

## **ADMINISTRATIVE PANEL DECISION**

Canva Pty Ltd v. uher rudiana, geber  
Case No. D2022-4800

### **1. The Parties**

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

The Respondent is uher rudiana, geber, Indonesia.

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

The disputed domain name <mockupcanva.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 14, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 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 December 21, 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 December 21, 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 January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 26, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on January 31, 2023. 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 Canva Pty Ltd, an Australian based online graphic design platform founded in 2012. The Complainant provides online thousands of images and templates for users to choose from when creating graphic designs. Information on the Complainant, its services and how are they rendered can be found in Annex 4 to the Complaint.

The Complainant's services have achieved significant reputation and acclaim throughout the years. The Complainant currently has more than 100 million monthly active users with customers in 190 countries and has been valued at USD 6 billion as of June 2020 (evidence of these allegations are provided by Annex 5).

Among the several images and templates provided by the Complainant there is one application identified as "Smartmockups", permitting the users to customize mockups, as shown by Annex 7. Several services as products offered by the Complainant are famous and used by millions of users worldwide, from students to graphic designers. Evidence of these products were presented by Annexes 11 to 14.

As shown in Annex 16, the Complainant owns several registrations for the mark CANVA worldwide, among which Australian trademark registration No. 1483138 of March 29, 2012; United States registration No. 4316655 registered on April 9, 2013; International registration No. 1204604 registered on October 1, 2013; United States of America registration 6114099, granted on July 28, 2020.

The Complainant has also established a strong social media presence, with millions of followers, and uses the CANVA mark to promote its services under this name (Annex 17).

The disputed domain name was registered on November 29, 2021 and resolves to a website featuring unrelated content, as well as for mockup templates, some of which are from the Complainant, but when the users try to download them, they are directed to a company that competes with the Complainant's business.

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

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

The Complainant contends that the disputed domain name <mockupcanva.com> is confusingly similar to the Complainant's marks registered and used worldwide.

The term chosen by the Respondent to compose the disputed domain name together with "canva" is "mockup", which is directly related to the Complainant's main activities. The descriptive terms do not negate the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, they lead to confusion, given the presence of the Complainant's mark.

The Complainant owns several registrations worldwide for the trademark CANVA, as evidence by Annex 16 to the Complaint. Also, evidence of the renown of the mark CANVA and its several uses online was produced in Annexes of the Complaint.

The Complainant tried to contact the Respondent by addressing a cease-and-desist ("C&D") letter by email, but no response was ever received to this correspondence (shown in Annex 22).

The disputed domain name adopted by the Respondent – a reproduction of the Complainant's registered mark associated with a descriptive term – shows a clear intention of misleading the Internet users to a website that offers mockup templates from third parties, as well as from the Complainant for download.

However, the users are directed to competitor to the Complainant's when trying to download them. The Complainant underlines that the disputed domain name gives the impression that it is in all ways associated with the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- 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 to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

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

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark CANVA, registered throughout the world. In addition, the Complainant has been providing a full range of products worldwide under the CANVA mark for over ten years.

Further, the Panel finds that disputed domain name <mockupcanva.com> is confusingly similar to the trademark belonging to the Complainant, since the CANVA mark is entirely reproduced in the dispute domain name registered by the Respondent with the addition of the term "mockup".

Hence, the Panel concludes that the first of the elements of the Policy has been satisfied by the Complainant in this dispute.

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

The evidence shows that the trademark CANVA is registered in the Complainant's name and is widely known as identifying the Complainant's activities, and that the Complainant has not licensed this to the Respondent. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

The Respondent is using the disputed domain name to redirect Internet users to a website featuring downloadable mockups, some of which directly compete with the Complainant's business. Further, when trying to download the mockups that reproduce those from the Complainant, the user is directed to a direct competitor to the Complainant.

This use cannot give rise to rights or legitimate interests of the Respondent in the disputed domain name. Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark CANVA and its direct relation to the Complainant.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

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

It is clear to the Panel that the Respondent has in all probability registered the disputed domain name with the purpose of taking advantage of the Complainant's mark.

The Panel finds that the disputed domain name was likely registered to mislead consumers – hence the addition of the term “mockup”. Further, the additional term can be considered an allusion to the Complainant, a fact from which the Respondent may well profit by giving Internet users the impression that the disputed domain name belongs to the Complainant.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may be intended to capitalize on the fame and goodwill of the Complainant's trademarks. The fact that the disputed domain name resolves to a website offering mockups (among other products), including some of which are from direct competitors to the Complainant and its business, leads the Panel to this conclusion.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved 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 <mockupcanva.com> be transferred to the Complainant.

*/Alvaro Loureiro Oliveira/*

**Alvaro Loureiro Oliveira**

Sole Panelist

Date: February 15, 2023.