



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301754
First Complainant:	JOHN SWIRE & SONS LIMITED
Second Complainant:	SWIRE PACIFIC LTD
Third Complainant:	SWIRE PROPERTIES LTD
First Respondent:	Xu Yan Ting (徐艳婷)
Second Respondent:	cheng hayu
Third Respondent:	Oliveira Joao
Fourth Respondent:	Mateus Fernandes
Disputed Domain Names:	<swirecompany.com> <swirehk.com> <hkswire.com> <swireproject.com>

1. The Parties and Contested Domain Name

The First Complainant is JOHN SWIRE & SONS LIMITED, of SWIRE HOUSE, 59 BUCKINGHAM GATE, LONDON SW1E 6AJ, UNITED KINGDOM.

The Second Complainant is SWIRE PACIFIC LTD, of 33rd Floor, One Pacific Place, 88 Queensway, the HKSAR, China.

The Third Complainant is SWIRE PROPERTIES LTD, of 64/F, One Island East, 18 Westlands Road, Island East, HK.

The Complainants' authorized representative is Deacons, of 5/F, Alexandra House, 18 Chater Road, Central, Hong Kong.

The First Respondent is Xu Yan Ting (徐艳婷), of PuKouQu BinJiang DaDao 1 Hao Ming Fa BinJiang XinCheng 314 Chuang nan jing, jiang su, China 210000.

The Second Respondent is cheng hayu, of ma hon kon jie 80 hao, hongkong.

The Third Respondent is Oliveira Joao, of Rua Otaviano de Moura Andrade 1752, Macau.

The Fourth Respondent is Mateus Fernandes, of Rua Doutor Fabio Bolcati Chantia 875, Hongkong.

The domain names (“**Disputed Domain Names**”) at issue are <hkswire.com>, registered by the First Respondent with eName Technology Co. Ltd, and <swirecompany.com>

<**swirehk.com**> and <**swireproject.com**>, registered by the Second, Third and Fourth Respondents, respectively, with Godaddy.com LLC.

2. Procedural History

On 19 May 2023, the Complainants submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Center (“Center”) under the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 26 August 1999, the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of directors on 28 September 2013 (“Rules”), and the Asian Domain Name Dispute Resolution Centre Supplemental Rules to the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”). The Center confirmed receipt of the Complaint on 22 May 2023. The Complainants elected that a single panelist decide this case.

On 22 May 2023, the Center transmitted by email to the Registrar, eName Technology Co. Ltd (“eName” or “**厦门易名科技股份有限公司**”), Internet Assigned Number Authority (“IANA”) number 1331, a request for registrar verification of the disputed domain name <**hkswire.com**>. On 22 May 2022, the Registrar, eName, transmitted by email to the Center its verification response, confirming that the First Respondent is listed as the Registrant and providing contact details as phone: +86.19101225823 and email: xiaolssd58@163.com.

On 22 May 2023, the Center transmitted by email to the Registrar, Godaddy.com LLC (“**Godaddy**”), IANA number 146, a request for registrar verification of the disputed domain names <**swirecompany.com**> <**swirehk.com**> and <**swireproject.com**>.

On 23 May 2023, the Registrar, Godaddy, transmitted by email to the Center its verification response, confirming that the Second Respondent is listed as the Registrant of Disputed Domain Name <**swirecompany.com**> and providing contact details as phone: +86.13800138000 and email: shengqiu@tdtda.com.

On 23 May 2023, the Registrar, Godaddy, transmitted by email to the Center its verification response, confirming that the Third Respondent is listed as the Registrant of Disputed Domain Name <**swirehk.com**> and providing contact details as phone: +853.18990000222 and email: uaznyc@chitthi.in.

On 23 May 2023, the Registrar, Godaddy, transmitted by email to the Center its verification response, confirming that the Fourth Respondent is listed as the Registrant of Disputed Domain Name <**swireproject.com**> and providing contact details as phone: +852.13577896509 and email: vabika5646@snowlash.com.

