

ADMINISTRATIVE PANEL DECISION

InterContinental Hotels Group PLC, Six Continents Limited v. Exotic Russian Spa, Tags N Ticks Technologies
Case No. D2023-0831

1. The Parties

The Complainant is InterContinental Hotels Group PLC (the “First Complainant”), Six Continents Limited, United States of America (“United States”) (the “Second Complainant”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Exotic Russian Spa, Tags N Ticks Technologies, India.

2. The Domain Name and Registrar

The disputed domain name <sixsensesrussianspa.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2023. On February 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 27, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 2023 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 amendment to the Complaint on March 2, 2023

The Center verified that the Complaint together with the amendment to the 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 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 27, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on March 30, 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 First Complainant and the Second Complainant are part of the widely known InterContinental Hotels Group. The Second Complainant is wholly owned by the First Complainant. The First Complainant, through its various subsidiaries, operates a significant number of resorts and spas throughout the United States, Europe, Africa, Asia, and China.

The Second Complainant is the registered owner of the SIX SENSES trademark, which is registered in many jurisdictions around the world, including in India, where the Respondent is reportedly located (Annex 9 to the Complaint). Among others, the Second Complainant is the owner of the Indian Trademark No. 2570984 for SIX SENSES, registered on July 26, 2013, covering protection *inter alia* for health spa services as protected in class 44 (Annex 12 to the Complaint).

The First Complainant (through its affiliates) further owns and operates since many years numerous domain names that comprise the SIX SENSES trademark, such as <sixsenses.com> (Annex 6 to the Complaint).

In the following, the First Complainant and the Second Complainant are jointly referred to as “the Complainant”, whenever appropriate.

The disputed domain name was registered on July 28, 2022.

The screenshots, as provided by the Complainant, show that the disputed domain name resolves to a website in English language, allegedly offering spa and massage services in Delhi and the National Capital Region (NCR) of India (Annex 8 to the Complaint). The associated website does not provide for any visible disclaimer describing the (lack of) relationship between the Parties.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its SIX SENSES trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It is rather argued that the disputed domain name falsely suggests that there is some official or authorized link between the Complainant and the Respondent.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant believes that the Respondent must have been well aware of the Complainant's SIX SENSES trademark when registering the disputed domain name, particularly as the Complainant's SIX SENSES trademark is prominently used on the website associated to the disputed domain name without authorization and any disclosure of the lack of relationship between the Complainant and the Respondent.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation of Multiple Complainants

The Complaint contains a request for consolidation of the First Complainant and the Second Complainant, on the basis that they are affiliated companies with a common grievance against the Respondent.

Taking into consideration that the Respondent has not rebutted the requested consolidation, the Panel finds that the First Complainant and the Second Complainant have established a *prima facie* case that the Complaint can be consolidated based on a common grievance and interest of both Complainants, in particular as Second Complainant is fully owned by First Complainant. The Panel is convinced that it is fair and equitable in the circumstances of the case to order the consolidation as requested (see section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

Consequently, the Panel accepts the consolidation request in this administrative proceeding.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not formally replied to the Complaint. See *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

For the evaluation of this case, the Panel has further taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having trademark rights in SIX SENSES.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant’s registered trademarks, as it is fully incorporating the Complainant’s SIX SENSES trademark.

As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. The addition of the terms “Russian” and “spa” does not, in view of the Panel, serve to prevent a

finding of confusing similarity between the disputed domain name and the Complainant's SIX SENSES trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license to use the Complainant's SIX SENSES trademark within the disputed domain name.

Further, the disputed domain name does not only incorporate the SIX SENSES trademark in its entirety, it also comprises the term "spa", which is directly related to the Complainant's business. As a consequence, the Panel finds that the disputed domain name carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

Furthermore, and in the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name. Taking into consideration the undisputed screenshots as provided by the Complainant in Annex 8 to the Complaint, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

Hence, the Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name according to the Policy, paragraph 4(a)(ii) and 4(c).

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith.

The Panel is convinced that the Respondent must have had the Complainant's SIX SENSES trademark in mind when registering the disputed domain name.

In view of the Panel, the Respondent has registered the disputed domain name for the purpose of creating an association with the Complainant and its spa and body treatment services. After having reviewed the Complainant's screenshots of the website associated to the disputed domain name (Annex 8 to the Complaint), the Panel is convinced that the Respondent has intentionally registered the disputed domain name in order to generate traffic to its own website. The Panel particularly notes that the Respondent has not published a visible disclaimer on its website to explain that there is no existing relationship between the Respondent and the Complainant. Rather, the use of the Complainant's trademark as well as the inherently misleading nature of the disputed domain name is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to attract, for illegitimate commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation or endorsement of its website.

In addition, the Panel accepts the failure of the Respondent to submit a response to the Complainant's contentions as another indication for bad faith. The Panel is convinced that, if the Respondent had legitimate purposes in registering and using the disputed domain name, it would have probably responded.

All in all, the Panel concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant has also satisfied the third element of the Policy, namely, 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 <sixsensesrussianspa.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: April 13, 2023