Asian Domain Name Dispute Resolution Centre

ADNDRC hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	**HK-2301808**
First Complainant:	**Jardine Matheson Holdings Limited;**
Second Complainant:	**Jardine Matheson (Bermuda) Limited**
Respondent:	**Valentin Gilberto Vaskin**
Disputed Domain Name(s):	**<jardine-matheson.cloud>**

1. The Parties and Contested Domain Name

The Complainants are Jardine Matheson Holdings Limited and Jardine Matheson (Bermuda) Limited, of Jardine House, 33-35, Reid Street, Hamilton, Bermuda.

The Respondent is Valentin Gilberto Vaskin, of Len 12, Kh, 97638, Ukraine.

The domain name at issue is jardine-matheson.cloud, registered by Respondent with Hosting Ukraine LLC., of PO Box 65, Kiev, 04112, UA.

2. Procedural History

On 26 September 2023, the Complainants filed a Complaint in the English language with the Hong Kong Office ("HK Office") of Asian Domain Name Dispute Resolution Centre ("ADNDRC") and elected a single member panel for the dispute in this matter, pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy") and the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") approved by the Internet Corporation for Assigned Names and Numbers ("ICANN"), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by ADNDRC.

On 27 September 2023, the HK Office requested the Registrar by email for the provision of information at their WHOIS database in respect of the Disputed Domain Name, and the registration information was confirmed by the Registrar on 27 September 2023.

On 5 October 2023, HK Office requested the Complainants to update the information of the Respondent in the Complaint Form with reference to the WHOIS information provided by the Registrar. On 10 October 2023, The Complainants provided revised domain name complaint to the HK Office.

Having verified that the Complaint satisfied the formal requirements of Policy, the HK Office issued to the Respondent on 11 October 2023, a Notification of the Commencement of the Proceedings to email address of the Respondent, advising the Respondent to submit a Response to the Complaint within 20 days scheduled time (on or before 31 October 2023).

On 1 November 2023, the HK Office notified the Complainants that the Respondent did not submit a Response in respect of the Complaint concerning the domain name within the required time and would shortly appoint Panelist(s) for this matter.

On 1 November 2023, the HK Office informed the parties by email that Dr. Lulin Gao would be the sole Panelist of this case and transferred the files of this case to the Panel formally on the same day.

On 1 November 2023, the Panel received the file from the HK Office and should render the Decision on or before 15 November 2023.

The Panel notes that the Respondent did not respond to the Complaint that was written in English that was transmitted by email to the Respondent under cover of a notice in English language issued by the HK Office. If the Respondent objected to the use of English by the Complainant in this proceeding, the Respondent should have raised his/her objections. Pursuant to Paragraph 11 (a) of the Rules, 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 current Disputed Domain Name Registration Agreements is English, thus the Panel determines English as the language of the proceeding.

Preliminary issue: Consolidation of Separate Complaints

The Complainants filed a prior domain name complaint against <jardine-matheson.net> on 5 September 2023 and a revised complaint on 25 September 2023. Copies of the complaint forms (without annexes) are provided as Annex G. The Complainants requested to consolidate these two domain name proceedings for the following reasons:

1. The Disputed Domain Name was registered on 11 September 2023, just 6 days after the complaint against <jardine-matheson.net> was filed.
2. The contents and layout of the website under <jardine-matheson.net> and the Respondent's Website are virtually identical, it is highly likely that the registrant of <jardine-matheson.net> and the Respondent are related or are in fact the same person using different pseudonyms.
3. The prominent elements of the domain names i.e. "jardine-matheson" are identical.
4. The Complainants' trademarks being infringed are identical.
5. The domain names are hosted by the same Registrar.

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 stipulates that "In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes

before a single Administrative Panel. This petition shall be made to the **first Administrative Panel** appointed to hear a pending dispute between the parties."

The Panel finds that the Complainants filed the prior domain name complaint on 5 September 2023 and a revised complaint on 25 September 2023, while the complaint against the Disputed Domain Name here was filed on 26 September 2023 and revised on 10 October 2023. Under Paragraph 4 (f) of the Policy, the Panel holds that if the Complainants request to consolidate the two complaints, a petition should be made to the first Administrative Panel appointed to hear the dispute against the domain name <jardine-matheson.net> instead of the Panel of this case.

Moreover, the Panel declines the request of consolidation of the two separate proceedings would not prevent the filing of a separate complaint where the prior domain name may be addressed, let alone that the prior domain name is in a prior ongoing proceeding. Therefore, the Panel decides not to grant Complainants' request to consolidate the two proceedings.