On 23 May 2023, the Center notified the Complainants by email that, based on the information provided by the registrar, the four Disputed Domain Names <**swirecompany.com**> <**swirehk.com**> <**hkswire.com**> and <**swireproject.com**> are NOT prima facie registered by the same registrant, advising that, unless the Complainant can show that the domain names are registered by the same registrant, the domain name claims would need to be raised in separate Complaints.

On 30 May 2023, the Complainants submitted timely, under paragraph 4 (b) of the Rules, an Amended Complaint (“**Complaint**”), with exhibits. The Complainants applied for leave to consolidate the disputes. The Center responded by email on 5 June 2023, confirming that the Panelist would make the final decision on consolidation.

On 5 June 2023, the Center transmitted the Complaint and evidence to the Respondents by email to the Respondent’s registered email addresses, requesting that the Respondents submit a Response within 20 calendar days, further specifying the due date as by 25 June 2023.

Since the Respondents defaulted and did not mention the panel selection under the time specified in the Rules, the Supplemental Rules, and the Notification, the Center informed the Complainants and the Respondent by email on 26 June 2023, that the Center would appoint a single-member panel to render the decision.

On 27 June 2023, having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the Center notified the parties that the Panel had been selected, with Mr. David L. Kreider, Chartered Arbitrator (UK), acting as the sole panelist.

The Panel determines that the appointment was made under Rule 6 and Articles 8 and 9 of the Supplemental Rules. Under the Rules, subject to exceptional circumstances, a decision for the captioned domain name dispute shall be rendered by the Panelist by 11 July 2023.

Preliminary Issue I – Consolidation of the Proceedings

Paragraph 10(e) of the Rules provides that a Panel shall decide a request by a Party to consolidate multiple domain name disputes “*under the Policy and these Rules*”.

Paragraph 4 (f) of the Policy empowers the Panel “*to consolidate before it any or all such disputes in its sole discretion*” that are governed under the UDRP. The Panel notes that the Registration Agreements under which all four (4) Disputed Domain Names were registered provide that disputes shall be resolved under the UDRP.

Paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. When considering an application by a complaint to consolidate multiple domain name disputes in a single action, therefore, the inquiry must focus on the identity of the domain-name holder(s). The elements of *common control* of the disputed domains by a single individual or a group, or entity, as well as whether consolidation would be *fair to all parties under the circumstances*, are key. In all cases, the burden falls to the party seeking consolidation, here the Complainants, to provide evidence supporting their request.

The WIPO UDRP Overview 3.0 (“WIPO Overview”) explains (paragraph 4.11.2):

Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to *common control*, and (ii) the consolidation would be *fair and equitable to all parties*. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

“Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants’ identity(ies) including pseudonyms, (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

The Complainants have provided detailed reasons supporting a conclusion that all four (4) Disputed Domain Names are subject to common control:

1. **Virtually identical content of the websites** – The websites are virtually identical to each other. The websites contain, amongst others, the same infringing signs, infringing materials, and virtually identical infringing copyright statements/notices. It is obvious from the identical (or virtually identical) content alone that the websites are under common control by the same person / entity / group of persons to perpetrate fraud.
2. **Identical contact information on websites 1, 2 and 3** – The email address and telephone number of the purported “customer service” of websites 1, 2, and 3 are identical (i.e. “china@swire.com” and “+852 5531 9175”). This also indicates that at least the websites 1, 2 and 3 are under common control, as members of the public are expected to communicate with the same contact point for inquiries and/or alleged investment opportunities in the Projects.
3. **The websites are all used for perpetrating fraud** – The Respondents created the virtually identical websites to impersonate the Complainants and invite members of the public to invest in projects which are not the Complainants’ or associated with the Complainants. The Respondents’ acts indicate typical investment scams using cryptocurrency. It is highly improbable that fraudsters would use genuine contact details to register a domain name to perpetrate fraud. The Respondents wish to conceal their identity by requiring members of the public to invest using cryptocurrency only, making it very difficult to trace the real identity of the operators of the websites. The websites are likely to be operated under common control and emphasis should not be placed on the differences in the registrant details. Focus should be placed on such factors as the virtually identical website content, identical contact information, and similarities in the domain naming pattern.
4. **Same Registrant using Fictitious Registrant Details** – The registrant details provided by the Respondents are fictitious:-

Disputed Domain Name 1: the Registrant's address "ma hon kon jie 80 hao, hongkong" is fictitious as no such address exist in Hong Kong. The postal code "786788" is no doubt made up as Hong Kong does not use postal codes. Further, the phone number "+86.13800138000" is also fictitious as the phone number cannot be dialed.

