheme to defraud); Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 (Apr. 7, 2015) (finding bad faith because the respondent had used the domain to "perpetrate fraud" by using "the Domain Name to pose as senior executive of the Complainant and to send false emails on behalf of that executive making the emails look like genuine emails coming from that executive."); Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, WIPO Case No. D2009-1017 (Oct. 2, 2009).

Additionally, Respondent's failure to make active use of the Disputed Domain is further evidence of bad faith. See, The Lincoln Electric Company v. David Vargo, Claim No. FA1704001725364 (Nat. Arb. Forum May 10, 2017) (finding that "[r]espondent has acted in bad faith because the disputed domain name's resolving website is inactive. Failure to make an

active use of a domain name is evidence of bad faith."); VideoLink, Inc. v. Xantech Corporation, FA1503001608735 (Nat. Arb. Forum May 12, 2015) ("Failure to actively use a domain name is evidence of bad faith registration and use pursuant to Policy paragraph 4(a)(iii).").

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 (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 has been registered and is 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

The Disputed Domain is confusingly similar to a trademark in which the Complainant has rights for it's a clear case of the so-called typo-squatting. Furthermore, given the Respondent's default the Panel finds the Respondent to have no rights or legitimate interests in the Disputed Domain. Finally, considering the reputation of the Complainant's trademark and Respondent's default the Panel is of the opinion that Complainant's plausible allegation of bad faith of the Respondent regarding the registration and use of the Disputed Domain correct.

Especially the Disputed Domain is confusingly similar to Complainants identified rights. The Complainant is a well-known global company with a subsidiary in Nigeria. The in Nigeria trademark protected name "HITACHI" is the distinctive part of the Disputed Domain. The generic postfix of the Disputed Domain "hihgtech" is a typical typoquatting example of "high tech" and does not create own rights or distinction (e.g. CAC 101023 ARCELORRMITTAL.COM). Intentional misspelling will be aware when reading the annex No. 6 (eg. CAC 101376), the phishing e-mails.

Evident is bad faith in this case because the Respondent had used the Disputed Domain to "perpetrate fraud" by using "the Domain Name to pretend being an employee of the Complainant and to send false e-mails on behalf of that person making the e-mails look like genuine e-mails coming from that employee asking to due payment to another bank account to business partners of the Complainant; (e.g. Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 - Apr. 7, 2015). The Disputed Domain was obviously registered to create the false e-mail address knowing a real employee's name of the Complainant and to commit crime.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HITACHI-HIHGTECH.COM**: Transferred

PANELLISTS

Name	**Dr. jur. Harald von Herget**

DATE OF PANEL DECISION 2019-07-14

Publish the Decision