

ADMINISTRATIVE PANEL DECISION

Global Car Group Pte Ltd., Cars24 Services Private Limited v. Scott Simmons, ilearnProject
Case No. D2022-0445

1. The Parties

The Complainants are Global Car Group Pte Ltd., Singapore, and Cars24 Services Private Limited, India, represented by Sim and San Attorneys At Law, India.

The Respondent is Scott Simmons, ilearnProject, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <cars24.biz> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2022. On February 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 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 Complainants on February 10, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on February 12, 2022.

The Center verified that the Complaint together with the amended 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 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 10, 2022.

The Center appointed Andrew D. S. Lothian 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 first Complainant, Global Car Group Pte Ltd., is a company incorporated under the laws of Singapore on April 13, 2015. In India, its business is carried on by the second Complainant, its wholly owned subsidiary company, Cars24 Services Private Limited, a company incorporated in India on August 12, 2015.

The first Complainant is engaged through its subsidiaries in buying and selling used cars and auto parts to businesses and consumers in various geographies around the globe. The second Complainant operates an online marketplace involved in the buying and selling of used cars, with more than 215 branches across 87 major cities in India. Its services are also available in the United Arab Emirates, Thailand, and Australia, with launches planned in various other countries. It has been valued at more than USD 1 billion, with annualized sales of USD 600 million and annual transactions exceeding 200,000 units.

The Complainants have adopted a CARS24 trademark, together with two device marks, the first being a vehicle registration number format with the capitalized word "CARS" in large blue typeface, followed by smaller figures "24" below which are orange chevrons, with the whole surrounded by borders in the same orange color. The second device mark is in monochrome and features a white car superimposed on one dark and one lighter grey chevron, beyond which is the capitalized word "CARS" in the same color as the darker grey chevron, and the word "24" in the same color as the lighter grey chevron. The Complainants assert that the CARS24 mark has become a household name in several parts of the world, due in part to extensive media coverage, social media and sponsorship activities (examples of which have been provided), together with the second Complainant's sales promotion expenditure of approximately USD 19 million in the 2019-2020 financial year. The Complainants have also received a number of international awards for the services supplied under the CARS24 mark. The Complainants' website at "www.cars24.com" received 72.6 million sessions in 2020, an increase from 42 million in 2019. The Complainants' mobile application has received over 49 million downloads to date. The Complainants assert that these facts together demonstrate that they have acquired unregistered trademark rights in the CARS24 mark.

In terms of registered trademarks, the first Complainant is the owner of a large variety of such marks, the earliest of which appears to be Indian Registered Trademark No. 3004750 for the word mark CARS24, registered on July 8, 2015 in respect of goods and services in Class 1. In terms of a License Agreement between the Complainants dated June 8, 2021 and effective from August 12, 2015, the first Complainant has licensed the use of its CARS24 word marks and "vehicle registration number" device marks to the second Complainant for use in India. Said license replaces an informal license which has been in place between the Complainants since the date of the second Complainant's incorporation.

The disputed domain name was registered on November 1, 2021. According to screenshots produced by the Complainants, the associated website redirects to a purported food blog. Said site is only partially complete and contains "lorem ipsum" (dummy) text throughout. Little is known regarding the Respondent, which has not participated in this proceeding, other than that it has an address in Oklahoma, United States of America. Until its identity was disclosed within the context of the present proceeding, the Respondent used a privacy service to conceal its details from the Whois service.

5. Parties' Contentions

A. Complainants

In summary, the Complainants contend as follows:
Identical or confusingly similar

Trademark registrations such as those cited by the Complainants in the CARS24 mark constitute *prima facie* evidence of validity of trademark rights. The disputed domain name is incorporated in its entirety and is identical to the Complainants' CARS24 mark. The Top-Level Domain ".biz" should be disregarded and does not prevent a finding of identity under the Policy.