Disputed Domain Name 2: the Registrant's address "Rua Otaviano de Moura Andrade 1752, Macau" is fictitious as no such address exist in Macau. The postal code of "8665980" is also made up as Macau does not use postal codes. The phone number "+853.18990000222" is also fictitious as the number consists of 11 digits (excluding +852 area code), whereas Macanese phone numbers should contain 8 digits only.

Disputed Domain Name 4: the Registrant's address "Rua Doutor Fabio Bolcati Chantia 875, Hongkong" does not exist in Hong Kong. Similar to Disputed Domain Name 1, the postal code "879960" is made up as Hong Kong does not use postal codes. Further, the phone number "+852.13577896509" is also fictitious as it contains 11 digits (excluding +852 area code), whereas Hong Kong phone numbers should contain 8 digits only.

The naming pattern of the Disputed Domain Names is similar – The Disputed Domain Names 1 <swirecompany.com> and 4 <swireproject.com> have a similar naming pattern, *i.e.*, the Complainants' Mark followed by an indistinctive word describing an undertaking. Further, the naming pattern of the Disputed Domain Names 2 <swirehk.com> and 3 <hkswire.com> are similar in that they comprise the Complainants' Mark and the abbreviation of Hong Kong "HK", which is the Complainants' primary place of operation.

Common name servers and IP addresses – The name servers of Disputed Domain Names 1 and 2 are both "NS69.DOMAINCONTROL.COM" and "NS70.DOMAINCONTROL.COM". Further, the IP address of Disputed Domain Names 2 and 4 are the same, *i.e.*, 103.144.242.146.

Proximity of the registration dates of the Disputed Domain Names 3 and 4: The Disputed Domain Name 4 was registered on 18 April 2023, whereas the Disputed Domain Name 3 was registered 12 days later, on 29 April 2023. The Respondents have clearly registered Disputed Domain Names 3 and 4 to continue communicating the contents of the Fraudulent Websites to the public after access to website 1 was disabled under cease and desist letters sent by the Complainants.

Given that all four (4) Disputed Domain Names have been used in connection with calculated, targeted, and repeated fraudulent investment schemes on virtually identical websites, the complaints raise common questions of fact and law. It is fair and equitable to consolidate the complaints as it will expedite the dispute resolution process and promote the efficient use of resources (such as HKIAC and panelist time) in determining the complaints. If separate complaints and proceedings are required regarding each Disputed Domain Name, additional time and costs would be incurred by the Complainants, HKIAC, or the Panel (or all of them), and the complaints would also be at risk of conflicting decisions if separate panels were to be appointed regarding each Disputed Domain Name.

The Disputed Domain Names are highly likely to be under the common control of one person and it will be fair and equitable to all parties to consolidate the complaints for the Disputed Domain Names 1 to 4.

The Panel has reviewed the Complainant's evidence and finds that the websites to which the Disputed Domain Names resolve are substantially similar in both content and layout to each other and are effectively indistinguishable to the casual observer from the Complainants' official websites. After considering the circumstances and reasons provided by the Complainants therefore, the Panel decides that the Disputed Domain Names and their corresponding websites are subject to common control.

The evidence shows on a balance of probabilities that the Respondent of the Disputed Domain Names 1, 2 and 4 and the Respondent of the Disputed Domain Name 3 (whose WHOIS information lists the address merely as "Jiangsu, China") is the same individual or entity, or that they are at least related to each other, as the Complainants aver, and that the consolidation of these proceedings would be fair and equitable to all parties and would promote procedural efficiency.

The Complainants' application to consolidate all actions sought to be raised in the Complaint, including to avoid doubt, the actions referable to Disputed Domain Names 1, 2, and 4, and the action in relation to Disputed Domain Name 3, is GRANTED.

