

## **ADMINISTRATIVE PANEL DECISION**

Skyscanner Limited v. Tahir Manzoor

Case No. D2023-1089

### **1. The Parties**

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is Tahir Manzoor, Australia.

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

The disputed domain names <skyscannerairlines.com>, <skyscannerdeals.com>, and <skyscannerfly.com> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2023 covering four disputed domain names. On March 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 14, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 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 March 20, 2023 seeking to remove <couponskyscanner.online> from the present proceeding. On March 31, 2023, the Center sent a Notification of (Partial) Withdrawal confirming that the remaining three disputed domain names are the subject of the present proceedings.

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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Response was filed with the Center on April 20, 2023.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on May 5, 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**

The Complainant carries on business internationally in the travel industry offering research services to consumers. The Complainant's business was founded in 2002, and it now provides its services to 80 million users per month. Its mobile application has been downloaded by over 70 million customers. It has offices in eleven cities across Europe, North America, and Asia.

In terms of trademarks, the Complainant owns a global portfolio of SKY SCANNER-formative registrations in a range of jurisdictions. In particular it owns registered trademark rights in the mark SKYSCANNER that date back to 2004, including United Kingdom trade mark registration No. 00002313916, registered on April 30, 2004 in classes 35,38, and 39; International trademark registration No. 1030096, registered December 01, 2009 in classes 35, 39, and 42; and Australian trademark No. 1349891, registered December 01, 2009 in classes 35, 39, and 42.

In addition, the Complainant owns the domain name <skyscanner.net> which attracts 100 million visits per month.

On February 7, 2023, the Respondent registered the three disputed domain names, which currently are used in connection with pay-per-click ("PPC") pages featuring travel-related links.

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

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

The Complainant asserts that it owns relevant rights in the trademark SKYSCANNER as particularized in Section 4 above. The registered rights extend back as far as 2004. The Complainant claims a worldwide reputation for travel industry research and booking services, which are carried on in association with its registered marks.

With respect to confusing similarity, the Complainant submits that the disputed domain name reproduces its trademark SKYSCANNER in its entirety. The addition of the descriptive terms "airlines", "deals", and "fly" moreover does not provide sufficient distinction to diminish the likelihood of confusion.

In terms of rights or legitimate interests, the Complainant notes that the Respondent has never been affiliated with, or authorized by, the Complainant in any manner.

With respect to bad faith use and registration, the Respondent must have been aware of the Complainant's trademark rights when he registered the disputed domain names, because the trademarks in question are very well-known around the world. The fact that the trademarks have been reproduced in their entirety supports a finding of opportunistic bad faith, as the Respondent was clearly targeting the Complainant for purposes of commercial gain.

##### **B. Respondent**

The Respondent replied to the Complainant's contentions by way of a short email. He claims that he owns rights in a trademark application he filed in Australia on April 6, 2023, shortly after receiving notice of these proceedings, which includes some of the same terms (notably "skyscanner") which appear in the disputed

domain names. He argues that the Complainant does not hold any rights in the exact combinations, which comprise the disputed domain names. The Response does not specifically address the issue of bad faith.

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) The disputed domain name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) The domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant clearly holds relevant ownership rights in the trademark SKYSCANNER, as demonstrated by the registered trademarks enumerated in Section 4 above, which were registered more than twelve years before the Respondent took any steps to acquire and use the disputed domain names.

The test for confusing similarity is described as a “reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name” in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

The Panel has reviewed the Respondent’s submissions on this issue. The Respondent argues that the Complainant lacks relevant rights because it does not own trademark registrations for the specific combinations that constitute the disputed domain names. The Respondent’s submissions are ill-founded as it is sufficient to satisfy the requirements under paragraph 4(a)(i) of the Policy if a complainant owns rights in a mark that supports a finding of confusing similarity.

In this matter, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s registered trademark. Each disputed domain name includes the entirety of the distinctive SKYSCANNER mark with the addition of purely descriptive terms. This form of variation does not prevent a finding of confusing similarity under the first element. See *Fenix International Limited v. Patrick Flensby*, WIPO Case No. [D2022-0310](#). The Complainant’s trademark is clearly recognizable within the disputed domain name ([WIPO Overview 3.0](#), section 1.8).

