

## **ADMINISTRATIVE PANEL DECISION**

6805183 Canada, Inc. v. izzet zakuto, GHETTO TEKNOLOJI YAZILIM ANONIM SIRKETI  
Case No. D2024-3018

### **1. The Parties**

The Complainant is 6805183 Canada, Inc. c/o Walters Law Group, United States of America (“United States”).

The Respondent is izzet zakuto, GHETTO TEKNOLOJI YAZILIM ANONIM SIRKETI, Türkiye.

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

The disputed domain name <rabbitvideochat.com> is registered with Wix.com Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 30, 2024, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 30, 2024, 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 August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent requested an additional four calendar days to file the Response on August 21, 2024. Pursuant to paragraph 5(b) of the Rules, the Response due date was extended until August 26, 2024. The Response was filed with the Center on August 26, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on September 10, 2024. 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 operates a website at “www.rabbitscams.com”. The Complainant’s homepage is headed “All Girl Cams”, features webcam images women, a number of which are sexually suggestive in nature, and offers “Category Pages” including, e.g., “Anal Sex”, “Big Tits”, and “Group Sex”.

The Complainant is the owner of United States trademark registration number 4678500 for the word mark RABBITS CAMS, registered on January 27, 2015, in International Class 38.

The disputed domain name was registered on December 15, 2023.

The Complainant provides evidence that the disputed domain name has resolved to a website headed with a stylized rabbit logo and the name “rabbit”. The website states “Welcome! Random chat with people. NO SIGN UP NEEDED”. It features images of men and women (with no overtly sexually suggestive content) and states:

“Rabbit is a random video chat application designed for engaging with girls, utilizing the chatroulette technology. Simply turn on your video camera, and a cute girl will appear right away! We connect you to live cam to cam chat with strangers, making it easier than ever for you to meet new people online. Explore and video chat one-to-one with thousands of beautiful, verified women from around the world who are eager to talk with you. Have fun, talk to strangers, flirt or make new friends instantly.”

#### **5. Parties’ Contentions**

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

The Complainant states that it registered the domain name <rabbitscams.com> on September 26, 2009, and has made extensive use of the RABBITS CAMS trademark since that date. The Complainant claims that it enjoyed common law rights in that trademark prior to obtaining its registered trademark, and prior to the Respondent’s registration of the disputed domain name. The Complainant does not, however, provide any evidence of its commercial profile or trading history, or otherwise of the reputation and/or public recognition of its trademark.

The Complaint refers additionally to its trademark registrations for the marks RABBIT’S REVIEWS, XXX.XXX, and SEXCAMLly.

The Complainant submits that the disputed domain name is confusingly similar to its RABBITS CAMS trademark. It asserts that the disputed domain name incorporates a recognizable portion of that trademark, and that neither the omission of the letter “s” in RABBITS, or the addition of the descriptive term “video chat”, is sufficient to avoid a finding of confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its RABBITS CAMS trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is not making any bona fide commercial use of the disputed domain name. The Complainant asserts that, instead, the Respondent is impersonating, or suggesting sponsorship or endorsement by the Complainant, by using the confusingly-similar disputed domain name to provide video chat services, which the Complainant submits are in direct competition with its own services.

The Complainant submits that the disputed domain name was registered and has been used in bad faith. It contends that the disputed domain name was registered long after the Complainant started using its RABBITS CAMS trademark, and “typosquats” upon that trademark by dropping the letter “s” in RABBITS. It repeats that the disputed domain name is likely to be confused with the Complainant’s trademark, that such confusion is enhanced by the addition of the phrase “video chat”, and that the Respondent’s website competes directly with the Complainant’s services.

The Complainant exhibits a “cease and desist” letter sent to the Respondent on May 13, 2024. It states that the Respondent did not reply to this letter, and that its failure to respond constitutes further evidence of bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

The Respondent states that it launched its website at “www.rabbitvideochat.com” in December 2023 and that it has been a great commercial success, having received millions of views from Internet users located all over the world. It does not, however, submit any evidence in support of these statements.

The Respondent submits that its website and the Complainant’s website do not compete in the same marketplace. It contends that the Complainant operates a camera-based platform which allows users to chat with amateur adult performers while watching them perform live, and that by contrast, the Respondent offers a video chatting platform which allows users to meet new people and chat with each other.

The Respondent denies that the disputed domain name is confusingly similar to the Complainant’s trademark RABBITS CAMS (or any of the other trademarks cited by the Complainant). While it accepts that both the disputed domain name and the trademark include the term “rabbit”, it asserts that this is a term in common usage, particularly for the services in question. The Respondent exhibits evidence of the use in commerce of numerous other third-party United States trademarks containing the term RABBIT, including e.g., DARK RABBIT PRODUCTIONS, DIGITAL RABBIT, RABBIT EARS MUSIC, and RABBIT FILMS.

