



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2001400</b>
<b>Complainant:</b>	<b>Janchor Partners Limited</b>
<b>Respondent:</b>	<b>Simon Egbeide</b>
<b>Disputed Domain Name:</b>	<b>&lt; janchorpartnersltd.com &gt;</b>

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

The Complainant is Janchor Partners Limited, of 1608 One Exchange Square, Central, Hong Kong SAR.

The Respondent is Simon Egbeide, of 29 Frank Omoba Street, Abraham Adesanya Estate, Lagos, Nigeria.

The domain name at issue is < janchorpartnersltd.com >, registered by Respondent with 1API GmbH, of Oberen Werk 1. 66386 St. Ingbert, Germany.

**2. Procedural History**

On 28 October 2020, the Complainant filed the Complaint with the Hong Kong office of the Asia Domain Name Dispute Resolution Centre (the "Centre") in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") approved by ICANN on September 28, 2013, and the Asian Domain Name Dispute Resolution Centre Supplemental Rules in effect as of July 31, 2015. On the same date, the Centre transmitted by email to the Registrar a request for confirmation that the disputed domain name was registered by the Respondent and that the disputed domain name will be prohibited from being transferred to a third party.

On 28 October 2020, in accordance with Article 4 of the Rules for the ICANN Uniform Domain Name Dispute Resolution Policy ("Rules"), the Centre reviewed the Complaint for administrative compliance with the Policy and its Rules and found that the information of the Respondent in the Complaint was different from the Whois information provided by the Registrar. On 29 October 2020, the Complainant submitted to the Centre filed a revised Complaint with the Centre. In accordance with paragraphs 2(a) and 4(a) of the Rules, the Centre formally notified the Respondent of the Complaint, and the proceedings commenced on 29 October 2020. In accordance with paragraph 5(a) of the Rules, the due date for the Response was

18 November 2020. The Respondent did not submit any response. Accordingly, the Centre notified the parties of the Respondent’s default on 19 November 2020.

On 20 November 2020, the Centre appointed Professor Julien Chaisse as Panelist in the administrative proceeding. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Centre to ensure compliance with the Rule 7. The Panel finds that the Asian Domain Name Dispute Resolution Centre has performed its obligations under Rule 2(a) of the Rules “to employ reasonably available means calculated to achieve actual notice to Respondent”. Accordingly, the Panel is able to issue its decision based on the Complaint, the Response, the e-mails exchanged, the evidence presented, the Policy, the Rules, the Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from the Respondent. Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Centre on or before 4 December 2020.

### 3. Factual background



The Complainant: Janchor Partners Limited (‘Janchor Partners’)

#### A. The Complainant’s Janchor Partners and its activities

Janchor Partners (“Complainant”) is incorporated in Hong Kong and holds the Hong Kong business registration certificate of Janchor Partners Limited. The Complainant a registered and licensed investment advisory firm. The Complainant is registered with the Hong Kong Securities and Futures Commission and the U.S. Securities and Exchange Commission (SEC). The Complainant has also registered its company name and logo as trademarks in Hong Kong.

#### B. The Complainant’s Janchor Partners and its Marks

The Complainant is the owner of trademark registrations across various jurisdictions. The Janchor logo and the text of “Janchor Partners” and “Janchor Partners Industrialist Investing” (both English and Chinese) are registered to the Complainant. The trademark registrations relevant to this instant matter are:

<i>Trade Mark</i>	<i>Class</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Expiry Date</i>
(A)  (B) 	16, 35 and 36	304704309AA	18-10-2018	17-10-2028
“ Janchor Industrialist Investing ” JANCHOR INDUSTRIALIST INVESTING	16, 35 and 36	304704309AB	18-10-2018	17-10-2028

<i>Trade Mark</i>	<i>Class</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Expiry Date</i>
<sup>(a)</sup> Janchor Partners <sup>(b)</sup> JANCHOR PARTNERS	16, 35 and 36	304704318	18-10-2018	17-10-2028
建峻實業投資	16, 35 and 36	304704327	18-10-2018	17-10-2028

The Respondent

No information of significance is available about the Respondent except for the contact details provided for the purpose of registration of the disputed domain names. According to the Complainant, the Respondent sells similar products to the Complainant using the disputed domain names. The disputed domain name was registered on 13 May 2020.