3. Factual background

For the Complainant

The 1st Complainant, Jardine Matheson Holdings Limited, is the holding company of the Jardine Matheson Group which is a multinational conglomerate with its history traced back to the 1830s. Currently, the 1st Complainant has primary listing on the London Stock Exchange and secondary listings on the Singapore Exchange and Bermuda Stock Exchange. The Jardine Matheson Group operates principally in Asia, offering diversified businesses in various business sectors including motor vehicles and related operations, property investment and development, food retailing, health and beauty, home furnishings, engineering and construction, transport services, restaurants, luxury hotels, financial services, heavy equipment, mining, and agribusiness. The Jardine Matheson Group operates its business through various segments including but not limited to Jardine Pacific, Jardine Motors, Hongkong Land, DFI Retail Group, Mandarin Oriental and etc.

The 2nd Complainant is a subsidiary of the 1st Complainant and the registrant of various intellectual property rights of the Jardine Matheson Group, including its trademarks. The particulars of some of the Complainants' trademark registrations (all registered in the name of the 2nd Complainant) are summarized as follows:

Mark	Jurisdiction	Registration No.	Registration Date (date/month/year)	Class(es) [For detailed specifications, please refer to Annex B]
Jardine Matheson	Hong Kong	199505642AA	02-03-1992	35, 36, 37, 38, 39, 42
Jardine Matheson	Hong Kong	199812735AA	30-07-1997	18, 25
Jardine Matheson	China	772572	14-09-1993	36
Jardine Matheson	China	774512	28-12-1994	35
Jardine Matheson	China	774858	28-12-1994	42
Jardine Matheson	China	776249	21-01-1995	40

Mark	Jurisdiction	Registration No.	Registration Date (date/month/year)	Class(es) [For detailed specifications, please refer to Annex B]
Jardine Matheson	China	776756	28-01-1995	39
Jardine Matheson	China	776639	28-01-1995	41
Jardine Matheson	China	777714	14-02-1995	38
Jardine Matheson	China	779126	07-03-1995	37
Jardine Matheson	China	1210508	28-09-1998	18
Jardine Matheson	China	1220599	07-11-1998	21
Jardine Matheson	China	1228802	07-12-1998	25
JARDINE MATHESON	China	11721604	14-04-2014	37
JARDINE MATHESON	China	11721603	14-04-2014	42
JARDINE MATHESON	China	16518966	07-05-2016	43
JARDINE MATHESON	UK	1348071	23-08-1991	39
JARDINE MATHESON	UK	1348070	08-01-1993	36
JARDINE MATHESON	UK	2181564	29-10-1999	35, 42
JARDINE MATHESON	UK	2294267	09-08-2002	16
JARDINE MATHESON	France	1279586	20-07-1984	33

In addition, the Jardine Matheson Group has also registered its corporate logo  as a trade mark in many jurisdictions, e.g. Hong Kong Trade Mark Registration No. 200014109AA (covering 9 classes of goods and services).

The Jardine Matheson Group has registered various domain names incorporating the Mark. Below is a list of some of these domain names, which can be found in **Annex D**.

Domain Name	Date of Registration (dd.mm.yyyy)	Registrant
jardinematheson.中国	29.10.2012	Jardine Matheson (Bermuda) Limited
jardine-matheson.中国	29.10.2012	Jardine Matheson (Bermuda) Limited
jardinematheson.cn	20.12.2006	Jardine Matheson Limited
jardine-matheson.cn	20.12.2006	Jardine Matheson Limited
jardinematheson.com	18.04.2001	Jardine Matheson
jardine-matheson.com	21.03.1997	Jardine Matheson Limited
jardinematheson.hk	27.01.2004	Jardine Matheson (Bermuda) Limited
jardine-matheson.hk	27.01.2004	Jardine Matheson (Bermuda) Limited
jardinematheson.jp	23.07.2007	Jardine Matheson (Bermuda) Limited
jardine-matheson.jp	23.07.2007	Jardine Matheson (Bermuda) Limited
jardinematheson.sg	01.08.2008	Jardine Matheson (Bermuda) Limited
jardine-matheson.sg	01.08.2008	Jardine Matheson (Bermuda) Limited
jardinematheson.tw	04.10.2007	Jardine Matheson (Bermuda) Limited
jardine-matheson.tw	04.10.2007	Jardine Matheson (Bermuda) Limited
jardine-matheson.co.th	13.10.2008	Jardine Matheson (Bermuda) Limited
jardinematheson.vn	12.01.2009	Jardine Matheson (Bermuda) Limited
jardine-matheson.vn	12.01.2009	Jardine Matheson (Bermuda) Limited

