

## **ADMINISTRATIVE PANEL DECISION**

### **Skyscanner Limited v. Wei Meng Chan**

### **Case No. D2023-1073**

#### **1. The Parties**

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is Wei Meng Chan, Malaysia.

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

The disputed domain name <booking-skyscanner.com> is registered with BigRock Solutions Pvt Ltd. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 9, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 13, 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 13, 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 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on April 24, 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 the registered owner of several trademarks for the term SKYSCANNER, e.g. International Trademark No. 900393 (covering amongst other the European Union, registered on March 3, 2006, for services in classes 35, 38, 39) and International Trademark No. 1030086 (covering amongst other the European Union, registered on December 1, 2009, for services in classes 35, 38, 42).

According to the Registrar's verification response, the disputed domain name was registered on February 14, 2023 and resolved to a website allegedly offering its services as global travel search site and reproducing without any authorization the Complainant's trademark and logo which are identical to those displayed on the Complainant's website.

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

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

It results from the Complainant's allegations that the Complainant is a company that sells online travel agency services. Its services are available in over thirty languages and in seventy currencies. The Complainant use the domain name <skyscanner.net> which resolves to its official website where it offers its services as global travel search site.

The Complainant contends that it enjoys a global reputation in its SKYSCANNER trademark.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's trademark SKYSCANNER, as the disputed domain name incorporates the entirety of the Complainant's trademark SKYSCANNER, adding only the descriptive term BOOKING and the generic Top-Level Domain ("gTLD") ".com".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never licensed or otherwise authorized the Respondent to use its trademarks or to register any domain name including the above-mentioned trademarks. In addition, the Respondent is not using the contested domain name in connection with a *bona fide* offering of goods or services, nor is making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain, so as to confer a right or legitimate interest in it. In fact, the disputed domain name resolves to a website that claims to be the Complainant, reproducing the Complainant's trademarks and logos.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, it is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name, since it is well-known worldwide and the website to which the disputed domain name resolves implies that the services provided on it originate from the Complainant. There is no plausible explanation for the Respondent posing as the Complainant's business, other than to deceive consumers into procuring travel arrangement services under the mistaken impression that they are procuring them from the Complainant.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that

it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of various trademark registrations for SKYSCANNER as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.7.

This Panel shares this view and notes that the Complainant's registered trademark SKYSCANNER is fully included in the disputed domain name, preceded by the term "booking" and a hyphen. Furthermore, it is the view of this Panel that the addition of the term "booking" and a hyphen in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the gTLD ".com" of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1). In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

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

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and, in particular, did not authorize the Respondent's use of the trademark SKYSCANNER, e.g. by registering the disputed domain name comprising the said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name is clearly constituted by the Complainant's registered trademark SKYSCANNER and the term "booking", which clearly refer to the Complainant's core business, tending to suggest sponsorship or endorsement by the Complainant. The Panel finds it most likely that the Respondent selected the disputed domain name with the intent to attract Internet users for commercial gain (see e.g. *Wendel-Participations SE v. Host Master, 1337 Services LLC*, WIPO Case No. [D2022-4883](#)). This is also confirmed by the content of the website to which the disputed domain name resolved, allegedly offering its services as global travel search site and reproducing without any authorization the Complainant's trademarks and logo which are identical to those displayed on the Complainant's website.

Furthermore, the composition of the disputed domain name directly targeting the Complainant's field of activity enhances the false impression that the disputed domain name is somehow officially related to the Complainant and an official website promoting the Complainant's business. Such composition of the disputed domain name cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner, see section 2.5.1 of the [WIPO Overview 3.0](#).

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

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

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand.

It results from the Complainant's documented allegations that the disputed domain name resolved to a website allegedly promoting similar services to those of the Complainant and reproducing without any authorization the Complainant's trademark and the logo. For the Panel, it is therefore evident that the Respondent knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's registered trademark SKYSCANNER preceded by the term "booking" and a hyphen.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see [WIPO Overview 3.0](#) at section 3.2.1):

- (i) the nature of the disputed domain name (a domain name incorporating the Complainant's mark plus the addition of the term "booking");

- (ii) the content of the website to which the disputed domain name directs, promoting similar services to those of the Complainant and reproducing without any authorization the Complainant's trademark and the logo;
- (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name.

The Panel finds that the Complainant has therefore satisfied 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, <booking-skyscanner.com> be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: May 7, 2023