

## **ADMINISTRATIVE PANEL DECISION**

Expedia, Inc. v. Dewen Zhong, DBG  
Case No. D2022-4203

### **1. The Parties**

The Complainant is Expedia, Inc., United States of America, represented by Kilpatrick Townsend & Stockton LLP, United States of America.

The Respondent is Dewen Zhong, DBG, China.

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

The disputed domain name <wotif-travels.com> is registered with eNom, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2022. On November 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 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 November 8, 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 November 8, 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 November 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2022. The Respondent sent an informal email on December 3, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on December 8, 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 one of the largest online travel companies in the world. The Complainant operates the <expedia.com> website, one of the largest full service online travel agencies in the world, with localized websites in more than 40 countries. The Complainant operates more than 200 travel booking sites in more than 70 countries, including <hotels.com>, <hotwise.com>, <travelcity.com>, <orbitz.com>, <wotif.com>, <egencia.com>, <trivago.com>, and <homeaway.com>. Overall, the Complainant's supply portfolio includes 2.9 million lodging properties, including more than 880,000 hotels, over 500 airlines, numerous car rental companies, packages, cruise companies, insurance, as well as activities and experiences across 200 countries and territories.

The Complainant is the owner of numerous WOTIF service mark registrations in various jurisdictions, including Australia, New Zealand, China, Canada, the European Union and the United Kingdom, as follows:

- WOTIF, Australian registration No. 829270, with a priority date of March 28, 2000, for services in classes 35, 39, and 42;
- WOTIF, Australian registration No. 1218135, with a priority date of January 8, 2008, for services in class 43;
- WOTIF, IT'S AUSSIE FOR TRAVEL, Australian registration No. 1949171, with a priority date of August 17, 2018, for services in classes 35, 39, 41, 42 and 43;
- WOTIF, New Zealand registration No. 718092, filed on September 7, 2004 and registered on December 8, 2005, for services in class 35, 39 and 43;
- WOTIF, International registration No. 966914 of February 4, 2008, designating China, covering services in classes 35, 39, 42 and 43;
- WOTIF, Canadian registration No. TMA643835, filed on September 2, 2003 and registered on July 7 2005, covering services in classes 39 and 43;
- WOTIF.COM, European Union registration No. 2931632, filed on November 13, 2002 and registered on December 16, 2003, for services in classes 35, 39 and 43;
- WOTIF.COM, United Kingdom registration No. UK00002235316, filed on June 8, 2000 and registered on May 3, 2002, for services in classes 35, 39 and 43.

All the previously mentioned registrations were renewed at their expiry dates.

The trademark WOTIF is used in connection with an online travel booking website at the Internet address "www.wotif.com", that is primarily targeted to Australian and New Zealand consumers. The Complainant bought the WOTIF business in 2014 and the Complainant and its predecessors have used the trademark for nearly twenty-three years in relation to travel booking services. The WOTIF service currently offers 590,000 property listings around the world, 1,800,000 online bookable vacation rentals, over 500 airlines to search, 175 car rental companies, and 35,000 other bookable activities. The trademark WOTIF is largely promoted through online, print, and television advertising campaigns, and sponsorships. The Complainant also uses its WOTIF trademark for its various social media platforms on Facebook, Instagram and Twitter, and on mobiles through mobile applications that are available on the Apple's App Store and on Google Play.

The Respondent registered the disputed domain name on September 7, 2022. It leads to a webpage displaying a login page reproducing the WOTIF mark and containing a copyright notice suggesting that WOTIF is operating the webpage.

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

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

The Complainant maintains that the disputed domain name is confusingly similar to its WOTIF mark, as it incorporates it entirely. The addition of the English word "travels" at the end of the disputed domain name, and the hyphen separating the WOTIF mark from this word cannot prevent confusing similarity, as WOTIF is

clearly identifiable and the primary and dominant element of the disputed domain name.

The Complainant further maintains that the Respondent lacks rights and legitimate interests in the disputed domain name. The Complainant's mark is fully incorporated in the disputed domain name; hence, there can be no rights or legitimate use by the Respondent. The disputed domain name is not a legitimate name or nickname of the Respondent, nor is it in any other way identified with, or related to, any rights or legitimate interests of the Respondent. There is not a relationship between the Complainant and the Respondent giving rise to any license, permission, or other right by which the Respondent could own or use the disputed domain name. The Complainant does not endorse or sponsor the Respondent's activities in any respect and has not provided its consent to the use and exploitation of the WOTIF trademark in the disputed domain name. In addition, the use of the disputed domain name to lead to a false login page cannot amount to a legitimate noncommercial or fair use of the disputed domain name, or a *bona fide* offering of goods and services. According to the Complainant, given the longstanding use of the Complainant's mark, the fact that the Respondent has no rights in that mark, and that the Respondent has posted a fraudulent login page at the disputed domain name, it is clear that the Respondent did not register the disputed domain name for any legitimate or fair-use purpose. Rather, according to the Complainant, the Respondent registered the disputed domain name for commercial gain.

