

## **ADMINISTRATIVE PANEL DECISION**

Hostelworld.com Limited v. Wu Yu

Case No. DCO2022-0074

### **1. The Parties**

1.1 The Complainant is Hostelworld.com Limited, Ireland, represented by Tomkins & Co, Ireland (the “Complainant”).

1.2 The Respondent is Wu Yu, China (the “Respondent”).

### **2. The Domain Name and Registrar**

2.1 The disputed domain name <hostleworld.co> (the “Disputed Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 10, 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 Complainant on September 14, 2022 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 September 14, 2022.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

3.4 The Center appointed Ike Ehiribe as the sole panelist in this matter on October 25, 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**

4.1 The Complainant Hostelworld.com Limited is a limited liability company incorporated in Ireland. The Complainant it is said renders services in the following areas of business endeavours namely online accommodation reservation services, travel agent services, hostel and accommodation booking services, online marketing and advertising of hostel and accommodation services and the provision of hostel accommodation information services. The Complainant renders these services under the Complainant's HOSTELWORLD trademark and the domain name <hostelworld.com>.

The Complainant asserts that the trademark HOSTELWORLD` is a coined word comprising of two English words "hostel" and "world" with no ordinary meaning or common usage and is therefore unique to the Complainant. Furthermore, with reliance placed on Annex 3, attached to the Complaint, it is said that the Complainant owns more than 21 Trademark registrations globally of the HOSTELWORLD and HOSTELWORLD.COM trademarks and majority of those registered trademarks are active. Some of the HOSTELWORLD and HOSTELWORLD.COM Trademarks are as follows:

- 1) United Kingdom trademark registration No.UK00914096697, registered on October 5, 2016, in Class 35; for HOSTELWORLD.COM;
- 2) European Union trademark registration No.009273947, registered on July 1, 2022, in Class 35 for HOSTELWORLD.COM;
- 3) Canada trademark registration No.TMA983346 , registered on June 9, 2015, in Classes 35, 39, 41, and 43 for HOSTELWORLD etc.

4.2 According to the Whois information on record the Disputed Domain Name <hostleworld.co> was created on June 27, 2022. The Disputed Domain Name resolves to a pay-per-click ("PPC") website.

#### **5. Parties' Contentions**

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

5.1 In submitting that the Disputed Domain Name <hostleworld.co> is identical or confusingly similar to the Complainant's trademark, the Complainant asserts that the Disputed Domain Name is visually, phonetically and conceptually confusingly similar to the Complainant's trademarks in which it has established prior rights. The Complainant further submits that a domain name which consists of a common, obvious or intentional misspelling of a trade mark or service mark must be considered to be confusingly similar to the relevant trade mark or service mark, following paragraph 1.9 of the WIPO Jurisprudential Overview 3.0. It is also submitted that the applicable Top Level Domain ("TLD") in the Disputed Domain Name being ".co" is normally disregarded when conducting a confusing similarity test following paragraph 1.11.1 of the WIPO Jurisprudential Overview 3.0.

The Complainant submits that the Disputed Domain Name contains an obvious and intentional misspelling of the Complainant's trade mark and is a prime example of deliberate and opportunistic typo-squatting as Internet users could easily mistype the Complainant's HOSTELWORLD trademark as HOSTLEWORLD. The Complainant relies on a vast number of previous UDRP decisions including *Yurtici Kargo Service A.S. v. Yurticargo Yurtikargo*, WIPO Case No. [D2003-0707](#) and *CareerBuilder LLC v. Azra Khan*, WIPO Case No.

[D2003-0145](#). An additional reason for the confusing similarity assertion as advanced by the Complainant is that upon a side by side comparison of the Disputed Domain Name with the Complainant's trademark the Complainant's HOSTELWORLD and HOSTELWORLD.COM service marks are instantly recognisable within the Disputed Domain Name considering that the dominant element of the Complainant's trademarks is the word HOSTELWORLD which is virtually identical to the Disputed Domain Name.

5.2 The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name considering that the Disputed Domain Name has a recent registration date of June 27, 2022. Furthermore, it is submitted that the Complainant's distinctive registered trademark is not a name that one would legitimately choose as a domain name in good faith nor is it a descriptive term serving to indicate specific characteristics of any goods or services. The Complainant asserts further that the Respondent is neither a licensee and or an authorised agent of the Complainant nor in any manner authorised to use the Complainant's distinctive trademark in any domain name.

