

ADMINISTRATIVE PANEL DECISION

InterContinental Hotels Group PLC, and Six Continents Limited v. Kolpsina Verkona

Case No. D2023-0509

1. The Parties

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

The Respondent is Kolpsina Verkona, Italy.

2. The Domain Name and Registrar

The disputed domain name <sixsenseshotelsgroup.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 February 3, 2023. On February 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 3, 2023, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on the same day.

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 February 21, 2023. In accordance with the Rules,

paragraph 5, the due date for Response was March 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 15, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on March 20, 2023. 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

InterContinental Hotels Group PLC and Six Continents Limited are joint complainants and are jointly referred to as the "Complainant".

According to the Complainant's undisputed allegations, Six Continents Limited is a wholly owned subsidiary of InterContinental Hotels Group PLC. The Complainant forms part of the InterContinental Hotels Group, one of the world's largest hotel groups. The Complainant, through various subsidiaries, uses the Six Senses Hotels, Resorts & Spas brand in connection with 20 hotels and 1,376 guest rooms in the Americas, Europe, the Middle East, Africa, and Asia.

The Complainant (or its affiliates) owns a large trademark portfolio for SIX SENSES around the world. The Complaint is particularly based on European Union trademark registration No. 002812113, SIX SENSES (verbal) registered on December 17, 2004, for goods/services in classes 5, 16, 20, 21, 25, 35, 39, 41, 43, and 44.

The disputed domain name was registered on January 19, 2023.

It further results from the undisputed evidence provided by the Complainant that the disputed domain name has been used to send fraudulent scam emails. These emails have been sent to the Complainant's customers by falsely identifying the alleged sender as the Complainant's "Reservations Department" and by using the Complainant's SIX SENSES-logo and requesting a hotel guest to submit payment to an account not associated with the Complainant. In addition, the disputed domain name resolved to a website displaying pay-per-click ("PPC") advertisements relating hotels, resorts, and the like.

5. Parties' Contentions

A. Complainant

The Complainant has brought a single consolidated Complaint against the Respondent and has requested that consolidation be granted given their relationship.

Secondly, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's SIX SENSES Trademark. The fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy. The addition of the words "hotels" and "group" is irrelevant for purposes of confusing similarity under paragraph 4(a)(i) of the Policy.

Thirdly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant contends that (1) the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the SIX SENSES Trademark in any manner; (2) by using the disputed domain name in connection with a phishing scam to impersonate the Complainant, the Respondent clearly has not used the disputed domain name in connection with a *bona fide* offering of goods or services; and (3) the Respondent has never been

commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name.

Fourthly, the Respondent's registration and use of the disputed domain name constitutes – in the Complainant's view – bad faith. In particular, the Complainant contends that (1) given the fame of the SIX SENSES Trademark and the Complainant's significant presence, it is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name; (2) by using the disputed domain name as part of a phishing scam to impersonate the Complainant, the Respondent has acted in bad faith; (3) using a domain name in connection with a monetized parking page under the circumstances present here constitutes bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary issue – consolidation of the Complainants

A consolidated complaint brought by multiple complainants may be accepted where the criteria described below are *prima facie* met. Furthermore, it is up to the Panel to issue a final determination on consolidation, which may apply its discretion (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11).

Furthermore, where a complaint is brought by multiple complainants against a single respondent, UDRP panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation ([WIPO Overview 3.0](#), section 4.11.2).

In the case at hand, the Panel joins the Complainants' view – which has been undisputed – following which the Complainants have a common grievance against the Respondent because they share a common legal interest in the trademark rights on which this Complaint is based as a result of their affiliation with the same corporate group. Against this background, the Panel does not see reasons why a consolidated complaint brought by multiple complainants against a single respondent would not be fair and equitable. Moreover, the Respondent in the case at hand failed to come forward with any allegations or evidence to object the consolidation.

For reasons of procedural efficiency, fairness, and equity, the Panel therefore orders the consolidated complaint to be accepted and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

6.2 Discussion and Findings on the Merits

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Furthermore, paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred;

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of various trademark registrations for SIX SENSES worldwide, amongst others European Union trademark registration No. 002812113, registered on December 17, 2004, and covering Italy, where the Respondent is reportedly located.

Many UDRP panels have found that a domain name is confusingly similar to a complainant's trademark for purposes of the first element, where the relevant trademark is recognizable within a domain name. Under such circumstances, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (*cf.* [WIPO Overview 3.0](#) at section 1.8). This Panel shares the same view and notes that the disputed domain name contains the Complainant's registered trademark SIX SENSES in full and is recognizable within the disputed domain name.