Preliminary Issue II – Language of the Proceedings

On 1 June 2023, the Center informed the Complainants that under Article 11(a) of the Rules for ICANN Uniform Domain Name Dispute Resolution Policy, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the Registration Agreement of the disputed domain name <hkswire.com> is Chinese. The language of the Registration Agreement of the disputed domain names <swirecompany.com> <swirehk.com> and <swireproject.com> is English.

On 5 June 2023, the Complainants submitted their request that, notwithstanding that one of the four relevant Registration Agreements is in Chinese, these administrative proceedings should be conducted in English:

1. The Respondent is familiar with English and can thus understand the Complaint, not least because she has registered the Disputed Domain Name which contains Latin alphabets of "swire" and the contents of the Fraudulent Website 3 were also available in English (see further below). The Registrant has also provided her name and address to the Registrar in English at the time of his/her registration of the Disputed Domain Name 3.
2. If a visitor simply keys in the Disputed Domain Name 3, he will be directed to the English version of the Fraudulent Website 3. It is only if the visitor manually chooses an alternative language in a drop-down list on the Fraudulent Website 3 that the website will be displayed in another language (such as Chinese). Further, even if the visitor manually changes the language of the

website to Chinese, some parts of the website (such as the "FIND US" section at the bottom of the home page and the Project names stated in the "Project" page of Fraudulent Website 3) are still in English.

3. The substantive evidence submitted by the Complainants supporting the Complaint are predominantly in English. Engagement of a translator to translate all the documents into Chinese would add unnecessary costs to the Complainants and cause undue delay in the commencement of the proceedings. This would be contrary to intentions of ICANN's policy to provide a cost-effective and expedited resolution process for domain name dispute.
4. Paragraph 115 of HKIAC Guide states that "Since many websites in this region are created for Chinese speaking internet users, requiring the respondent to translate when the complainant clearly understands the languages of the respondent is burdensome and inefficient." The present situation is the exact opposite - the First Complainant is a UK company and its representative does not understand Chinese. Considering the Respondent understands English, it is inefficient and will impose a high financial burden if the Complainants must translate their documents (which would pose a cost that will be higher than the overall cost of the administrative proceeding) to seek internal review and approval through all stages of the administrative proceedings.
5. More important, as mentioned in Section 14 of the Rectified Complaint, the Complainants request to consolidate the complaint against the Disputed Domain Names, not least because the facts supporting the complaints are highly similar (if not identical). The proceedings for Disputed Domain Names 1, 2, and 4 will be conducted in English since the Registration Agreements for Disputed Domain Names 1, 2, and 4 are in English. If the Panel accepts that the complaint against Disputed Domain Names 1, 2, 3, and 4 should be consolidated, then it should follow that the proceedings against Disputed Domain 3 should also be conducted in English. Otherwise, it would be procedurally inefficient for the proceeding and decision to be conducted and prepared partly English and partly Chinese.

Under UDRP Rule 11(a), the Panel finds that persuasive evidence has been adduced by the Complainants to suggest the likely possibility that the First Respondent is conversant and proficient in the English language. By the First Respondent's failing to submit a response, the Panel is entitled to accept the Complainants' assertions as uncontested and unrefuted. After considering the circumstances therefore, the Panel decides these proceedings, including in relation to the First Respondent and the Disputed Domain Name <hkswire.com>, should be conducted in English.

3. Factual background

The First Complainant, JOHN SWIRE & SONS LIMITED, is the ultimate parent company for the Second Complainant, SWIRE PACIFIC LTD, and the Third Complainant, SWIRE PROPERTIES LTD., and the owner of the relevant trademarks (the "Marks"). The Second and Third Complainants are publicly listed companies, established in Hong Kong in 1940 and 1972, respectively, and have been licensed by the First Complainant to use the Marks.

The Complainants are part of the well-known global conglomerate “Swire Group” which has been operating for over 200 years. The Swire Group has operations across a wide range of businesses including property, beverages, aviation, retail, hospitality, investment holdings, and trading and industrial areas. Swire Group operates an extensive network of retail shopping malls, stores and outlets. Further, Swire Properties is a leading developer, owner and operator of commercial and residential properties in Hong Kong and China and has been expanding its business to Southeast Asia. Its property investment activities include without limitation developing, leasing, and managing commercial, retail, and residential properties.