#### **4. Parties' Contentions**

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

The Complainant's contentions may be summarized as follows:

##### **i. Identical or confusingly similar**

The Complainant submits that the Disputed Domain Name is identical or confusingly similar to marks in which the Complainant has rights on the basis of its Janchor Partners's marks registrations. The Disputed Domain Name and the Complainant's registered Janchor Partners marks are identical.

The Complainant accordingly submits that it has proved that the Disputed Domain Name is identical and/or confusingly similar to its registered trademarks in which the Complainant has rights or interests for the purposes of paragraph 4(a)(i) of the Policy.

##### **ii. No rights or legitimate interests**

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraphs 4(a) (ii) and particular 4(c) of the Policy.

The rights in the "Janchor Partners" of trademarks vest in the Complainant and its group of companies, and no others. The Respondent is not in any way related to the Complainant, nor was the Respondent authorized by the Complainant to use the trademarks "Janchor Partners."

The Complainant accordingly submits that it has proved that the Respondent has no right or legitimate interest in respect of any of the Disputed Domain Name for the purposes of Article 4(a)(ii) of the Policy.

##### **iii. Registered and used in bad faith**

The Complainant contends that the Respondent actual use of the Disputed Domain Name demonstrates that it is registered and used in bad faith, with a view to free-riding the substantial reputation and goodwill enjoyed by the Complainant in the trademarks "Janchor Partners."

The Complainant accordingly submits that it has proved that the Respondent has registered and used the Disputed Domain Name in bad faith for the purposes of Article 4(a)(iii) of the Policy.

## B. Respondent

The Respondent did not reply to the Complainant's contentions.

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made 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

Firstly, the Complainant adequately discharged its burden to prove that it is the owner of Janchor Partners trademark.

Secondly, the Respondent's domain name uses the Complainant's registered trademarks of both the Janchor logo and its name "Janchor Partners" and "Janchor Partners Industrialist Investing" as well as personal and corporate information to pretend to be the Complainant's firm. The domain name also contains the Complainant's registered address, name and biography of its Chief Industrialist Investor - John Ho, names and personal information of its current and former staff, names of its affiliates and investments funds, fake phone numbers and fake email addresses.

The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### B) Rights and Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraphs 4(a) (ii) and particular 4(c) of the Policy.

Firstly, Paragraph 4(c) of the Policy sets out ways in which a Respondent may establish they have rights and legitimate interests. These are: "(i) before any notice to you 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 (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 are making a legitimate non-commercial 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." However, the Respondent has not responded to the Complaint to assert any rights or legitimate interests.

Secondly, the granting of trade mark registrations to Complainant for the Janchor Partners trademark is prima facie evidence of the validity of the term “Janchor Partners” as a trademark, of Complainant’s ownership of this trademark, and of Complainant’s exclusive right to use the Janchor Partners trademark. The Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not given Respondent permission, authorization or license to use Complainant’s trademark in any manner, including in domain names. In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed.

Thirdly, The Respondent’s site uses the Complainant’s legal name ‘Janchor Partners Limited’ and its registered address of ‘1608 One Exchange Square, Central Hong Kong’. The Respondent has no legitimate right or interest because the Janchor name is distinctive and the Complainant is the only firm who has registered and is using this name in Hong Kong or elsewhere. The Respondent’s site also contains the names, personal details, picture and biography of the Complainant’s founder and current and former staff which it has no authority or legitimate right to use.

The Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and thereby the burden of production shifts to the Respondents to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name. The second element of paragraph 4(a) of the Policy is therefore satisfied.

### **C) Bad Faith**

To establish bad faith for the purposes of the Policy, the Complainant must show that the disputed domain name was registered in bad faith and has been used in bad faith. That case may be made out if there are facts coming within the provisions of paragraph 4(b) of the Policy. In this respect, the policy dictates that bad faith can be established by evidence that demonstrates that “by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent’s] web site..., by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [Respondent’s] web site or location.”<sup>1</sup>

In the present matter, the Respondent creates a likelihood of confusion with Complainant and its trademark by resolving to a website which displays Complainant’s logo and Janchor Partners trademark in a brand-like manner, and purports to enable internet users to use Janchor Partners investment services. As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion.

The Panel finds that the Respondent’s actions, with respect to the disputed domain name, constitute bad faith registration and use. Consequently, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy and specifically paragraph 4(b)(i) thereof.

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<sup>1</sup> See Policy ¶ 4(b)(iv).

## 6. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name < janchorpartnersltd.com >, be TRANSFERRED to the Complainant.

*Julien Laurent Chaisse*

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Professor Julien Chaisse  
Panelist

Dated: November 23, 2020