

ADMINISTRATIVE PANEL DECISION

Hostelworld.com Limited v. RAO XIUJUAN, HK-YINXIN
Case No. D2022-4327

1. The Parties

The Complainant is Hostelworld.com Limited, Ireland, internally represented.

The Respondent is RAO XIUJUAN, HK-YINXIN, China.

2. The Domain Name and Registrar

The disputed domain name <hostelworldtravel.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 14, 2022. On November 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed 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 16, 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 17, 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 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2022. The Respondent did not submit any formal response. However, two emails were received from the Respondent on November 25, 2022 and December 1, 2022 respectively. A “Possible Settlement” email was sent by the Center on November 28, 2022, and, on November 29, 2022, the Complainant forwarded an email to the Center indicating that it was not interested in requesting the suspension of the proceeding. Accordingly, the Center notified the Commencement of Panel Appointment Process on December 13, 2022.

The Center appointed Reyes Campello Estebaranz as the sole Panelist in this matter on December 16, 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 provides online accommodation services, including travel agent services, hostel and accommodation booking services, and related services since 1999. The Complainant's website features campsites, self-catering accommodation, B&B's, and budget hotels; it currently lists over 36,000 properties in more than 178 countries, and it is available in 23 languages. Furthermore, the Complainant operates an affiliate program and has relationships with over 2,800 affiliates/distribution partners, in 88 countries, including many of the world's leading accommodation and travel brands.

The Complainant operates under the trademark HOSTELWORLD and it owns various registrations for this brand, including:

- European Union Trademark Registration No. 009273947, HOSTELWORLD.COM, word, registered on January 7, 2011, in Class 35;
- European Union Trademark Registration No. 014096697, HOSTELWORLD, figurative, registered on October 5, 2016, in Classes 35, 39, 41 and 43;
- International Trademark Registration No. 899896, HOSTELWORLD.COM, word, registered on August 23, 2006, in Classes 39 and 43, designating Australia;
- International Trademark Registration No. 1265596, HOSTELWORLD, figurative, registered on May 20, 2015, in Classes 35, 39, 41 and 43, designating Australia, China, Japan, Republic of Korea and United States of America;
- Chinese Trademark Registration No. 8996448, HOSTELWORLD.COM, figurative, registered on April 7, 2014, in Class 39; and
- Chinese Trademark Registration No. 8996449, HOSTELWORLD.COM, figurative, registered on June 28, 2016, in Class 35 (collectively the "HOSTELWORLD mark").

Prior decisions under the Policy has recognized the international reputation of the HOSTELWORLD mark.¹

The Complainant further owns the domain name <hostelworld.com> (registered on May 12, 1999) that resolves to its corporate website, in which it promotes and provides its services.

The disputed domain name was registered on October 7, 2022, and it is currently apparently inactive resolving to an Internet browser error message that indicates that it is not possible to access to the site. According to the evidence provided by the Complainant, the disputed domain name was previously linked to a landing page that included the HOSTELWORLD mark and its logo, the image of a plane's wing taken from the inside through one of its windows, and links to a "Login" and a "Register" option.

¹ See, among others, *Hostelworld.com Limited v. Contact Privacy Inc. / Shamlee Pingle*, WIPO Case No. [D2021-1849](#); *Hostelworld.com Limited v. Domain Administrator, Registrant of hosteworld.com, Registrant of hosfelworld.com, Registrant of hoxtelworld.com, Registrant of hostelworld.com / chen xiansheng, chenxiansheng*, WIPO Case No. [D2022-3519](#); *Hostelworld.com Limited v. 唐文琼 (tangwen qiong)*, WIPO Case No. [D2021-1848](#); and *Hostelworld.com Limited v. Domains By Proxy, LLC / Zahid Sharif*, WIPO Case No. [DIO2022-0025](#).

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is confusingly similar to the Complainant's trademark. The disputed domain name incorporates the HOSTELWORLD mark adding the non-distinctive suffix "travel", which does not prevent a finding of confusing similarity under the first element, and the generic Top-Level Domain ("gTLD") ".com", which is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized to use the HOSTELWORLD mark, it is not commonly known by the disputed domain name, it is not affiliated with the Complainant, and it does not hold any rights in the terms included in the disputed domain name. The disputed domain name is deliberately designed to confuse Internet users and seeks to take advantage of the Complainant's established reputation in its HOSTELWORLD mark. There is no evidence demonstrating the Respondent's use, nor demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services. The disputed domain name resolves to a landing page that displays the Complainant's trademark and logo, and includes links to a "Login" and a "Register" option, neither of which directs to websites that are related to the Complainant or its business. The Respondent is attempting to obtain Complainant's website users login information from the confusion created amongst Internet users, which cannot be considered a *bona fide* use nor a legitimate noncommercial or fair use without intent for commercial gain, and suggests a potential defraud to consumers.

The disputed domain name was registered and is being used in bad faith. The HOSTELWORLD mark has been continuously and extensively used since 1999, and it is well known internationally. The Complainant's site is the world's number one hostel booking website. In light of the internationally well-known character of the Complainant's trademark, the Respondent undoubtedly knew or should have known about this mark at the time of registering the disputed domain name, and proceeded to this registration in a deliberate and opportunistic attempt to create a likelihood of confusion with the Complainant's well-known trademark that disrupts the Complainant's business. The website to which the disputed domain name resolves displays the Complainant's trademark and seeks to obtain user's login credentials indicating a potential to defraud consumers by masquerading as an authorized representative of the Complainant. Neither the "Login" nor "Register" links direct to websites that are related to the Complainant or its business. The Respondent has attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the HOSTELWORLD mark. The Respondent's efforts to conceal its identity with a privacy registration service supports a finding of bad faith in the Respondent conduct.

