



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2101449
<b>Complainant:</b>	HOBOT Technology Inc.
<b>Respondent:</b>	Losangelesnews inc. (Los Angeles News)
<b>Disputed Domain Name(s):</b>	< <b>HOBOT.COM</b> >

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**1. The Parties and Contested Domain Name**

The Complainant is HOBOT Technology Inc., of No. 59, Gaotie 9th Rd., Zhubei City, Hsinchu County 302, Taiwan (R.O.C.).

The Respondent is Losangelesnews inc. (Los Angeles News) of 23823 Malibu Rd, #520, Malibu, CA, USA.

The domain name at issue is <**HOBOT.COM**>, registered by Respondent with Sea Wasp, LLC, located at 3500 N. Causeway Blvd, #160, Metairie, LA 70002, USA,

**2. Procedural History**

Complainant filed the complaint on April 13, 2021.

Respondent responded on May 4, 2021.

Complainant does not mention to have initiated other proceedings in respect of the disputed domain name.

In order to rule on Policy (4)(a)(iii), the Panel issued Panel Orders No. 1 and 2 on May 18 requesting additional submission from both Complainant and Respondent, 2021 to prove their rights on the disputed domain name. Respondent was requested to provide proof of use of the disputed domain name. Complainant was requested to prove the founding date of its company.

Both Complainant and Respondent submitted additional information on May 19, 2021.

The Panel has issued Panel Order No.3 on May 20, 2021, to request that Complainant would provide for a translation of its additional documents to English. Complainant complied with Panel Order No.3 on May 25, 2021.

### 3. Factual background

Complainant is HOBOT Technology Inc., a company specialized in designing and making robotic cleaning products. Based on Complainant's additional submissions on May 19 and 25, 2021, the HOBOT Technology Inc., company was registered on June 10, 2010. Founded by George Chao, the company created the world's first window cleaning robot. Today, the company is selling its robots in more than 30 countries in the world. It is also promoting its products at iFA (Berlin, Germany), CES (Las Vegas, USA), AWE (Shanghai, China), and licensing and supporting agents in individual counties for domestic exhibitions.

Complainant is the owner of the following trademarks registrations:

- Chinese "HOBOT" trademark No. 01490836, of December 16, 2011, and registered in class 7;
- US "HOBOT" trademark No. 5,016,322, of August 9, 2016, and registered in class 7;
- EU "HOBOT" trademark No. 012587333, of June 20, 2014.

Respondent is Losangelesnews inc. (Los Angeles News) who is the owner of the disputed domain name <**HOBOT.COM**> registered on July 19, 1997.

### 4. Parties' Contentions

#### A. Complainant

The Complainant's contentions may be summarized as follows:

- i. First, Complainant contends that the disputed domain name is identical to its HOBOT trademarks.
- ii. Then, Complainant argues that Respondent has no rights or legitimate interests in respect of the domain name. Complainant owns trademarks rights on the HOBOT sign and the disputed domain name is currently not in use and redirects to irrelevant content. Complainant provides a screenshot of the webpage to which the disputed domain name redirects, which displays messages such as "South32 Coal Causes Cancer Death Attorney \$\$\$", "Scott Morrison killing Australians", "South32 Bankruptcy Chapter-7", "Killing earth".
- iii. Complainant considers that the disputed domain name is registered and used in bad faith because Respondent offers for sale on sedo.com and is associated with more than a 100 domain names which are all for sale. Complainant considers that Respondent committed an act of cybersquatting.

#### B. Respondent

The Respondent's contentions may be summarized as follows:

- i. Respondent denies Complainant's assertions and states that it is doing business with the disputed domain name, which it bought in 1997. Respondent claims to use the disputed domain name in connection to film business. Respondent also provides a screenshot of its website in construction (the website presents as

follows : “Welcome to HoBot”, “HoBot.com Established 1997”, “Coming Soon HoBot”, “HoBot.com is a film distribution company”).

## 5. Findings

Complainant holds valid registrations for the HOBOT trademarks. The disputed domain name is reproducing Complainant’s trademark identically. Complainant has made a prima facie case that Respondent lacks legitimate rights or legitimate interests in the disputed domain name. However, Complainant failed to act in a timely manner to protect its rights, which prevents it from initiating an action against the disputed domain name.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- 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.

### A) Identical / Confusingly Similar

Panel finds that Complainant has duly shown that it owns trademark rights in the HOBOT sign.