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

### B. Rights or Legitimate Interests

Although the Policy places on the complainant the burden of proof to establish the absence of rights or legitimate interests, the practice recognizes that it is often sufficient for a complainant to make out a *prima facie* case, which then shifts the burden of production to the Respondent to bring forward evidence to demonstrate the relevant rights or interests. ([WIPO Overview 3.0](#), section 2.1).

The Complainant has established a plausible *prima facie* case by bringing forward evidence and submissions on the following five points: (1) the Respondent has never been associated in any way with the Complainant nor has it ever been authorized to use the SKYSCANNER mark; (2) there is no evidence the Respondent has been commonly known by the disputed domain names; (3) the disputed domain names prominently feature and reproduce the distinctive SKYSCANNER mark in order to mislead and lure consumers to a site for commercial advantage; (4) the disputed domain names actually resolve to PPC

pages which include links to travel research and booking sites; and (5) the Respondent is relying on the Complainant's brand and reputation to attract business, which cannot be viewed as fair or legitimate use.

The totality of the evidence set out above is sufficient to establish a *prima facie* case of the absence of rights or legitimate interests on the part of the Respondent. Once the Complainant has established a *prima facie* case, the burden then shifts to the Respondent to bring forward evidence of rights and legitimate interests.

The Respondent has filed brief submissions relating to this matter, which focus on his purported rights to the combination trademark: DESTINATION BOOKING, BUDGET DEALS, SKYSCANNER DEALS, SKYSCANNER AIRLINES, SKYSCANNER FLY, MY TRAVEL BOOKING. (Application No. 2347825 in Australia). The Panel notes that this application was recently filed (April 6, 2023) in the name of a corporation (that is, not in the name of the Respondent); in any event, this newly filed application is not sufficient to establish countervailing rights or legitimate interests on the part of the Respondent, as it represents a transparent belated attempt to create rights after notice of the Complaint was given.

In view of the weakness of the response, the Panel is prepared to find, for the purposes of this proceeding, that the Complainant has satisfied the requirements under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that the disputed domain names have been registered and used in bad faith in light of the factors set out above and below. In particular, the Panel finds that the Respondent must have known about the Complainant's SKYSCANNER mark, as he acted opportunistically to adopt and use confusingly similar domain names many years after the Complainant had established its brand rights and reputation around the world, including Australia where the Respondent appears to reside. See *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. [D2010-0494](#). The Panel also notes the Respondent's failure to deny awareness of the SKYSCANNER brand in his Response. In all the circumstances, it is clear that the Respondent has attempted to take advantage of the Complainant's global reputation in its trademark for the purpose of attracting business from unsuspecting Internet users who will be confused by the disputed domain names.

In reaching this conclusion, the Panel has examined the nature of the disputed domain names. The combination of the distinctive SKYSCANNER mark with words relevant to the travel industry (*i.e.*, airlines, fly, and deals) by the Respondent is a telltale indicator of targeting the Complainant.

The Panel has also considered the fact that the disputed domain names resolve to PPC pages which display links to websites related to travel services. It has been well-established that where a domain name is used to generate revenue in respect of "click through" traffic, and that traffic has been attracted because of the name's association with the Complainant, such use amounts to use in bad faith (*SAP SE v. Domains by Proxy, LLC/Kamel Karmakar*, WIPO Case No. [D2016-2497](#)).

Although the Respondent's reply did not specifically address bad faith, the Panel is obliged to consider the possibility that the Respondent's pending trademark application could possibly be construed as evidence of good faith ownership of relevant trademark rights. In the end, the Panel views the belated filing as self-serving and unpersuasive, as the so-called rights only came into existence after notice of the Complaint was received. As such, the Respondent's application can rightfully be regarded as an example of manufactured evidence, which is insufficient to overcome the other factors set out above in favour of the Complainant's position.

In the absence of any probative evidence to the contrary from the Respondent, the Panel is prepared to find that the Respondent's registration and use of the disputed domain names constitutes a bad faith scheme to attract and divert consumers for commercial gain by creating a likelihood of confusion with the Complainant's SKYSCANNER mark through the use of confusingly similar disputed domain names.

The Complainant has satisfied 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 names, <skyscannerairlines.com>, <skyscannerdeals.com> and <skyscannerfly.com>, be transferred to the Complainant.

*/Christopher J. Pibus/*

**Christopher J. Pibus**

Sole Panelist

Date: May 19, 2023