The Complainant has cited previous decisions under the Policy as well as various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

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

In its informal email communications to the Center, the Respondent indicated that it was only a domain name reseller, and it had requested the Registrar to terminate "the abuse domain". The Respondent further indicated that the disputed domain name had already been suspended, and the landing page that was previously linked to it could no longer be opened.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The first element functions as a standing requirement under the Policy.

The Complainant indisputably has rights in the registered HOSTELWORLD mark. The disputed domain name incorporates this trademark in its entirety, followed by the term “travel”, which does not prevent a finding of confusing similarity. The HOSTELWORLD mark is recognizable in the disputed domain name, and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the Respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the Respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the Complainant has made a *prima facie* case that the Respondent lacks any rights or legitimate interests.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Complainant’s assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, that may establish rights or legitimate interests in the disputed domain name in order to rebut the Complainant’s *prima facie* case.

The Respondent, however, has not formally replied to the Complainant’s contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name. On the contrary, the Respondent addressed an email to the Center indicating that it had already requested the termination of the use of the “abuse” disputed domain name.

The Panel has further corroborated that the Respondent has apparently modified the content of the disputed domain name, it is currently apparently inactive, and resolves to an Internet browser error message that indicates that it is not possible to access to the site.

The Panel further considers that the Complainant has constructed a strong *prima facie* case evidencing that the Respondent has not been authorized to use the HOSTELWORLD mark, there is no relationship between the Parties, and the disputed domain name has not been used in connection to a *bona fide* offering of goods or services.

The Panel notes that the disputed domain name incorporates the entire HOSTELWORLD mark adding a term (“travel”) that is directly related to the Complainant’s business, and that may also point to the

Complainant and its trademark, as an indication of the sector where the Complainant operates. The Panel therefore considers that the disputed domain name generates an implied affiliation and risk of confusion.

The Panel further finds that the said implied affiliation and confusion is enhanced by the content that was linked to the disputed domain name. According to the evidence provided by the Complainant, the disputed domain name has been used to resolve to a landing page displaying the Complainant's trademark and its logo, the image of a plane's wing taken from one of its windows, and links to a "Login" and a "Register" option. Such website has increased the implied affiliation and risk of confusion with the Complainant and its trademark, and it has given the impression of being one of the Complainant's official sites, or a site related to one of its affiliates or distribution partners. Such website, due to the lack of relationship between the Parties, cannot be considered a *bona fide* use of the disputed domain name.

Furthermore, according to the Complainant's allegations (not rebutted by the Respondent), the "Login" and "Register" options on the website at the disputed domain name did not direct to websites related to the Complainant or its business. The Panel considers that such type of use generates a risk of confusion and false affiliation with the Complainant and its trademark, and may potentially be part of a phishing scam, designed to capture user names, passwords, and other sensible information from the Complainant's clients. Therefore, the Panel finds that such use may potentially disrupt the Complainant's business and be part of illegal activities, which can never confer rights or legitimate interests on a respondent. See section 2.13, [WIPO Overview 3.0](#).

All the above-mentioned circumstances lead the Panel to conclude that the Respondent's conduct generates confusion or affiliation with the Complainant and its trademark, and cannot be considered a *bona fide* offering under the Policy. These case cumulative facts and circumstances point to consider that the Respondent lacks of any rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establishes that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the HOSTELWORLD mark is reputed internationally and the Complainant operates internationally over the Internet since 1999;
- (ii) the disputed domain name incorporates the Complainant's trademark adding a term that may contribute to generate a risk of confusion or implied association, creating the impression that the disputed domain name refers to a Complainant's official site, or a site related to one of the Complainant's affiliates or distribution partners;
- (iii) the landing page that was linked to the disputed domain name has enhanced the implied affiliation and risk of confusion, by prominently including the HOSTELWORLD mark and the Complainant's logo, an image taken from a plane, and links to a "Login" and a "Register" option;
- (iv) according to the Complainant's allegations (not rebutted by the Respondent), the links to a "Login" and a "Register" option included on the Respondent's website did not direct to any of the Complainant's sites;

(v) the content of the disputed domain name has apparently been modified by the Respondent, and it is currently apparently inactive; and

(vi) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to formally reply to the Complaint.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered targeting the Complainant's trademark with the intention of obtaining a free ride on its established reputation, seeking to mislead Internet users to believe that there is a connection between the disputed domain name and the Complainant, to increase the traffic to the Respondent's site for commercial gain, which constitutes bad faith under the Policy.

The Panel further considers that the use of the disputed domain name in connection to a landing page that included links to a "Login" and a "Register" option that did not direct to the Complainant's site disrupts the Complainant's business and may have been used to obtain sensible information from the Complainant's clients in any type of potential phishing scam.

It is further to be noted that the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3, [WIPO Overview 3.0](#).

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and is being used in bad faith. Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under the third element 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 <hostelworldtravel.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: December 30, 2022