For the Respondent

The Respondent is Valentin Gilberto Vaskin. The Respondent is the current registrant of the Disputed Domain Name <jardine-matheson.cloud>, which was registered on September 11, 2023 according to the WHOIS information. The registrar of the Disputed Domain Names is Hosting Ukraine LLC.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights

Rights of the Complainants

As mentioned above, the Complainants enjoy trade mark rights in respect of the Mark in many jurisdictions by way of trade mark registrations. The Complainants have also built up a protectable goodwill in the Mark through active and extensive use and promotion of their Mark.

Disputed Domain Name is identical or confusingly similar to the Complainants' trade mark

The prominent elements of the Disputed Domain Name is "jardine-matheson", which are identical to the Mark in which the Complainants have rights. The addition of a hyphen between "jardine" and "matheson" in the Disputed Domain Name is clearly insufficient to differentiate the domain name from the Complainants' Mark. Furthermore, it is a well-established principle that domain name strings such as .com, .net, .org, .info and .cloud are not distinguishing parts of a domain name. Therefore, the Disputed Domain Name is identical to or at least highly confusingly similar to the Complainants' Mark. The Disputed Domain Name will mislead or are at least very likely to mislead people into thinking that the Disputed Domain Name relates to the Complainants when this is in fact not the case.

The likelihood of confusion is further increased due to the following:

1) The website associated with the Disputed Domain Name ("Respondent's Website") featured a logo which is identical to and a blatant copy of the Jardine Matheson Group's corporate logo. (N.B.: the Complainants notice that the Respondent's Website has become inaccessible after the Complainants have filed this Complaint; nevertheless the contents of the Respondent's Website were moved to a website under another suspicious domain name <matheson-jardine.cloud> created on 27 September 2023, possibly by the same registrant. Please see further details in the "Bad Faith" section). The Respondent's Website also made a number of references to "Honkkong Land"/ "香港置地", which is the name/confusingly similar to the

name of one of the companies under the Jardine Matheson Group – Hongkong Land Company, Limited. The relevant screenshots of the Complainants' Website and the Respondent's Website are provided as Annex E.

2) Further, the Respondent's Website appeared to be a fraudulent website making unauthorized use of the Complainants' name, information and photos. The activities carried out by the Respondent via the Respondent's Website will be further explained below under *Ground iii*.

ii. The Respondent has no rights or legitimate interests in the Disputed Domain Name

The Respondent has no rights or legitimate interests in the Disputed Domain Name for the reasons below.

The Complainants have not authorized or licensed anyone outside the Jardine Matheson Group to use or register any domain names consisting of their Mark.

The Complainants' legal representatives have conducted online trademark searches using a global trade mark database. The searches revealed that "Valentin Gilberto Vaskin" does not have any trade mark applications or registrations (let alone any trade mark applications or registrations corresponding to the Disputed Domain Name). The search results are provided as **Annex E-1**.

The Respondent's name is "Valentin Gilberto Vaskin". The Complainants have no reason to believe that the registrant has any rights or legitimate interests in the Disputed Domain Name, or that the Respondent is commonly known by the Disputed Domain Name.

In addition, the Respondent's Website attempts to mislead customers into associating the Respondent's Website with the Complainants' Website. Clearly, the Respondent has registered and is using the Disputed Domain Name in bad faith (see Ground 3 below); as such, it cannot be said that the Respondent has any rights or legitimate interests in the Disputed Domain Name.

iii. *Disputed Domain Name has been registered and used in bad faith*

It is obvious that the Disputed Domain Name has been registered and is being used in bad faith, for the reasons below.

1) The Respondent was and is clearly aware of the Complainants, the Mark and the associated goodwill, which is evidenced by the following:

a. The Disputed Domain Name was registered on 11 September 2023. As mentioned above, the Jardine Matheson Group has a long history tracing back to the 1830s. The 1st Complainant became listed on the London Stock Exchange since 1990, Singapore Exchange since 1991 and Bermuda Stock Exchange since 1996. Many of the 2nd Complainant's trade mark registrations for the Mark are dated back in the 1980s and 1990s. By the time of the registration of the Disputed Domain Name in August 2023, the

Complainants' Mark has undoubtedly acquired a high degree of goodwill and reputation globally, and the Respondent clearly has actual knowledge of the Complainants' Mark at all relevant times (especially in light of the blatant copying and misrepresentation on the Respondent's Website).

b. As mentioned above, the Respondent's Website is or was a fraudulent website making unauthorized use of the Complainants' names, trademarks, information and photos. The Respondent purports to be the Jardine Matheson Group in the homepage and misleads the public that it is offering investment opportunities in projects in relation to the Complainants' businesses. The Respondent's Website also attempts or attempted to collect personal data by inviting users to create accounts with it. The categories of personal data collected include users' full name, location, phone number, email address, date of birth and credit card/payment details.

