

ADMINISTRATIVE PANEL DECISION

InterContinental Hotels Group PLC, and Six Continents Limited v. Privacy service provided by Withheld for Privacy ehf / Tony Carter
Case No. D2022-1913

1. The Parties

The Complainants are InterContinental Hotels Group PLC, and Six Continents Limited, United States of America (“United States” or “U.S.”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Tony Carter, Tonga.

2. The Domain Name and Registrar

The disputed domain name <sixsensesgroup.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainants on May 31, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on June 1, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2022.

The Center appointed Daniel Kraus as the sole panelist in this matter on July 4, 2022. 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 Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainants are InterContinental Hotels Group PLC (“IHG PLC”) and Six Continents Limited (“Six Continents”). IHG PLC is one of several companies collectively known as InterContinental Hotels Group, one of the world’s largest hotel groups with over 6,000 hotels all over the world. Six Continents is wholly owned by IHG PLC.

The Complainant Six Continents is the owner of the trademark SIX SENSES in many countries of the world, including in particular the following:

- U.S. Reg. No. 4,551,528 for SIX SENSES (first used in commerce January 31, 2004; registered June 17, 2014) for use in connection with “Organisation of travel; Travel agency services, namely, making reservations and bookings for transportation”;
- U.S. Reg. No. 4,551,846 for SIX SENSES (first used in commerce November 6, 2013; registered June 17, 2014) for use in connection with “Organisation of travel; Travel agency services, namely, making reservations and bookings for transportation”;
- U.S. Reg. No. 4,960,590 for SIX SENSES (first used in commerce January 31, 2004; registered May 17, 2016) for use in connection with “making reservations and bookings for others for accommodations, meals and services at hotels, resorts, restaurants”;
- U.S. Reg. No. 6,115,673 for SIX SENSES (filed August 1, 2016; registered August 4, 2020) for use in connection with, *inter alia*, “hotel services”;
- U.S. Reg. No. 6,115,674 for SIX SENSES (filed August 1, 2016; registered August 4, 2020) for use in connection with, *inter alia*, “hotel services”;
- U.S. Reg. No. 6,465,746 for SIX SENSES (first used in commerce November 6, 2013; registered August 31, 2021) for use in connection with, *inter alia*, “Business management of hotels and resorts”.

The Complainants (via Six Continents Hotels, Inc.) are the registrant of numerous domain names that contain or are similar to the SIX SENSES trademark, including <sixsenses.com>, registered on April 12, 2000.

The disputed domain name was registered on May 18, 2022. It resolves to a website that consists of a monetized or pay-per-click (“PPC”) page that includes links for services related to the Complainants and their SIX SENSES Trademark.

5. Parties’ Contentions

A. Complainant

IHG owns a portfolio of well-recognized and respected hotel brands including, amongst others, Six Senses Hotels, Resorts & Spas, InterContinental Hotels & Resorts, and Holiday Inn Hotels.

The Respondent is using the disputed domain name in connection to a website that consists of a monetized or PPC page that includes links for services related to the Complainants and their SIX SENSES trademark including links labeled “Hotel Bookings Website,” “Hotels,” and “Vacation Packages All Inclusive.”

Besides, the Respondent is using the disputed domain name in connection with an email scam, by impersonating the Complainants to fraudulently obtain payment from guests who have made reservations at one of the Complainants’ Six Senses hotels. As evidence of this scam, the Complainants provided an email communication sent on May 18, 2022, from an address using the disputed domain name

("[...]@sixsensesgroup.com") to a guest, asking for payment "within next 24 hours [or] sadly reservation will be cancelled." The Respondent also appears to send fraudulent "invoices," which include payment details for bank transfer to an account unassociated with the Complainants. An example of such an invoice is also provided by the Complainants.

The disputed domain name contains the Complainants' trademark SIX SENSES in its entirety, the only difference being that the disputed domain name also contains the descriptive word "group", which is irrelevant for the purpose of confusing similarity and does not prevent a finding of confusing similarity with the Complainants' trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainants have not assigned, granted, licensed or in any way authorized the Respondent to use the Complainants' trademark in any manner. The Respondent has not used or made any preparation to use the disputed domain name in connection with *bona fide* offering of goods and services and is not commonly known by the disputed domain name.

The Respondent registered and is using the disputed domain name in bad faith. The disputed domain name is used in connection with a website that falsely purports to be a website of the Complainant and is hence used to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[t]he applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Furthermore, "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainants' trademark as it includes the Complainants' trademark in its entirety and in an easily recognizable form combined with the word "group".

This addition does not prevent confusing similarity between the Complainant's trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar with the Complainant's trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests in the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of a respondent's rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainants have credibly submitted that the Respondent is neither affiliated with the Complainants in any way nor has it been authorized by the Complainants to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, the Panel finds that the nature of the disputed domain names carries a risk of implied affiliation with the Complainants' trademark. See section 2.5.1 of the [WIPO Overview 3.0](#). Notably, the Respondent has sought to capitalize on said risk by utilizing the disputed domain name in a fraudulent email scheme, requesting payments for fraudulent invoices issued by the Respondent that include the Complainant's trademark and logo. Such use can never confer rights or legitimate interests upon a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainants have made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel's findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainants establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has 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 [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] 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 [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

The Panel agrees with the Complainants that their trademark is a known trademark within the hotel industry. It is therefore inconceivable that the Respondent would not have been aware of the Complainants' trademark when registering the disputed domain name.

The Respondent is using the disputed domain name in connection with a website that consists of a monetized or PPC page that includes links for services related to the Complainants and their SIX SENSES Trademark including links labeled "Hotel Bookings Website," "Hotels," and "Vacation Packages All Inclusive."

Besides, the Respondent is using the disputed domain name in connection with an email scam, by impersonating the Complainants to fraudulently obtain payment from guests who have made reservations at one of the Complainants' Six Senses hotels.

It is therefore evident that the Respondent has registered the disputed domain name to intentionally attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainants' mark as to the source, affiliation, or endorsement of the Respondent's website.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <sixsensesgroup.com>, be transferred to the Complainants.

/Daniel Kraus/

Daniel Kraus

Sole Panelist

Date: July 18, 2022