The Respondent is not commonly known by the Disputed Domain Name nor is the Respondent affiliated with the Complainant in any way. Moreover, the Complainant states that the Disputed Domain Name resolves to a parked page that includes a link to "buy this domain name" and links under the related searches section "Hotel Reservations Bookings", "Hotel Dublin" and "Hotel Sevilla" such links which the Complainant describes as links that resolves to commercial websites offering services in competition with the Complainant's business. The Complainant therefore submits that by displaying links of a commercially competitive nature, the Respondent is attempting to extract a profit from the confusion created with the Complainant amongst Internet users via a click through scheme. In the light of the facts above the Complainant submits that such use is neither a *bona fide* nor legitimate noncommercial or fair use of the Disputed Domain Name following previous UDRP decisions such as *Union InVivo v. Kim Dushinski*, WIPO Case No. [D2020-1214](#).

5.3 On the question of bad faith registration and use, the Complainant has listed a number of relevant factors upon which reliance is placed to assert that the Respondent registered the Disputed Domain Name in bad faith and engaged in bad faith use.

Firstly, the Complainant submits that the registration of a domain name that is confusingly similar to another's mark despite actual or even constructive knowledge of the trademark holder's rights constitutes bad faith registration and use. See in support, *Boiron S.A. v. Jose Antonio Paya Serer*, WIPO Case No. [D2001-0118](#). The Complainant therefore asserts that it is inconceivable that the registration of the Disputed Domain Name was made without full knowledge of the existence of the Complainant and its well-known trademark, given the parking page displaying information about "Hotel Reservations Booking" websites and services in a bid to exploit same for commercial purposes.

Secondly, the Complainant submits that the actual registration of a domain name that is confusingly similar to a well-known trademark such as theirs, by an entity that has no relationship with the proprietor of the well-known mark is in itself, a clear indication of bad faith registration following *Allianz, Compania de Seguros y Resaseguros S.A. v. John Michael*, WIPO Case No. [D2009-0942](#).

Thirdly, the Complainant refers to the immense popularity and goodwill enjoyed by the Complainant's trademark globally to further submit that the Respondent knowingly chose to register the Disputed Domain Name <hostleworld.co> to divert Internet users and customers of the Complainant, and operate with same in such a manner that could adversely affect the Complainant's business, goodwill and reputation. To this end, the Complainant further submits that it is well-settled that the practice of typo-squatting of itself is presumptive evidence of the bad faith registration of a domain name. See in support *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. D2019 -1600.

Fourthly, the Complainant submits that the act of concealing the Respondent's identity through the use of a privacy registration service is a further indication of registration and use of the Disputed Domain Name in bad faith following *CenturyLink Intellectual Property LLC v. Above.com Domain Privacy /Protection Domain*,

WIPO Case No. [D2017-0144](#). Fifthly, the Complainant submits that the Respondent is generating click-through income and is profiting from the confusion of Internet users looking for the Complainant and its services. By so doing, it is said, that the Respondent has attempted to attract for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's HOSTELWORLD trademark as to source, sponsorship, affiliation or endorsement of its website or location or of a product or service. These actions it is said demonstrate undeniable use of the Disputed Domain Name in bad faith. See *Union InVivo v. Kim Dushinski*, WIPO Case No. [D2020-2349](#).

## **B. Respondent**

5.5 The Respondent did not reply to the Complainant's contentions. Therefore, in accordance with paragraphs 14(a) and (b) of the Rules, the Panel shall draw such inferences as it considers appropriate from the Respondent's default.

## **6. Discussion and Findings**

6.1 Under paragraph 4(a) of the Policy to succeed in this administrative proceeding the Complainant must prove that: (i) the Disputed Domain Name is identical and or confusingly similar to the trademark or service mark of the Complainant; (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.

6.2 As expressly stated in the Policy the Complainant must establish the existence of each or these three elements in any UDRP administrative proceeding.

### **A. Identical or Confusingly Similar**

6.3 This Panel finds and accepts that the Complainant is the registered owner of numerous trademark registrations for the distinctive HOSTELWORLD and HOSTELWORLD.COM trademarks as listed in Annex 3 attached to these proceedings. The Complainant's evidence confirms these trademarks have been registered in various jurisdictions around the world such as the United States, Europe, Brazil, Canada, Australia and China to mention a few where the Complainant conducts its online accommodation advertising business. The Panel also accepts that the Complainant registered its domain name <hostelworld.com> as far back as May 12, 1999. The Complainant has undoubtedly established a worldwide reputation in the provision of online accommodation reservation services including travel agent, hostel and accommodation marketing and advertising etc.