2) By the aforesaid reasons, it is obvious that the Respondent must have been aware of the Complainants' Mark, businesses and associated goodwill, and have deliberately registered the Disputed Domain Name to pass itself off as the Jardine Matheson Group for the purposes of misleading and scamming users to provide their personal data for illegitimate purposes. This is clear evidence of "bad faith" under Paragraph 4(b)(iii) and (iv) of the Uniform Domain Name Dispute Resolution Policy.

3) The Respondent's address "Ukraine, Len 12, Kh, 97638" appears to be an incomplete/invalid address. Providing incomplete/invalid contact details amounts to an attempt to evade liability and is also an indication of bad faith.

4) Furthermore, the Complainants have reasons to believe that the Respondent is related to the registrant of the domain name <jardine-matheson.net> or that the Respondent and the registrant of the domain name <jardine-matheson.net> are in fact the same person using different pseudonyms. The Complainants believe that the Respondent has registered the Disputed Domain Name in an attempt to evade liability. On 5 September 2023, the Complainants submitted a similar domain name complaint against <jardine-matheson.net> and the corresponding website was not accessible shortly after. The Disputed Domain Name was then registered on 11 September 2023 and the contents of <jardine-matheson.net> were moved to the Respondent's Website.

5) Similarly, the Complainants noticed that the Respondent's Website has become inaccessible shortly after the filing of the current Complaint. The contents of the Respondent's Website were again moved to a website under another suspicious domain name <mathesonjardine.cloud>. This other domain name <mathesonjardine.cloud> was registered on 27 September 2023, one day after the Complainants filed the present proceedings. A copy of the WHOIS search for <mathesonjardine.cloud> is provided as Annex E-2. In light of the virtually identical website contents, the Complainants have reasons to believe that the Disputed Domain Name and <mathesonjardine.cloud> are likely to be registered by the same person. It is clear that upon notice of this Complaint, the Respondent tried to migrate the

contents of the Respondent's Website to another domain name as a (futile) attempt to evade liability.

6) It is obvious that the Respondent is a bad faith registrant and its intention of registering the Disputed Domain Name is to continue misleading users into believing that the Disputed Domain Name is authorized or associated with the Complainants and scamming users to provide their personal data for illegitimate purposes.

For the above reasons, the registration and use of the Disputed Domain Name is in bad faith.

B. Respondent

The Respondent was duly notified by the HK Office of the Complaint filed by the Complainant and asked to submit a Response in accordance with the relevant stipulations under the Policy, the Rules and the ADNDRC Supplementary Rules. The Respondent failed to give any sort of defense in any form against the Complaint.

5. Findings

Paragraph 15(a) of the Rules sets out the principles that the Panel shall follow in deciding the complaint: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

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

The Complainants provided Annex B, copies of trademark registration certificates and records, certifying its entitlement to the registered trademarks "Jardine Matheson" before the Respondent registered the Disputed Domain Name. For instance, the 2nd Complainant registered the "Jardine Matheson" trademarks in Hong Kong (Reg. No. 199505642AA and Reg. No. 199812735AA) and in Mainland China (Reg. No. 772572 and Reg. No. 774512), and other jurisdictions such as UK, etc. Thus, the Panel has no problem in finding that the 2nd Complainant enjoys the prior trademark right to "Jardine Matheson" As such, what the Panel needs to do is to make a conclusion on the identity or confusing similarity between the 2nd Complainant's registered trademarks "Jardine Matheson" and the Disputed Domain Name <jardine-matheson.cloud>.

With respect to the Disputed Domain Name "jardine-matheson.cloud", its identifying part is "jardine-matheson", which is a combination of "jardine" and "matheson", as well as a hyphen in the middle which is commonly used to connect two parts. Without a

hyphen, the identifying part would be "jardine matheson" which is basically identical to the trademarks "Jardine Matheson" owned by the 2nd Complainant. The addition of the hyphen does not only fail to distinguish the domain name from the trademarks, but also reinforces the association of the domain name with the 2nd Complainant's marks.

