

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Kowe,lcd, eNon,LLC, HongKong12, rldoe, derK,LLC
Case No. D2023-2806

1. The Parties

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

The Respondents are Kowe,lcd, eNon,LLC, HongKong12, derK,LLC, rldoe Hong Kong, China.

2. The Domain Names and Registrar

The disputed domain names <correct-bestskskyscanner.com>, <innovation-techskyscanner.com>, <online-techskyscanner.com>, <platform-onlineskyscanner.com>, <platform-worldskyscanner.com>, <tech-bestskskyscanner.com>, <quantify-alwayskyscanner.com>, <alwayskyscanner-tech.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint for the disputed domain names <platform-onlineskyscanner.com> and <online-techskyscanner.com> was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 amended Complaint on July 7, 2023, adding the disputed domain name <innovation-techskyscanner.com> to the Complaint. The Complainant filed a second amended Complaint on July 18, 2023, adding the disputed domain name <platform-worldskyscanner.com> to the Complaint.

On July 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names <innovation-techskyscanner.com> and <platform-worldskyscanner.com>. On July 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 31, 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 a third amended Complaint on August 3, 2023, adding the disputed domain name <correct-bestskskyscanner.com> to the Complaint.

On August 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <correct-bestskyscanner.com>. On August 15, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 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 amended Complaint on August 24, 2023.

The Center verified that the Complaint amended Complaints 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 Complaint to the Respondents of the disputed domain names <correct-bestskyscanner.com>, <innovation-techskyscanner.com>, <online-techskyscanner.com>, <platform-onlineskyscanner.com>, <platform-worldskyscanner.com>, and the proceedings commenced on August 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on September 21, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on September 25, 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.

Meanwhile, on September 2, 6, and 11, 2023, the Complainant requested to add three further disputed domain names to the Complaint, respectively <tech-bestskyscanner.com>, <quantify-alwayskyscanner.com>, and <alwayskyscanner-tech.com>. On October 6, 2023, the Panel instructed the Center to obtain a registrar's verification request for the additional disputed domain names from the concerned Registrar.

In light of the registrant information disclosed by the Registrar for the additional disputed domain names, on October 10, 2023, the Panel issued an Administrative Panel Procedural Order granting the Complainant the possibility to provide further consolidation arguments (if any), by October 15, 2023, and granting the Respondents for the additional disputed domain names the possibility (i) to make any submissions regarding the consolidation of the proceedings, and (ii) to file a Response in respect of the additional disputed domain names as deemed appropriate, by October 25, 2023. On October 10, 2023, the Complainant sent its reply to the Administrative Panel Procedural Order, while the Respondents for the additional disputed domain names did not reply.

The Panel accepted to add the additional disputed domain names to the present proceeding.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Skyscanner Limited, a United Kingdom company operating worldwide as an Internet search engine in the field of travels, and owning several trademark registrations for SKYSCANNER, among which the following ones:

- International Trademark Registration No. 900393 for SKYSCANNER, registered on March 3, 2006;
- International Trademark Registration No. 1030086 for SKYSCANNER, registered on December 1, 2009, also extended to China.

The Complainant provided evidence in support of the above.

According to the evidence provided by the Complainant, the disputed domain names were registered on the following dates: <correct-bestskskyscanner.com> on July 8, 2023, <innovation-techskyscanner.com> on July 4, 2023, <online-techskyscanner.com> on May 26, 2023, <platform-onlineskyscanner.com> on June 19, 2023, <platform-worldskyscanner.com> on July 8, 2023, <tech-bestskskyscanner.com> on August 16, 2023, <quantify-alwayskyscanner.com> on September 2, 2023, <alwayskyscanner-tech.com> on September 6, 2023. The disputed domain names are currently all inactive, except for the disputed domain name <alwayskyscanner-tech.com>, resolving to a website in which the Complainant's trademark and logo are reproduced. The Complainant's has provided evidence that before the Complaint was filed all the disputed domain names pointed to a login page, requesting Internet's users' credentials, and displaying the Complainant's trademark. The Complainant has also provided evidence of fraudulent email reporting crypto-currency scam related to similar domain names.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that disputed domain names are confusingly similar to its trademark SKYSCANNER.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. The disputed domain names all pointed at different times to a website likely to be used in relation to the same crypto-currency scam.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark SKYSCANNER is well known as an Internet search engine in the field of travels. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names to point to the same potential crypto-currency scam website qualifies as bad faith registration and use.

B. Respondents

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

6.1 Procedural issue - Consolidation of Multiple Respondents

The Complainant has requested consolidation of the Respondents and stated that all the disputed domain names belong to the same person or organization. No objection to this request was made by the Respondents.

Pursuant to the [WIPO Overview 3.0](#), section 4.11.2, "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Panel notes that all the disputed domain names follow the same naming pattern, they are owned by the Respondents supposedly located in Hong Kong, China, they have been registered in the same short period of time, namely between May 26 and September 6, 2023, they previously resolved to the same website, and they use the same Registrar. The Panel finds that there is plausible evidence that the disputed domain names are subject to common control, and that it would be procedurally efficient, fair, and equitable to all Parties to accept the Complainant's consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant's consolidation request. Hereinafter, the Panel will refer to the Respondents in the singular, *i.e.*, "the Respondent".

6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "correct", "best", "innovation", "tech", "online", "platform", "world", "quantify", and "always", may bear on assessment of the second and third elements, the Panel finds the

addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the present record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise. The disputed domain names all pointed at different times to the same login page, requesting Internet’s users’ credentials, and displaying the Complainant’s trademark likely used in relation to crypto-currency scam.

Moreover, the Panel finds that the composition of the disputed domain names carries a risk of implied affiliation as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant’s trademark SKYSCANNER as an Internet search engine in the field of travels is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain names in bad faith.

As to the previous use of the disputed domain names, the Panel finds that Internet users who visit the login page to which all the disputed domain names resolve may believe that they are accessing the Complainant’s website and likely to insert their personal information potentially used in relation to a crypto-currency scam. It is therefore likely that the Respondent has targeted the Complainant for its own commercial gain.

As regards the current use in bad faith of the disputed domain names, which are all inactive except for the disputed domain name <alwayskyscanner-tech.com>, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. While UDRP panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant’s trademark as an Internet search engine in the field of travels, the composition of the disputed domain names, and the previous use of the disputed domain names all pointing at different times to the same login page, requesting Internet’s users’ credentials, and displaying the Complainant’s trademark likely used in relation to crypto-currency scam, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

As regards the use of the disputed domain name <alwayskyscanner-tech.com>, resolving to a website in which the Complainant’s trademark and logo are reproduced, the Panel deems that the Respondent is trying to attract Internet users to its website by creating likelihood of confusion with the Complainant’s trademark as to the disputed domain name’s source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant’s business.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name <alwayskyscanner-tech.com> in order both to disrupt the Complainant’s business, and to attract Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain names, which include the Complainant’s trademark in its entirety with the mere addition of the terms “correct”, “best”, “innovation”, “tech”, “online”, “platform”, “world”, “quantify”, and “always”, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names <correct-bestskyscanner.com>, <innovation-techskyscanner.com>, <online-techskyscanner.com>, <platform-onlineskyscanner.com>, <platform-worldskyscanner.com>, <tech-bestskyscanner.com>, <quantify-alwayskyscanner.com>, and <alwayskyscanner-tech.com> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: November 2, 2023