Rights or legitimate interests

The Complainants seek to establish a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, which has been registered with an ulterior motive of gaining revenue through redirections and through selling it. It is held by a privacy protect service to conceal the Respondent's identity. The Respondent has no prior association of any kind with the Complainants and is not allowed to use their CARS24 mark. It stretches credulity to breaking point to believe that it was a mere coincidence that the Respondent adopted a name similar to the Complainants' unique and distinctive name. The Respondent is not able to invoke any of the circumstances set out in paragraph 4(c) of the Policy. The disputed domain name is not being used in connection with a *bona fide* offering of goods and services. The record suggests that the Respondent's true purpose is to sell the disputed domain name and not to trade under it. There is nothing in the evidence before the Panel that suggests the Respondent is commonly known by the term "cars24". It could not make such a claim due to the Complainants' notoriety and the fact that the mark is not generic or descriptive. The use of the disputed domain name is not noncommercial as the Respondent generates revenue through automatically redirecting Internet users to a third party website. The fact that the disputed domain name falsely suggests affiliation with the Complainants generally excludes any possible fair use.

Registered and used in bad faith

There is no plausible reason for the registration and use of the disputed domain name other than the ulterior motive of gaining revenue through redirections and sale. Bad faith is implicit in the registration of the disputed domain name because it was registered with an intention to attract Internet users to a website for commercial gain by creating a likelihood of confusion with the Complainants' mark as to source, sponsorship, affiliation, or endorsement thereof. Given the inherent distinctiveness of the Complainants' mark, the Respondent could not have chosen the identical representation in the disputed domain name for any reason other than to take unfair advantage. The inactivity on the disputed domain name corroborates the Respondent's lack of interest in pursuing any form of business.

The Complainants' CARS24 mark is a highly-distinctive coined mark, well-known worldwide and continuously used since 2015, rapidly acquiring goodwill and renown. The Respondent registered the disputed domain name in full knowledge of the Complainants' rights and cannot credibly claim to have been unaware of the mark. Such actual knowledge constitutes strong evidence of bad faith. The redirection of the disputed domain name to a third party website, potentially fraudulent in nature, supports a finding under paragraph 4(b)(iv) of the Policy and misrepresents the Complainants' lack of affiliation with the Respondent. A previous panel under the Policy has found bad faith in the case of a redirected domain name where the mark concerned was coined and widely known, there was no evidence of any actual or contemplated good faith use of the domain name concerned, and active steps had been taken to conceal the true identity of the respondent, such as the engagement of a privacy service.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

To succeed, the Complainants must demonstrate that all of the elements described in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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. Preliminary issue - Consolidation of Complainants

The Complaint is brought in the name of two entities. No express request for consolidation of the first and second Complainant's respective complaints has been made. However, the Complaint sets out the roles of each of the Complainants in detail, noting that the first Complainant is the owner of the CARS24 trademark and the second Complainant is its subsidiary and licensee.

Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") deals with the issue of multiple complainants filing a single complaint against a respondent and notes that, in examining this issue, 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.

In the present case, the Panel is content to consolidate the complaints of both of the Complainants against the Respondent. First, the terms of the Complaint affirm that the Complainants fulfil the first of the above criteria, specifically that the first Complainant is the owner of the CARS24 trademark while the second Complainant is its subsidiary and licensee of said mark. The registration and use of the disputed domain name containing such trademark therefore gives rise to a specific common grievance against the Respondent on the part of both Complainants, each of whose rights are affected thereby, and it also constitutes common conduct on the Respondent's part that has affected the Complainants in a similar fashion. Secondly, the Respondent has not opposed or otherwise commented on the issue. Thirdly, the Panel considers that it would be equitable and procedurally efficient to permit the consolidation and can conceive of no reason why this would not apply in the circumstances of the present case.

The Panel therefore allows the consolidation of the Complainants' respective complaints against the Respondent, relating to the disputed domain name, in the present administrative proceeding.