6.4 The Panel finds the Disputed Domain Name <hostleworld.co> is visually and phonetically confusingly similar to the Complainant's HOSTELWORLD trademark, considering that the Disputed Domain Name, not only wholly incorporates the Complainant's mark in its entirety but is also virtually identical to the dominant element of the Complainant's trademark. The Panel further observes, the only difference is that the Disputed Domain Name contains an obvious and intentional misspelling of the Complainant's trademark by reversing the order of the letters: "l" and "e". The Complainant is absolutely correct to submit that intentional and opportunistic typo-squatting of any given trademark designed to confuse has been held by numerous panels to constitute confusing similarity. See in this regard section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and a previous UDRP decision in *Yurtici Kargo Servisi A.S. v. Yurticikargo YurtisiKargo supra*. Furthermore, the Panel is satisfied that the mere addition of the country-code Top-Level-Domain ("ccTLD") ".co" does absolutely nothing to differentiate the Disputed Domain Name from the Complainant's trademark such as to prevent a confusing similarity finding. See in this regard, section 1.11 of the [WIPO Overview 3.0](#).

6.5 The Panel therefore finds that the Complainant has established the confusing similarity requirement being, the first element of the Policy.

## **B. Rights or Legitimate Interests**

6.6 The Panel also finds that the Complainant is entitled to refer to the fairly recent registration date of the Disputed Domain Name on June 27, 2022 to anchor the submission that the Respondent has no rights or legitimate interests in the Disputed Domain Name within the ambit of paragraph 4(c) of the Policy considering that the Complainant has been using the HOSTELWORLD and HOSTEL.COM trademarks well before the Respondent elected to create the Disputed Domain Name in June 2022.

The Panel is further satisfied that the following factors listed below confirm the Respondent's lack of rights and or legitimate interests in the Disputed Domain Name. In the first instance, based on the evidence adduced, the Panel accepts the assertion that the Respondent is neither a licensee or an authorised agent of the Complainant nor in any other manner authorised to use the Complainant's distinctive HOSTELWORLD or HOSTEL.COM trademark. Secondly, the Complainant asserts that the Respondent has never been commonly known by the Disputed Domain Name nor is the Respondent affiliated with the Complainant in any way whatsoever. Thirdly, the Complainant relies on a printout of a web page, marked Annex 5, which indicates that the Disputed Domain Name presently resolves to a parked page that displays links to commercial websites offering services in competition with the Complainant's online accommodation booking services, the Complainant submits in this regard that such use does not amount to a *bona fide* offering of goods and services or to a noncommercial and fair use of the Disputed Domain Name. See in this regard *Rich Products Corporation v. Cynthia Kirk*, WIPO Case No. [D2007-0871](#).

6.7 The Panel accordingly finds that the Complainant has established the second element of the Policy being the requirement of a lack of rights or legitimate interests in the Disputed Domain Name.

## **C. Registered and Used in Bad Faith**

6.8 On the question of registration and bad faith use, the Complainant has referred to a number of factors that have enabled the Panel to hold and conclude that the Respondent deliberately registered the Disputed Domain Name in bad faith with the intention of engaging in bad faith use.

In the first instance, the Complainant asserts that the Respondent must have known of the existence of the Complainant and the Complainant's prior rights in the HOSTELWORLD and HOSTELWORLD.COM trademarks before electing to create the Disputed Domain Name on June 27, 2022. This assertion is predicated on the further consideration that the Complainant had accrued unregistered and legally protectable rights in the trademarks and other variations of the trademarks in various countries where the Complainant operates its business since 1999 when <hostelworld.com> was launched as the Complainant's website. Further in this regard, the Complainant submits that the registration of the trademarks effectively provided constructive notice to the Respondent of the Complainant's prior rights in the trademarks at the time the Disputed Domain Name was created. See in this regard, *Boiron S.A. v. Jose Antonio Paya Serer*, *supra*.

Secondly, the Complainant refers to the commercial websites to which the Disputed Domain Name resolves and submits that the Respondent is generating click through income through the links displayed thereat and is profiting from the confusion of Internet users looking for the Complainant and its services thereby, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship affiliation or endorsement of its website or location or of a product or service on its website or location. See in this regard a previous UDRP decision in *Union InVivo v. Kim Dushinski*, *supra*.

Thirdly, the Complainant submits, and the Panel accepts, it is well-settled that the practice of typo-squatting in itself is presumptive evidence of the bad faith registration of a domain name following *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, *supra*.

Fourthly, the Panel accepts as submitted by the Complainant that the Respondent's concealment of its identity through the use of a privacy registration service is further evidence of the Respondent's bad faith registration and use. See in this regard, a previous UDRP decision in *CenturyLink Intellectual Property LLC v. Above.com Domain Privacy/Protection Domain, supra*. Fifthly, as earlier indicated at paragraph 5.5 above, this Panel has drawn adverse inferences from the failure of the Respondent to respond to the Complainant's submissions in these proceedings.

6.9 The Panel is therefore satisfied that the Respondent registered the Disputed Domain Name <hostleworld.co> in bad faith and continued to engage in bad faith use.

## **7. Decision**

7.1 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 <hostleworld.co> be transferred to the Complainant.

*/Ike Ehiribe/*

**Ike Ehiribe**

Sole Panelist

Date: November 7, 2022