Finally, the generic Top-Level-Domain ("gTLD") ".com" of the disputed domain name may be disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complainant's uncontested evidence, the disputed domain name has been used to send scam emails. These emails have been sent to the Complainant's customers by falsely identifying the alleged sender as the Complainant's "Reservations Department" and by using the Complainant's SIX SENSES-logo and requesting a hotel guest to submit payment to an account not associated with the Complainant. In addition, the disputed domain name resolved to a website displaying PPC advertisements relating to the Complainant's services. UDRP panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#) at section 2.13.1).

Moreover, the Panel holds that such use cannot be qualified as a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, since such use capitalizes on the reputation and goodwill of the Complainant's trademarks and is likely to mislead Internet users (see, e.g., *Raizen S.A. v. Contact Privacy Inc. Customer 12411875385 / RAIZEN ENERGIA* and *Contact Privacy Inc. Customer 12410336444 / CARLOS VANEVA*, WIPO Case No. [D2022-0752](#); and *InterContinental Hotels Group PLC, Six Continents*

Limited v. Privacy Service provided by Withheld for Privacy ehf / Nicholas Jaar, WIPO Case No. [D2022-1579](#)).

In addition, the Respondent did not submit any evidence of *bona fide* pre-Complaint preparations to use the disputed domain name. As outlined above, the Complainant's uncontested allegations demonstrate that it has not authorized the Respondent's use of the SIX SENSES-trademark for registering the disputed domain name, which are confusingly similar therewith.

Furthermore, the Panel notes that there is no evidence in the record showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, the Panel notes that there is no evidence in the present record either showing that the Respondent might be making a noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy. In particular, the disputed domain name is being used for fraudulent commercial emails, which excludes any noncommercial and fair use of the disputed domain name from the outset.

It is acknowledged that once the Panel finds a *prima facie* case has been established, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

It is the view of this Panel that the Respondent has indeed registered the disputed domain name and is using it in bad faith.

As explained above, it results from the Complainant's documented allegations that the disputed domain name has been used to send scam emails. These emails have been sent to the Complainant's customers by falsely identifying the alleged sender as the Complainant's "Reservations Department" and by using the Complainant's SIX SENSES-logo and requesting a hotel guest to submit payment to an account not associated with the Complainant.

The Panel shares the approach taken by previous UDRP panels finding that use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. Many such cases involve a respondent's use of a domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by a complainant's actual or prospective customers (see [WIPO Overview 3.0](#) at section 3.4). In the case at hand, said use for a fraudulent email scam (allegedly) in the name of the Complainant demonstrates that the Respondent not only knew of the Complainant, its business, and marks, but also attempted to pass itself off as the Complainant for fraudulent purposes. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's trademarks and products. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark SIX SENSES identically when the disputed domain name was registered. Registration of a domain name which contains a third party's trademark, in awareness of said trademark and in the absence

of rights or legitimate interests is suggestive of registration in bad faith (see, e.g., *Alstom v. Victor Marin*, WIPO Case No. [D2021-4037](#); *TELUS Corporation v. Fortefusion Fortefusion, Wordcounts*, WIPO Case No. [D2021-0787](#); and *Charlotte Tilbury TM Limited v. Domains By Proxy, LLC / Qiangdong Liu, 365rw.com.ltd*, WIPO Case No. [D2020-0408](#)).

The finding of bad faith registration and use is supported by the following further circumstances resulting from the case file:

- (i) the disputed domain name fully incorporates the Complainant's reputed trademark SIX SENSES, which predates the registration of the disputed domain name;
- (ii) the fact that the details disclosed for the Respondent by the Registrar were incomplete, noting the mail courier's inability to deliver the Center's written communications¹;
- (iii) the Respondent's failure to reply to the Complaint and provide any evidence of actual or contemplated good-faith use;
- (iv) the disputed domain name's use in connection with a monetized parking page displaying PPC-advertisements relating hotels, resorts and the like and therefore competing with the Complainant's business, and
- (v) the implausibility of any good faith use to which the disputed domain name may be put.

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

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, <sixsenseshotelsgroup.com>, be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: April 3, 2023

¹ The Panel takes additional note of the fact that the Center's written communication was also sent to the previously named Respondent in the Complaint (Privacy Service Provided by Withheld for Privacy ehf), however the courier has reported that the related contact details are a "bad address".