B. Identical or Confusingly Similar

The assessment under the first element of the Policy typically falls into two parts. First, the Complainants must demonstrate that they have UDRP-relevant rights in a trademark, whether registered or unregistered. Secondly, such trademark is compared to the disputed domain name, typically disregarding the Top-Level Domain (in this case, ".biz"), with a view to determining whether the former is recognizable in the latter. If it is so recognizable, confusing similarity will generally be found, whereas if it is identical, identity will usually be found.

In the present case, the Panel is satisfied that the Complainants have rights in their registered CARS24 trademark as described in the factual background section above. The first Complainant is the owner of such mark and the second Complainant is its licensee. The Panel also finds that due to the extent of the reputation and goodwill in the CARS24 mark vesting in the Complainants, as established by the evidence on the present record, the Complainants also possess unregistered trademark rights therein because the Complainants have shown that such term constitutes a distinctive identifier which consumers associate with the Complainants' goods and services¹.

Turning to the comparison exercise, excluding the Top-Level Domain as outlined above, the disputed domain name is alphanumerically identical to the Complainants' CARS24 registered and unregistered trademark and such mark is entirely recognizable in the disputed domain name.

In the above circumstances, the Panel finds that the disputed domain name is identical to a trademark in which the Complainants have rights and accordingly that the Complainants have carried their burden in terms of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue”.

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by the respondent, that the respondent has no rights or legitimate interests in a domain name. In the present case, the Panel finds that the Complainants have established the requisite *prima facie* case based on their submissions that the Respondent has no prior association of any kind with the Complainants, is not allowed to use their CARS24 mark, is not commonly known by the term “cars24”, is not using the disputed domain name in connection with a *bona fide* offering of goods and services, has redirected the disputed domain name for commercial purposes to a website with an ulterior motive of gaining revenue through redirections and/or to sell it to the Complainants or a competitor, is not making noncommercial or fair use of the disputed domain name, is falsely suggesting affiliation with the Complainants by way of the disputed domain name, and cannot avail itself of any of the criteria set out in paragraph 4(c) of the Policy.

In these circumstances, the burden of production shifts to the Respondent to bring forward evidence of any rights or legitimate interests which it might have claimed in respect of the disputed domain name. However, the Respondent has not engaged with the administrative proceeding and accordingly there are no submissions or evidence available from it which might have supported any such claim. The Panel has considered the prospect that the registration of the disputed domain name is coincidental, based upon the fact that the Complainant’s mark is made up of the dictionary word “cars” and the number “24”, and bearing in mind the fact that the latter is often used to reference the number of hours in the day, in phrases such as “24/7”. However, there is no evidence that the Respondent seeks to use the disputed domain name to reference that phrase, nor is the content on the website associated with the disputed domain name anything to do with “cars” or the number “24”. Taken together, as they appear in the disputed domain name, these elements make up the Complainants’ distinctive coined trademark and do not reflect any common phrase to the Panel’s knowledge. Furthermore, the evidence before the Panel shows that the Complainants’ mark has become well-known and that the Complainants have a substantial Internet presence under such mark. The Panel therefore discounts the possibility that the Respondent may have registered the disputed domain name coincidentally in connection with any dictionary meaning².

The fact that the disputed domain name currently points to a website featuring a partially completed food blog suggests that the Respondent may simply be seeking to take advantage, for some unknown purpose, of the substantial traffic to the disputed domain name which is likely to be generated by the inclusion of the

Complainants' well-known trademark, or that the Respondent ultimately seeks to sell the disputed domain name to the Complainants or to one of their competitors for an amount in excess of its out-of-pocket costs. Neither of these potential uses of the disputed domain name would confer rights and legitimate interests upon the Respondent within the meaning of the Policy. Finally, it is clear from the website content associated with the disputed domain name that the Respondent is not using it to make any *bona fide* offering of goods or services, albeit that the use is not noncommercial in nature. While the disputed domain name redirects to a blog that may seem noncommercial, the Panel finds that the redirection is probably for commercial purposes, or with an ulterior motive of gaining revenue through redirections and/or to sell it to the Complainants or a competitor.