None of the Respondents submitted a response to the Complaint.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized:

i) The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights:

The Complainants have established substantial business operations globally in 13 countries and regions under the SWIRE Marks, and the Disputed Domain Names are identical or confusingly similar to domain names owned by the Complainants, including without limitation, <swire.com>, <swireproperties.com> and <swirepacific.com>. Thus, the combination of the word “SWIRE” (being one of the Marks), along with the generic and/or indistinctive terms “company”, “hk” or “project” in the Disputed Domain Names, would confuse the public that the Disputed Domain Names are from, or are related or associated with, the Complainants’ business and services, when they are not.

ii) The Respondents have no rights or legitimate interests regarding the Disputed Domain Names:

The Marks predate the registration dates of the Disputed Domain Names (which are 27 October 2022 for the Disputed Domain Name 1, 4 February 2023 for Disputed Domain Name 2, 29 April 2023 for Disputed Domain Name 3, and 18 April 2023 for Disputed Domain Name 4).

The Respondents are not affiliated or associated with or related to the Complainants or the Complainants’ business. The Complainants have not authorized, licensed, or otherwise permitted the Respondents to register the Disputed Domain Names or otherwise use the Marks. Given that the details of the Respondents are concealed by privacy services and are unknown to the general public, there is no evidence showing that the Respondents have been commonly known by the Disputed Domain Names or that the Respondents have any rights in or to the Marks identical to the Disputed Domain Names. There is also no evidence that the Respondents have any rights or legitimate interests in the Disputed Domain Names.

iii) The Disputed Domain Names have been registered and are being used in bad faith:

The Complainants aver that given the Complainants' extensive reputation, the Respondent must have been aware of the Complainants and the Marks, particularly as "SWIRE" is not a common English word. No reasonable justification could be offered for the Respondent to register the Disputed Domain Names, which incorporate the word "SWIRE". Therefore, the registration of the Disputed Domain Names constitutes bad faith by the Respondents.

The Respondents of Disputed Domain Names 1 to 4 have also, without the Complainants' authorization and consent, used the Marks and copyright works to operate a website purporting to induce the public to invest in infrastructure or property development projects alleged to be those of Swire, but which are not actually the Complainants' projects (the "Projects").

The Respondent of Disputed Domain Name 1 had been impersonating the Complainants by inviting members of the public to invest in the Projects using the USDT token (a type of cryptocurrency known as a "stablecoin", as its value is pegged to, and hence presumed "stable", with reference to the relative value of the U.S. dollar).

The Complaint alleges there is no evidence that the Projects are actual infrastructure or construction projects being carried out, and that members of the public will likely be deprived of their money after "investing" in the Projects. The fact pattern, the Complainants allege, presents itself as a typical case of internet fraud using cryptocurrency. This shows, the Complainants aver, that Disputed Domain Name 1 is registered and being used in bad faith, since the Respondent of the Disputed Domain Name 1 is not affiliated with the Complainants but is using the Disputed Domain Name 1 for fraudulent purposes. As the content of the websites to which Disputed Domain Names 1 to 4 resolve are virtually identical, the Complainants affirm the belief that each of the Disputed Domain Names 1, 2, 3 and 4 is being used in bad faith for fraudulent purposes.

B. Respondent

The Respondent's contentions may be summarized:

None of the Respondents submitted a response to the Complaint.

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 the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The Complainants have adduced evidence demonstrating their registered rights in the Marks.

The SWIRE Mark is incorporated in its entirety in the Disputed Domain Names.

The test to determine “identity or confusing similarity”, the first element of the three findings required to be proved by a complainant under the Policy, is explained at paragraph 1.7 of the *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition* (“WIPO Overview 3.0”), as requiring no more than a straightforward comparison between the complainants’ Mark and the Disputed Domain Names. Proof of actual confusion by public internet users need not be shown for a complainant to establish the first element of the Policy. Rather, the panel need only compare the disputed domain name “side-by-side” with the mark, in making its determination. See this Panel’s decision in *JOHN SWIRE & SONS LIMITED et al.*, case number HK-2201662 (17 October 2022) (“[T]he Panel finds that the addition of the term ‘global’ to the Complainants’ ‘SWIRE’ Mark does not prevent a finding of confusing similarity between the Disputed Domain Names and the Complainants’ registered Marks”).

