



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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Case No.	HK-1700989
Complainant:	Haw Par Corporation Ltd
Respondent:	Bambang Corp/Bambang Bambang
Disputed Domain Name(s):	<Hawparcorporation.com > & <Hawpar-corporation.com >

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### 1. The Parties and Contested Domain Name

The Complainant is Haw Par Corporation Ltd, of 401 Commonwealth Drive, #03-03

Haw Par Technocenter, Singapore, SG 149598, SG. *(Note: Complaint erroneously entitled Complainant as “Haw Paw Corporation Ltd”, however all other references were to “Haw Par” and we therefore have concluded this first mention was a typographical error.)*

The Respondent is Bambang Corp/Bambang Bambang, of 401 Commonwealth Drive 03-03 Haw Par Technocentre, Balikpapan, Balikpapan, 149598, ID.

The domain names at issue (the “**Disputed Domain Names**”) are **Hawparcorporation.com**, registered by Respondent with CV. Rumahweb Indonesia, of Jl. Lemponsari Raya No. 39C Sariharjo, Sleman, Daerah Istimewa Yogyakarta, Indonesia and **Hawpar-Corporation.com**, registered by Respondent with Hostinger UAB, of Europos 32-4, 46326, Kaunas, Lithuania.

### 2. Procedural History

The Complainant filed a Complaint dated 15 June 2017, with the Asian Domain Name Dispute Resolution Centre – Hong Kong Office (“**ADNDRC**”) through their Representative, Mr. Paddy Tam of CSC Digital Brand Service Group AB. According to the Complaint, the Complainant has conducted a “Whois” search over the Disputed Domain and the results reveal the details of the Respondent as set out above.

On 21 June 2017, the Complainant rectified the Complaint and the Annexes. The revised Complaint added a new domain name, also registered in the name of the Respondent. The revised Complaint was received by ADNDRC on 26 June 2017. It is this revised Complaint that was provided to this Panelist and upon which this Decision is based.

On 30 June 2017, the ADNDRC sent the Notification of Commencement of Proceedings to the Respondent with copy to the Complainant & its authorized representatives and the Registrar, and requested that it file its Response within twenty (20) days therefrom. As the Respondent did not respond within such time, nor at all as of the date hereof, this Panelist has been able only to consider the information submitted by the Complainant.

On 21 July 2017, the ADNDRC appointed the Undersigned as sole Panelist for the captioned domain name dispute in this matter, Ms. Karen Mills. The file was forwarded by the ADNDRC to this Panelist on 21 July 2017.

ADNDRC requires a panel to render its award within 14 days of final submission, which has been interpreted by this Panel to be the date of receipt of the full file, and therefore the deadline for delivery of this Award is 4 August 2017. Nonetheless, this Award is hereby delivered to ADNDRC on 27 July 2017.

### 3. Factual background

1. According to the Complaint, the Complainant, Haw Par Corporation Limited (hereinafter referred to as “Haw Par”), is a Singapore-based multinational Group listed on the Singapore Exchange since 1969, focusing on four key areas of business: healthcare, leisure, property, and investments. Haw Par most famous product is the topical analgesic, Tiger Balm a topical herbal salve which has enjoyed over 100 years of success in 100 countries. Haw Par also has interests in family-friendly attractions, including Underwater World Pattaya. The property arm of Haw Par has a presence in Singapore and Malaysia as a proprietor of commercial and industrial properties. Haw Par also holds strategic investments in United Overseas Bank Limited, UOL Group Limited, and United Industrial Corporation Limited.
2. Haw Par is the owner of trademark registrations across various jurisdictions. Some of the trademarks listed in the Complaint as relevant to this instant are:

<u>Trademark</u>	<u>Jurisdiction</u>	<u>Reg. No.</u>	<u>Class</u>	<u>Registration Date</u>
<u>HAWPAR</u>	<u>US</u>	<u>1485936</u>	<u>5</u>	<u>1988-04-26</u>
<u>HAW PAR</u>	<u>MY</u>	<u>91002578</u>	<u>5</u>	<u>1991-05-29</u>
<u>HAW PAR</u>	<u>UK</u>	<u>00001443838</u>	<u>5</u>	<u>1992-01-10</u>
<u>HAW PAR</u>	<u>SG</u>	<u>T9103657A</u>	<u>5</u>	<u>1992-10-30</u>
<u>HAW PAR</u>	<u>JP</u>	<u>0002566664</u>	<u>5</u>	<u>1993-08-31</u>
<u>HAW PAR</u>	<u>IN</u>	<u>650440</u>	<u>5</u>	<u>1994-12-30</u>
<u>HAW PAR</u>	<u>EM</u>	<u>000228296</u>	<u>3,5</u>	<u>1999-09-08</u>
<u>HAW PAR LOGO</u>	<u>PH</u>	<u>4-1991-75635</u>	<u>5</u>	<u>2005-02-10</u>

3. Based on the “Whois” information, the first of the Disputed Domain Names, “hawparcorporation.com”, was registered by the Respondent on 7 April 2017, and has already been suspended, on 27 April 2017, because of phishing activities. The second of the Disputed Domain Names, “hawpar-corporation.com”, was registered by the Respondent on 28 April 2017.