In all of the above circumstances, the Panel finds that the Respondent has failed to rebut the *prima facie* case established by the Complainants, and the Panel therefore finds that the Complainants have carried their burden in terms of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location”.

In general, to be successful in demonstrating registration and use in bad faith under the Policy, a complainant must show that the domain name concerned was registered in the knowledge of its rights and with intent to target these unfairly. In the present case, the Complainants assert that the Respondent's bad faith is implicit in the registration of the disputed domain name because it was registered with an intention to attract Internet users to a website for commercial gain by creating a likelihood of confusion with the Complainants' mark as to source, sponsorship, affiliation, or endorsement thereof. This is effectively a submission in terms of paragraph 4(b)(iv) of the Policy. The Complainants add that their mark is so distinctive and well-known that the only reason the Respondent could have chosen an identical representation in the disputed domain name is to take unfair advantage in some fashion or other.

As noted in the preceding section, the Complainants' mark is well-known. It is highly-distinctive and is a coined term. It is associated with a substantial Internet presence available worldwide. The Complainants' business has garnered significant commercial success in a relatively short period of time. Although the Complainants' mark is made up of a dictionary word and a number, where these are taken together as in the disputed domain name, they do not correspond to any dictionary word or phrase known to the Panel. In these circumstances, and in the absence of any evidence to the contrary, the disputed domain name appears to have been registered with the Complainants' trademark in mind and with intent to target it.

As also noted in the preceding section, the Panel does not know whether the Respondent's primary intent was to attempt to sell the disputed domain name to the Complainants or to a competitor for an amount in excess of out-of-pocket costs, or to take unfair advantage of the substantial Internet traffic which might be generated by the inclusion of the Complainants' mark in the disputed domain name, or to benefit in some other way from an apparent endorsement of the website associated with the disputed domain name. The content of such website gives no clues as to the Respondent's intent, other than to suggest that pointing the disputed domain name to a partially completed food blog site does not support any good faith motivation, for example, surrounding the dictionary meaning of the word "cars" and the number "24". Given the notoriety of the Complainants' mark, had any such claim been made, the Panel would have been unlikely to have accepted it in the circumstances of the present case.

Accordingly, the Panel concludes that there is no plausible reason for the registration and use of the disputed domain name before it other than that it was registered in the knowledge of the Complainants' rights and with intent to take unfair advantage of these in some fashion or other. It is important to note that the Complainants' allegations of the Respondent's bad faith have gone unchallenged in this proceeding. No reasonable alternative explanation has been put forward by the Respondent for the registration and use of the disputed domain name which might have suggested any good faith motivation on its part.

In all of these circumstances, the Panel finds that the disputed domain name has been registered and is being used in bad faith, and accordingly that the Complainants have carried their burden in terms of 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 <cars24.biz> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: April 6, 2022.

¹ See section 1.4.1 of the of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") as regards the rights of a licensee of a registered trademark, and section 1.3 thereof indicating that relevant evidence demonstrating acquired distinctiveness may include a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys. The Complainants produced evidence in the present case supporting a finding in terms of factors (i), (ii), (iii) and (iv).

² See section 2.10.1 of the WIPO Overview 3.0, which notes that panels have assessed cases involving common phrases (whether spelled out or numerical) corresponding in whole or in part to numbers (e.g., 24/7 or 365) in a similar manner as dictionary terms, adding that panels also tend to look at factors such as the status and fame of the relevant mark and whether the respondent has registered and legitimately used other domain names containing dictionary words or phrases in connection with the respective dictionary meaning. Here, the status and fame of the relevant mark is considerable, as demonstrated by the evidence on the record, while there is no evidence of any relevant dictionary word or phrase, nor any evidence that the Respondent has registered any such other domain names.