The Respondent further submits that the use of the plural form, RABBITS, in the Complainant’s trademark is a distinguishing factor.

The Respondent submits that it has rights or legitimate interests in respect of the disputed domain name, by virtue of having launched its website in December 2023. It states that this was prior to the date of the “cease and desist” letter referred to by the Complainant, which it says it never received. It submits that, had it received that letter, it would have replied with a denial that it was infringing any of the Complainant’s rights.

The Respondent denies that it registered or has used the disputed domain name in bad faith. It states that it chose the name “Rabbit” for its website “at random”, and that it had never heard of the Complainant or its website prior to this dispute. It submits that, simply because both its website and the Complainant’s offer video chat services, this does not mean they are competing. It contends that the Complainant’s website is ostensibly pornographic and enables chat with adult performers, who are promoted in various states of undress. It states that its own platform has a very different look and feel and allows regular Internet users to meet and chat.

The Respondent denies that there is any evidence of any actual confusion having been caused to Internet users by its use of the disputed domain name.

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

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

The disputed domain name in this proceeding is <rabbitvideochat.com>, and the Complainant's trademark is RABBITS CAMS. While the Panel accepts the Respondent's contentions that the term "rabbit" is a term in common usage, the Panel finds nevertheless that a dominant element of the Complainant's trademark is recognizable in the disputed domain name for purposes of the Policy. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

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

The Respondent uses the disputed domain name for what appears to be a website offering video chat services, and therefore appears to the Panel prima facie to represent a legitimate commercial venture. In the circumstances, for the Complainant to establish the second element under the Policy, it must demonstrate that the Respondent's website is not bona fide and is in fact a sham or pretext for the Respondent to take unfair commercial advantage of the Complainant's trademark and the goodwill attaching to it.

However, based on the material available to the Panel in this case, the Panel finds no evidence upon which to conclude, or circumstances upon the basis of which to infer, that the Respondent's website was created, or has been used, as a pretext for targeting the Complainant's trademark.

While the Complainant has a registered trademark RABBITS CAMS, the Panel does not find the RABBIT element of that mark to be inherently distinctive, and there is no evidence to suggest that it is regarded by the public as being exclusively referable to the Complainant and its services. Indeed, the word "rabbit" is a dictionary word in common usage in the English language and is capable of legitimate use in connection with a wide variety of businesses. Based on the Panel's own limited enquiries, a search against the term RABBIT within the WIPO Global Brand Database returns over 3,000 current registrations for trademarks including that term. Even a cursory Internet search for "rabbit cam" does not yield any connection to the Complainant among the first page of results.<sup>1</sup> As identified above, the Complainant has furnished no evidence of its commercial profile or trading history, nor any evidence of public recognition.

In the circumstances, the Panel does not find that Internet users are likely to assume that any website linked to the disputed domain name must be operated by, or otherwise commercially affiliated with, the Complainant. Nor does the Panel accept that the disputed domain name "typosquats" upon the Complainant's trademark.

While the Complainant submits that the Respondent's website competes with its own, that matter would not of itself be sufficient to avail the Complainant under the Policy, without also demonstrating targeting of the Complainant's trademark. In any event, while the Respondent's website refers e.g., to "engaging with girls" and "cute girls", it does not appear to include any pornographic or overtly sexual offering, in the way that the Complainant's website expressly does. Therefore, while the two websites have a video chat element in common, the Panel finds that they are significantly different in nature.

While the Panel notes that the term "video" in the disputed domain name may be associated by the public with the term CAMS in the Complainant's trademark, this matter is insufficient to persuade the Panel that the Respondent is likely to have had the Complainant's trademark (which in any event utilizes the plural form

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<sup>1</sup> See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#), section 4.8, on the general powers of panels to conduct limited research into matters of public record.

RABBITS) in mind when it registered the disputed domain name, or that the Respondent has used the disputed domain name with the intention of confusing Internet users into believing its website must be connected with the Complainant.

The Complainant has therefore failed to establish, for the purposes of the Policy, that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Should the Complainant believe that the Respondent's website infringes its trademark rights (upon which the Panel expresses no view), then that is a matter for the Complainant to pursue in another forum if so advised. The decision in this proceeding must be based solely upon the terms of the Policy, and upon those criteria the Complaint must fail.

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

While the Panel's findings in respect of the second element, above, are sufficient to determine this proceeding, the Panel adds for completeness that it finds no evidence (or basis upon which to infer) that the disputed domain name was registered and has been used in bad faith. The Panel does not find the terms "rabbit" and "video" in the disputed domain name to be likely to invoke the Complainant's trademark RABBITS CAMS, the Complainant has not furnished any evidence of the notoriety of its trademark or associated website. The Panel finds in the circumstances that the Respondent has used the disputed domain name for the purposes of a bona fide website, in the absence of any grounds upon which to conclude that the Respondent targeted the Complainant's trademark.

### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: September 17, 2024