4. The Complainant claims that the use of the Disputed Domain Names, “hawparcorporation.com” and “hawpar-corporation.com”, both of which contain the Complainant’s registered trademark “HAW PAR”, is identical to or confusingly similar to Complainant’s registered trademark, is likely to deceive and confuse members of the trade and public into believing that the Disputed Domain Names are that of Complainant’s and/or an associate of the Complainant.
5. The Respondent has not submitted any response to the Complainant’s Complaint within the time period provided by the ADNDRC, nor at any time subsequent, at least up until the delivery of the documentation to this Panelist.
6. Thus, the decision of this Panel can only be based upon the information and materials submitted by the Complainant.
7. This Panelist did seek to open the websites of: <http://www.hawparcorporation.com> and <http://www.hawpar-corporation.com>, the Disputed Domain Names, but in both cases received an error message that the server could not be found. It would thus appear that the Disputed Domain Names are not being used by the Respondent, nor by any other party, at least at this time.

#### **4. Parties’ Contentions**

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

The Complainant’s contentions may be summarized as follows:

- i. The Disputed Domain Names contain the Complainant’s registered and worldwide well known trade mark “HAW PAR” and are thus, if not exactly the same, at the very least, highly and confusingly similar to the Complainant’s trademarks.
- ii. The Respondent has no rights or legitimate interest in the Disputed Domain Names, which it has registered without any such right. The Respondent has no registered right in the trademark/tradename “HAW PAR”, is not affiliated with the Complainant, and has obtained neither consent nor authorization of Complainant to use or register the Disputed Domain Names, nor either of them.
- iii. The Complainant alleges that “*Respondent has registered and used the Disputed Domain Names for purposes of launching a phishing attack, which is clear evidence of bad faith registration and use. . .*” knowing well that any searches containing the words “Haw Par Corporation” performed through internet search engines result in multiple links referencing the Complainant and its business.
- iv. The Complainant contends that Respondent has also attempted to “. . . *masquerade as Complainant in an attempt to solicit sensitive, financial information from unsuspecting people . . .*” by featuring a customer log-in portal on the website under the Disputed Domain Names.

**B. Respondent**

The Respondent did not file any response to the Complainant's Complaint and thus has not provided its own position.

**5. Findings**

In determining the outcome of a dispute, the Panelist is to decide a complaint based on the documents provided and in accordance with the ICANN Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for ICANN Uniform Domain Name Dispute Resolution Policy and the ADNDRC Supplemental Rules (collectively the "Rules").

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail, to wit:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

Based upon the submissions, this Panel finds as follows:

**A. Is the Disputed Domain Name registered by the Respondent identical or confusingly similar to the trademark or service mark in which the Complainant has rights?**

It would seem quite evident that the domain names: "hawparcorporation.com" and "hawpar-corporation.com" are, if not identical at least confusingly similar to Complainant's registered trademark, "Haw Par". The addition of one or more words or numbers to a tradename protected by trademark has often been held to be identical, or at the very least confusingly similar, to the registered trademark name. The name "Haw Par" has been registered as a trademark or service mark by the Complainant in numerous jurisdictions, including that of Respondent, and has been used as its primary business name for many years. Moreover, the Disputed Domain Names, "hawparcorporation.com" and "hawpar-corporation.com", contain the full name of Complainant's company, Haw Par Corporation Ltd. Consumers may assume that anything bearing the Haw Par name is in some manner related to the Haw Par group of companies, belonging to Complainant and its associates.

Therefore, this Panel finds that the use of the word "Haw Par" in the domain names in question is identical or confusingly similar to the name Haw Par, in which the Complainant has intellectual property rights pursuant to its trademarks.

**B. Does the Respondent have any interest or legitimate right in the domain names in dispute?**

Generally, a legitimate interest or right in a domain name might be established where the name is the same as the first or family name of a Respondent, where the

Respondent has registered a trade or service mark under such name, does business under that name, holds a license or franchise or other authority from the owner of the trademark of such name to register and/or use it, or distributes or sells products under such name.

Clearly the Disputed Domain Name is not the name of Respondent, nor has any indication been provided that Respondent has registered any trademark of such name. Complainant asserts that Complainant has not authorized, licensed, franchised, consented nor otherwise permitted the Respondent to register or use its trademark protected name, "HAW PAR". The Complainant has stated that the Respondent is neither connected, associated, nor affiliated with the Complainant.