Complainant claims that the disputed domain name is identical to its HOBOT trademarks. Previous panels have considered that a disputed domain name that reproduces Complainant’s trademark in its entirety is indeed identical to the said trademarks. (See for example WIPO Case No. D2018-1069, *AB Electrolux v. Super Privacy Service c/o Dynadot*: “*The Complainant has established its registered rights in the ELECTROLUX trademark. The Domain Name <electrolux.website> exactly reproduces the ELECTROLUX trademark. As indicated by previous UDRP panels, the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a complainant’s registered mark (e.g., The Ritz Hotel, Limited v. Damir Kruzicevic, WIPO Case No. D2005-1137). The Panel finds that the Domain Name is confusingly similar to the Complainant’s trademark. The condition of paragraph 4(a)(i) of the Policy has been satisfied.*”)

It shall be noted that a generic Top-Level Domain, such as “.com” is disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. (See for example WIPO Case No. D2020-2367, *Philip Morris USA Inc. v. asdasd asdasdasd, asdasd asdasdasd, qweqwe qweqweqwe, qweqwe qweqweqwe*: “*Generic Top-Level Domains (“gTLDs”) – in this case “.com” – are typically disregarded when evaluating the identity or confusing similarity of the Complainant’s mark to the disputed domain names under paragraph 4(a)(i) of the Policy.4.*”)

The Panel considers that the Disputed Domain Name is identical to Complainant’s trademark. The Panel finds that Complainant has satisfied Policy (4)(a)(iii).

## **B) Rights and Legitimate Interests**

Complainant argues that Respondent has no rights or legitimate interests in respect of the domain name. Complainant states that it owns trademarks rights on the HOBOT sign and that the disputed domain name is redirects to irrelevant content.

A long-standing case law holds that Complainant must make a prima facie case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy 4(a)(ii), the burden then shifts to Respondent. (See for example WIPO Case No. D2020-2200, *Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Domain Administrator, See PrivacyGuardian.org / Ghuido Dhulio*: “Under the Policy, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests in the domain name at issue. Once such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview 3.0, section 2.1.”)

Previous case law has stated that Respondent may establish his rights or legitimate interests in the disputed domain name by showing that it uses it in connection to a bona fide offering of goods and services. (See for example WIPO Case No. D2020-2500, *Ford Motor Company v. Whoisguard Protected, WhoisGuard, Inc. / Domain Admin, Whois Privacy Corp. and Tree Inc* : *For each of the Domain Names, pursuant to paragraph 4(c) of the “Policy, Respondent may establish its rights or legitimate interests, among other circumstances, by showing any of the following elements:(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”*).

Complainant has made out a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name and Respondent failed to challenge these assertions. Given the content of the webpage to which the disputed domain name redirects, which displays messages such as “South32 Coal Causes Cancer Death Attorney \$\$\$”, “Scott Morrison killing Australians”, “South32 Bankruptcy Chapter-7”, “Killing earth”, the Panel finds that Respondent is not using the disputed domain name in connection to any bona fide offering of goods and services.

Therefore, the Panel finds that Complainant satisfied Policy (4)(a)(ii).

## **C) Bad Faith**

Complainant shows that Respondent offers the disputed domain name for sale on sedo.com. However, Complainant delayed in initiating proceedings against the

disputed domain names. Indeed, the disputed domain name was registered 13 years before Complainant registered its company, 14 years before Complainant owned the abovementioned trademark rights in the HOBOT sign, and 24 years before the present UDRP action. Based on the theory of laches, such failure to act in a timely manner may prevent Complainant from initiating an action. (See for example WIPO Case No. D2014-0766, *Dealhunter A/S v. Richard Chiang*, the Panel noted that “[o]pinions have differed on the applicability of laches or delay in UDRP proceedings” and held that « This Panel’s view is that delay in filing a complaint is not an automatic bar to a complaint, but nor can it be ignored, for all the facts must be taken into account in all proceedings and a decision made in the light of all the circumstances of the individual case »).

For this reason, the Panel finds that Complainant failed to satisfy Policy (4)(a)(iii).

## 6. Decision

Having not established all three elements required under the ICANN Policy, the Panel concludes that Complainant’s request for transfer of the disputed domain name is **DENIED**.

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Ms. Nathalie Dreyfus

Dated: May 27, 2021

