

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Domains By Proxy, LLC / Sky Scanners
Case No. D2022-0415

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom (“UK”), represented by Lewis Silkin LLP, UK.

The Respondent is Domains By Proxy, LLC, United States of America (“United States” or “U.S.”)/ Sky Scanners, India.

2. The Domain Name and Registrar

The disputed domain name <sky-scanners.com> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 8, 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 February 10, 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 February 14, 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 February 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on March 23, 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 Complainant is a metasearch engine and travel agency based in the United Kingdom. The Complainant's website to which the domain name <skyscanner.net> resolves is available in over 30 languages and used by 100 million Internet users per month. As of November 12, 2019, the Complainant's website was ranked number 1,671 globally for Internet traffic and engagement.

The Complainant is also the owner of a number of trademark registrations for the SKYSCANNER Trademark including, *inter alia*, International Trademark Registration No. 900393 for SKYSCANNER, registered on March 3, 2006, International Trademark Registration No. 1030086 for SKYSCANNER, registered on December 1, 2009 designating Armenia, Australia, Azerbaijan, Bosnia & Herzegovina, Belarus, the European Union, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Turkey and Ukraine, Indian Trademark Registration No. 1890840 for SKYSCANNER, Indian Trademark Application No. 2287020 for SKYSCANNER & Cloud Device, UK Trademark Registration No. 2313916 for SKYSCANNER, Canadian Trademark Registration No. TMA786689 for SKYSCANNER, and New Zealand Trademark Registration No. 816550 for SKYSCANNER (the "Complainant's Trademark"). Thus, the Complainant has obtained an exclusive right to the trademark SKYSCANNER through extensive use.

The Disputed Domain Name was registered on January 21, 2022. The Disputed Domain Name previously displayed a website offering travel arrangement services in direct competition with the Complainant's core services, but currently resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarised as follows:

(a) The Disputed Domain Name is substantially identical to the Complainant's Trademark. The only element which differentiates the Disputed Domain Name from the Complainant's Trademark is the addition of the letter "s" to the end of "skyscanner" to read "skyscanners", which does not differentiate the Disputed Domain Name from the Complainant's Trademark.

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Complainant has never authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. By displaying a substantially identical trademark on its website, and offering travel arrangement services in direct competition with the Complainant's core services in which the Complainant enjoys a reputation, the Respondent is targeting the Complainant's Trademark for commercial gain by deliberately misleading consumers into believing they are communicating with and, ultimately, purchasing the package holidays advertised on the Respondent's website from the Complainant.

(c) Both the Respondent's registration of and its use of the Disputed Domain Name establish the Respondent's bad faith. The Disputed Domain Name was registered at a time when the Complainant's global reputation was well established and the Respondent must have been aware of that reputation. This points to registration in bad faith. Furthermore, the Respondent's website to which the Disputed Domain Name resolves offers travel arrangement services that are similar to the Complainant's core services. In so doing, the Respondent's actions amount to bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its trademark registration listed above in Section 4.

It is well established that in making an enquiry as to whether a domain name is identical or confusingly similar to a trademark, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the letter "s" to the end of "skyscanner" to read "skyscanners"; and the inclusion of a dash between the words "sky" and "scanners". UDRP panels have consistently found that the intentional misspelling of a trademark (*i.e.*, typosquatting) will not alter the fact that the domain name at issue is confusingly similar to the mark in question. See section 1.9 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the letter "s" (and a dash) does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in the disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorised the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name. The Respondent did not submit a Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the complaint as true (see *Entertainment Shopping AG v. Nischal*

Soni, Sonik Technologies, WIPO Case No. [D2009-1437](#), and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate 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.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use as the Respondent appears to have registered the Disputed Domain Name solely for the purpose of misleading customers by using a domain name substantially identical to the Complainant's Trademark. In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent is commonly known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the letter "s" at the end and the "-" symbol in between. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "skyscanner" relate to the Complainant's services and third party websites providing information relating to the Complainant's services. Therefore, taking this into consideration, the Respondent must have been aware of the Complainant and the Complainant's trademark rights when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

- (i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.
- (ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (save for the addition of the letter "s" and the symbol "-").

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <sky-scanners.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: March 24, 2022