Therefore, the Panel finds that the Disputed Domain Name is confusingly similar to the 2nd Complainant's trademarks "Jardine Matheson" and the first condition under Paragraph 4(a) of the Policy is satisfied.

B) Rights and Legitimate Interests

The Complainants argue that they have not authorized or licensed anyone outside the Jardine Matheson Group to use or register any domain names consisting of their mark. The Complainants also provided Annex E-1, a search result from an online platform CORSEARCH indicating "0" result using the name of the Respondent, to allege that the Respondent does not have any trade mark applications or registrations.

The Complainants contend that the name of the Respondent is Valentin Gilberto Vaskin, and there is no reason to believe that the Respondent has any rights or legitimate interests in the Disputed Domain Name, or that the Respondent is commonly known by the Disputed Domain Name.

The Respondent did not make any response within the scheduled time, nor did make any explanation or provide any evidence to prove its trademark rights, legitimate interests, or any other legal rights to the Disputed Domain Name.

Accordingly, the Panel concludes that the Complainants have provided preliminary evidence required by Paragraph 4(a) (ii) of the Policy and the burden of proof is transferred to the Respondent, who must overcome the burden of proof by showing its rights or legitimate interests of the Disputed Domain Names. However, the Respondent failed to respond to the Panel and failed to submit any evidence in support of its contention. Hence, the Panel cannot come to a conclusion that the Respondent has rights or legitimate interests in respect of the Disputed Domain Name.

Accordingly, the Panel finds the Complainants have satisfied the second condition under Paragraph 4(a) of the Policy.

C) Bad Faith

Under Paragraph 4(b) of the Policy, the followings are relevant examples a Panel may take as evidence of registration and use of a domain name in bad faith:

(i) Circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) You have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) You have registered the domain name primarily for the purpose disrupting the business of a competitor; or

(iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website 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 your website or location or of a product or service on your website or location.

First, as mentioned in the above part **A)**, the Panel has no problem in finding that the 2nd Complainant enjoys the prior trademark right to "Jardine Matheson" in several jurisdictions including Hong Kong and Mainland China and etc. The Panel also confirmed that the 2nd Complainant enjoys the prior trademark right to the logo "  " in Hong Kong (Reg. No. 200014109AA). According to Annex C provided by the Complainants, the Complainants' official website Jardines.com ("Complainants' website") indicates the combination mark "  ", a logo (in red and blue) and the English "Jardine", is being used on the top of the webpage. The Annex E reflects that the website to which the Disputed Domain Name resolved ("Respondent's website") is using the identical combination mark "  " on the top of the webpage. Thus, it is hard for the Panel to believe that it could be a mere coincidence that the Respondent registered the domain name that are confusingly similar to the Complainants' prior trademarks and using identical combination mark on its website at the same time.

Second, the Respondent's website claim itself as "Jardine Matheson", and was established in Hong Kong. According to the Complainants' website, "Jardine Matheson" is also being used to refer Jardine Matheson Group. The Respondent's Website made a number of references to "香港置地/Honk Kong Land", which is similar to the name of one of the affiliated companies of Jardine Matheson Group - Hongkong Land. The Panel also finds that the Respondent's website seems to offer investment trading services through which the user need to register an account and provide personal information including name, passport number, bank account and etc. in order to hold deposit for trading. Therefore, it is evident that the Disputed Domain Name was registered and used by Respondent primarily for the purpose of misleadingly divert and defraud, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainants' marks as to the source of the trading services provided on Respondent's website.

In consideration of the distinctiveness and certain reputation of the Complainants' prior trademarks, the Respondent knows or should have known the Complainants' prior trademarks, while the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by him/her of the Disputed Domain Name. The Panel may infer that the use of the Disputed Domain Name by the Respondent is obviously for obtaining unjustified commercial gain and to unjustly attract Internet users to its website, which is likely to cause confusion in respect of the source, sponsorship, affiliation, or endorsement between the websites of the Respondent and the Complainant. This is exactly the circumstances as set forth in Paragraph 4(b) (iv) of the Policy.

Accordingly, the Panel finds that the Complainants also satisfied the third condition under Paragraph 4(a) of the Policy.

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, the Panel decides that the Disputed Domain Name < jardine-matheson.cloud > shall be transferred to the 2nd Complainant.

Dr. Lulin GAO
Panelists

Dated: November 15, 2023