The Complainant contends that the Respondent has registered and is using the disputed domain name for commercial gain, and to benefit from the goodwill and notoriety associated with the Complainant's mark. In fact, the disputed domain name (i) completely incorporates the Complainant's WOTIF mark; (ii) was registered long time after the Complainant's rights in its mark, and after the Complainant's services became known to consumers. Moreover, the Respondent sought to impersonate the Complainant by using the disputed domain name as part of a fraudulent scheme. Due to the longstanding use of the Complainant's mark, it is clear that the Respondent registered the disputed domain name being fully aware of the Complainant's rights on the WOTIF mark. Based on the above, it is evident that the Respondent registered and used the disputed domain name for the purpose of attracting and diverting Internet traffic to a fraudulent login page, which amounts to registration and use of the disputed domain name in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions but sent an informal email after the notification of the Respondent default on December 3, 2022 saying: "This name is on Registrar Freeze".

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has successfully proved that it owns registered rights over the WOTIF service mark dating back various years before the registration of the disputed domain name. In the Panel's view, the disputed domain name is confusingly similar to the WOTIF mark since this mark is fully reproduced in the disputed domain name and the addition of a hyphen followed by the English term "travels" cannot prevent a finding of confusing similarity. See in this respect Section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), stating that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Panel is therefore satisfied that the first condition under the Policy is met.

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

The second condition to be proved in order to succeed in a UDRP proceeding, is that the Respondent lacks rights or legitimate interests in the disputed domain name.

While the overall burden of proof rests with the complainant, panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. Therefore, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

In the instant case, the Complainant has maintained that the Respondent is not a Complainant's licensee and that the Complainant did not grant any authorization to the Respondent to incorporate the Complainant's mark in the disputed domain name. Moreover, it does not appear from the file that the Respondent is commonly known by the disputed domain name, or a name corresponding to it. The disputed domain name is associated to a login page for WOTIF; it prompts users to login to their WOTIF accounts. This login page displays the WOTIF trademark prominently, and a copyright notice as follows: "Copyright © 2022 Wotif. All Rights Reserved". In order to login, Internet users are also requested to insert their phone numbers. Therefore, through the disputed domain name the Respondent is seeking to impersonate the Complainant and to obtain personal information through fraudulent means. It is not clear what the real purpose behind this use is, but it is certainly illegitimate. The use of a domain name for illegal activity can never confer rights or legitimate interests on the respondent (see Section 2.13.1 of the [WIPO Overview 3.0](#)).

For all the reasons mentioned above, the Panel concludes that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As the Respondent failed to file a Response, the Panel is satisfied that also the second condition under the Policy is met.

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

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

As far as registration in bad faith is concerned, in the Panel's view, it is unlikely that the Respondent registered the disputed domain name by accident. As a matter of fact, not only did the Respondent incorporate in the disputed domain name the Complainant's trademark, but it added to it the well-known English term "travels" that designates the Complainant's activity. Therefore, the Panel is inclined to believe that the Respondent was perfectly aware of the Complainant and of its WOTIF trademark when it registered the disputed domain name. This circumstance is also confirmed by the use of the disputed domain name to access a login page displaying the Complainant's trademark in the same graphic used by the Complainant and a fake copyright notice in the Complainant's name. The mere registration of a domain name that is confusingly similar to a third party's trademark, being aware of such trademark and without rights or legitimate interests, is evidence of bad faith.

With respect to use in bad faith, the Respondent is clearly trying to impersonate the Complainant to attract Internet users to its website, asking them for personal information, such as their telephone number. In this way, Internet users are misled as to the true origin of the webpage and likely to insert the required information to login in what they believe is the Complainant's platform. Although what happens after the Internet user has made the login is not clear, in consideration of the overall circumstances of this case there are little doubts that the Respondent's purpose is illegitimate. It is indeed quite likely that the Respondent has targeted the Complainant and its WOTIF trademark for some kind of personal advantage.

In light of the above, the Panel concludes that the Respondent registered and used the disputed domain name in bad faith. Thus, also the third and last condition under the Policy has been met.

## 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 <wotif-travels.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: December 23, 2022