The Respondent has failed to answer the allegations of the Complainant and thus has not made any effort to establish that it has any legitimate interest in the name "HAW PAR". Nor is this Panelist able to find any indication whatsoever of any such interest.

This Panel therefore is unable to find any legitimate right to use the domain name on the part of the Respondent, and thus can only find that it has none.

C. Were the domain names in question registered and used in bad faith?

The Policy provides guidance to assist in determining whether there has been bad faith, listing four circumstances that, without limitation, could constitute evidence that the registration and use of a domain name is done in bad faith. These are:

- (a) circumstances indicating that registrant did so primarily for the purpose of selling, renting or otherwise transferring the domain name to the complainant who is the owner of the relevant trademark/service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name involved;
- (b) the registrant did so to prevent the owner of the relevant trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct;
- (c) the registrant did so for the purpose of disrupting the business of a competitor;  
or
- (d) by using the domain name in question, the registrant intentionally attempted to attract, for commercial gain, internet users to the registrant's website, by creating confusion with the complainant's mark as the source, sponsorship, affiliation, or endorsement of the registrant's website or of a product or service on the registrant's website.

Let us examine which, if any, of these elements appear to be present in the instant situation.

- (a) There is no indication that any attempt was made by Respondent to offer to sell the Disputed Domain Name to the Complainant. Instead, according to the Complainant (although no longer available on line for this Panelist to examine), Respondent has hosted websites containing Complainant's logo and color scheme under the Disputed Domain Names in the attempt to gain visitors' trust that the websites belong to the Complainant.
- (b) In many cases where a domain name is registered in bad faith, it is done for the purpose of "cybersquatting" or preventing the rightful owner from using its name. Normally such *cybersquatters* register many names and then try to sell them for profit. There has been no definitive evidence provided that would indicate that this Respondent is in the habit or business of cybersquatting, nor any evidence presented to the effect that it has registered any other domain names improperly. However, there is some indication on the Whois Record relating to the registration with Hostinger UAB, attached as Annex 2, that the registrant is associated with 28 other domains. Furthermore, the very fact of registration of two domain names does prevent anyone else, including the rightful owner of the intellectual property in the name itself, from registering and/or using those particular domain names. .
- (c) Whether or not the Respondent's intended purpose in registering the Disputed Domain Names was to disrupt the business of Complainant can be known only to the Respondent itself. Nonetheless the result of such registration and the fact that Respondent had set up a log-in portal to attract visitors to provide personal and financial information on its website, has in fact proved disruptive to Complainant's business, and unauthorized collection of personal and financial data can indeed imply bad faith, as it indicates an intention to use such data in a likely improper manner or for an improper purpose
- (d) There is also an indication that the purpose of Respondent in registering the disputed domain name is for purposes of attracting business, seeing that it has established fraudulent websites under the Disputed Domain Names. Respondent used the Haw Par logo and photos on its Disputed Domain Name to deceive internet users to believe that Respondent is associated with Haw Par and sought to create the impression that its website was authorized and administered by Complainant.

The reasons set out above would tend to support the Complainant's contention that the Disputed Domain Names "hawparcorporation.com" and "hawparcorporation.com" were registered and subsequently used in bad faith. Thus, this Panelist finds that the Respondent has registered and is using the Disputed Domain Names in bad faith under the Policy.

## 6. Decision

Based upon the Policy, the Complaint and the above analysis, this Panel finds that the domain names registered by the Respondent are identical or confusingly similar to trademarks in which the Complainant has rights; that Respondent does not have any

legitimate right or interest in respect of the domain names; and that, under the circumstances and absent any evidence to the contrary, the domain names were registered and are, or at least were, being used in bad faith.

Therefore, this Panelist hereby orders that the domain names: “hawparcorporation.com” and “hawpar-corporation.com” be transferred to the Complainant and that the respective registrars take such action accordingly.



Karen Mills  
Sole Panelist

Dated: 27 July 2017

This Decision has been rendered in the English language, as requested by Complainant and determined appropriate by this Panelist. A translation of the ultimate, operative, section, setting out the Decision itself, in the Indonesian language is attached hereinbelow for the convenience of the Respondent and the Indonesian registrar.

*Putusan:*

*Berdasarkan Kebijakan, Keluhan dan analisa di atas, Panel ini menemukan bahwa nama domain yang didaftarkan oleh Termohon adalah identic atau serupa dengan merk dagang yang dimiliki oleh Pemohon secara berhak; bahwa Termohon tidak memiliki hak atau kepentingan sah apapun terhadap nama domain tersebut; dan bahwa, dengan tidak adanya bukti yang menyatakan secara lain, nama domain tersebut didaftarkan dan digunakan, setidaknya, dengan itikad buruk.*

*Dengan demikian, Panelis ini memerintahkan nama domain: hawparcorporation.com dan hawpar-corporation.com untuk dialihkan kepada Pemohon dan agar register yang bersangkutan melakukan demikian.*