The Complainants have satisfied the first element at paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainants allege that the Respondents are not affiliated or associated with or related to the Complainants or the Complainants’ businesses and that the Complainants have not authorized, licensed, or otherwise permitted the Respondents to register the Disputed Domain Names or otherwise use the Marks. The Complainants have, thus, established, *prima facie*, that the Respondent has no rights or legitimate interests in or to the Disputed Domain Names, or any of them.

The Respondents, having defaulted and failed to challenge or rebut the Complainants’ case, the Panel is entitled to accept the Complainants’ *prima facie* case as conclusive of the second Policy element. Here, the Complainants’ actual proof of the Respondent’s registration and use of the Disputed Domain Name in bad faith, negating any possible claim of “a legitimate non-commercial or fair use” of the domain name, under Policy paragraph 4(c)(iii), is compelling.

Based on screenshots and other competent evidence adduced by the Complainants, the Panel finds that the four (4) websites to which the Disputed Domain Names, respectively, resolve are substantially similar in both content and layout to each other and to the Complainants’ official websites, save for one critical difference. The Respondents of Disputed Domain Names 1 to 4 have also, without the Complainants’ authorization and consent, been impersonating the Complainants using the SWIRE Marks and the Complainants’ copyright works to induce users of the public internet to invest in infrastructure or property development projects alleged to be those of Swire but which are not actually the Complainants’ projects (the “Projects”).

The Complainants evidence includes screenshots of a conversation using the “live chat” function of the website at Disputed Domain Name 1 <swirecompany.com>, between the websites “Customer Service” and an internet user inquiring about investment opportunities in Projects. The would-be investor is directed to a WhatsApp number. Screenshots of the ensuing WhatsApp conversation between the inquirer and Customer Service show that the potential investor is instructed to use a cryptocurrency token known as USDT (such crypto tokens are presumptively pegged to the U.S. dollar at an exchange rate of 1:1), to “invest in Swire” and its current Projects. The potential investor is told that amounts of up to

1,000,000 USDT would be accepted to “*open an account*”. Customer Service then provides a public key address where the USDT tokens were to be sent over the internet. The potential investor was told that bank transfers could not be accepted and that “*the rule at our company is that all payments must be made in USDT*”.

The Complainants allege, and this Panel finds on the evidence adduced, which stands unrefuted by the defaulting Respondents, that it is highly likely that the Respondents (whether one individual or several, or an entity) are engaged in a common fraudulent scheme to induce members of the public to “*invest*” in the Projects using cryptocurrency – *projects which may be non-existent and which are, in any event, unrelated to the Complainants’ legitimate infrastructure or property development activities.*

The Panel finds that the Respondents’ registration and use of the Disputed Domain Names reflects a clear intent to misleadingly divert and defraud members of the public, to tarnish the Complainants’ Marks, or to impersonate or compete with the Complainants for commercial gain, and that the Respondents’ actions negate any legitimate interests or possible claim of “fair use” of the domain names.

The second element at paragraph 4(a)(ii) of the Policy is satisfied.

C) Bad Faith

For the reasons and on the evidence discussed above, the Panel finds that the Respondents registered and are using the Dispute Domain Names in bad faith within the meaning and purview of Policy paragraph 4(b)(iv) by seeking intentionally to attract, for commercial gain, internet users to the Respondents’ websites; by creating a likelihood of confusion, resulting in actual confusion, with the Complainants’ Marks as to the source, sponsorship, affiliation, or endorsement of the websites; and have sought in bad faith to target and impersonate the Complainants and to mislead and “free ride” on the Complainants’ substantial business reputation and goodwill.

The Panel finds that the third element at paragraph 4(a)(iii) of the Policy is satisfied.

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

It is ORDERED that the <swirecompany.com>; <swirehk.com>; <hkswire.com>; and <swireproject.com> domain names be **TRANSFERRED** from the Respondents to the Second Complainant, SWIRE PACIFIC LIMITED.



David L. Kreider
Panelist

Dated: 3 July 2023