

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd v. Super Privacy Service LTD c/o Dynadot / tian tao
Case No. D2022-1019

1. The Parties

The Complainant is Canva Pty Ltd, Australia, represented by SafeNames Ltd., United Kingdom.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America (“United States”) / tian tao, China.

2. The Domain Name and Registrar

The disputed domain name <canvacn.com> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2022. On March 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 25, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 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 amended Complaint on March 29, 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 March 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 21, 2022.

The Center appointed Martin Schwimmer as the sole panelist in this matter on May 2, 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.

Due to exceptional circumstances, the Panel extended the Decision due date.

4. Factual Background

The Complainant, Canva Pty Ltd, is an online graphic design platform founded in 2012 in Australia. Users of the Complainant's services have thousands of images and templates to choose from when creating graphic designs, and currently has some 200 million visitor users per month with customers in 190 countries. The Complainant offers services from its main website, "www.canva.com". It also offers services via tablets and mobile phones.

The Complainant's online offerings are available in numerous languages, with country-specific pages and domain names comprising its CANVA mark.

The Complainant offers its services to China-based Internet users through the use of one of its domain name <canva.cn>. It maintains an office in China.

The Complainant owns several registered trademarks for CANVA (the "Mark") and its CANVA stylized logo (collectively with the Mark, the "Marks"), including:

- Australian registered trademark number 1483138 for the CANVA word mark, registered on March 29, 2012;
- United States registered trademark number 4316655, for the CANVA word mark, registered on April 9, 2013;
- International registered trademark number 1204604 for the CANVA word mark, registered on October 1, 2013 (extended to China);
- Brazilian registered trademark number 914660462 for the CANVA word mark, registered on April 30, 2019;
- United States registered trademark number 6114099 for the CANVA design mark, registered on July 28, 2020.

The Domain Name was registered on August 13, 2021. The Domain Name previously resolved to a website that provided links to design services competitive with those of the Complainant. The Domain Name currently resolves to a 403 Forbidden error code.

5. Parties' Contentions

A. Complainant

The Complainant owns trademark registrations for the Marks and owns domain names incorporating the Mark including <canva.com> and <canva.cn>.

The Domain Name is confusingly similar to the Mark, as it incorporates the Mark in its entirety, with only the addition of the letters "cn". "Cn" is the country code for China, a jurisdiction in which the Complainant offers services, maintains an office, and owns registered trademark rights through its International Registration No. 1204604.

The Complainant has no affiliation with the Respondent, nor did the Complainant authorized it to register or use the Marks in any manner. The Respondent is not known by the Mark or the Domain Name.

The Respondent does not make a *bona fide* use of the Domain Name. At the time of the Complaint, the Respondent operated a website at “www.canvacn.com” that provided links to a variety of online tools, many of which are competitive with those of the Complainant. The website bore section headings such as “Design Tutorial”, “Design Tools”, “Font Design”, and “Photography beauty” (sic), all of which are thematically related to the Complainant’s design services.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has provided evidence of its registered rights in the Marks, which have been registered since at least as early as 2012. The Complainant has therefore proven that it has the requisite rights in the Marks.

As the Mark is wholly incorporated and clearly recognizable in the Domain Name, the addition of the letters “cn” does not prevent a finding of confusing similarity between the Mark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

Thus, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, and the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

The Complainant has alleged that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the Marks or to seek registration of any domain name incorporating the trademarks. The Respondent is also not known to be associated with or commonly known by the Marks.

In addition, the Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that the Respondent offered or promoted services competitive with those of the Complainant. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on the Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, the Complainant has provided evidence supporting its *prima facie* claim that the Respondent lacks any rights or legitimate interests in the Domain Name. The Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes

that the Respondent does not have any rights or legitimate interests in the Domain Name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent's actions indicate that it registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(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.”

The Complainant has provided ample evidence to show that its registration and use of the Marks predate the registration of the Domain Name by the Respondent. Furthermore, the record shows that the Complainant's Marks and related services are widely known and recognized. Prior panels have found the Mark to be well-known.

Further, the Domain Name incorporates the Complainant's Mark in its entirety, which suggests the Respondent's knowledge of the Complainant's rights in the Mark at the time of registration of the Domain Name. The Respondent's use of the Domain Name to promote services competitive with those of the Complainant puts beyond doubt the question as to whether it sought to trade off the reputation of the Complainant.

The Panel therefore finds that the Respondent knew, or should have known, that the registration of the Domain Name would be confusingly similar to the Complainant's Mark, which suggests bad faith. See [WIPO Overview 3.0](#), section 3.2.2. See also *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Moreover, the Respondent registered and is using the Domain Name to confuse and mislead consumers looking for *bona fide* CANVA products and services of the Complainant. The use of the Mark as the dominant part of the Domain Name is intended to capture Internet traffic from Internet users who are looking for the Complainant's products and services and to deceive Internet users into thinking that the Respondent is somehow connected to the Complainant, which is not the case. Such use disrupts the Complainant's business. Moreover, such use clearly shows the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Marks.

In addition to the circumstances referred to above, the Respondent's failure to file a response is further indicative of the Respondent's bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith and the Complainant succeeds under the third element of paragraph 4(a) 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 <canvacn.com> be transferred to the Complainant.

/Martin Schwimmer/

Martin Schwimmer

Sole Panelist

Date: July 18, 2022