

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd. v. Nanci Nette
Case No. D2023-3651

1. The Parties

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

The Respondent is Nanci Nette, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <canva-login.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 August 30, 2023. On August 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 September 5, 2023.

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 September 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on October 13, 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, established in 2012, is an online graphic design platform, with over 20 million users in 190 countries. The users of this platform are provided with access to thousands of images and templates to choose from when creating graphic designs for presentations, social media posts, and print products through a “drag-and-drop” methodology.

The Complainant was valued at USD 40 billion in September 2021 and currently has more than 100 million active users per month with customers in 190 countries. The Complainant offers services from its main website at “www.canva.com”. Third-party Internet traffic statistics indicate that the Complainant’s main website received an average of more than 450 million visits per month between March and May 2023.

The Complainant is the holder of several marks for CANVA, including those registered in the United States, where the Respondent reportedly resides:

- the United States Registration CANVA No. 4316655, registered on April 9, 2013, for services in Class 42;
- International Registration CANVA No. 1204604, registered on October 1, 2013, for goods in Class 9;
- International Registration CANVA No. 1429641, registered on March 16, 2018, for goods and services in Classes 9, 40 and 42;
- the United States Registration CANVA No. 6114099, registered on July 28, 2020, for goods and services in International Classes 9 and 42.

The disputed domain name was registered on June 17, 2022, and currently resolves to a pay-per-click (PPC) advertising page. However, the disputed domain name previously resolved to a website offering identical services to those offered under the CANVA mark, and initially displayed the official CANVA logo.

On June 6, 2023, the Complainant sent the Respondent a cease-and-desist letter, demanding that the Respondent transfer the disputed domain name to the Complainant. The Respondent did not reply to this letter, but instead merely changed the content of the disputed domain name to host PPC links and transferred it to a different registrar.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

(1) the disputed domain name is confusingly similar to the Complainant’s CANVA mark. The Complainant holds numerous trademark registrations for CANVA registered in various jurisdictions, including in the United States. The Complainant also holds the goodwill and recognition that has been attained under the name CANVA, which is a distinctive identifier associated with the Complainant’s services. The disputed domain name clearly contains, in its entirety without alteration or adornment, the CANVA trademark, in addition to the hyphen and the term “login”. The gTLD “.com” shall be viewed as a standard registration requirement and as such is disregarded;

(2) the Respondent lacks a right or a legitimate interest in the disputed domain name. The Respondent does not have any trademark rights to the term CANVA and has not been licensed by the Complainant to use domain names that feature the CANVA trademark. Although the disputed domain name currently resolves to a pay-per-click (PPC) advertising page, it previously resolved to a website offering identical services to those offered under the CANVA mark, and initially displayed the official CANVA logo. There is no generic meaning to CANVA or “canva-login”, and it has no generic meaning towards the links displayed currently on the website. Therefore, the Respondent is using the disputed domain name to unfairly capitalize upon and take advantage of the similarity with the CANVA mark. The Respondent is not known, nor has

ever been known, by the distinctive CANVA mark, nor is offering any genuine goods or services by the term CANVA. The Respondent does not make a legitimate noncommercial or fair use of the disputed domain name;

(3) the disputed domain name was registered and is being used in bad faith. The Complainant's trademark registrations predate the creation date of the disputed domain name by 10 years. The Respondent has clearly registered the disputed domain name to target the Complainant's brand intentionally. The Respondent has engaged in a pattern of registering infringing domain names (at least, as it may be seen through the 57 UDRP cases involving the Respondent), preventing the rightsholders from reflecting their marks. The Respondent initially used the disputed domain name to redirect online users to its own website that offered services which directly competed with the Complainant's own graphic design services. The Respondent's current use of the disputed domain name, redirecting Internet users through the presentation of such PPC links, provides clear evidence of its bad faith. The Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's CANVA mark.

The Complainant requests transfer of the disputed domain name in order to protect its rights and legitimate business interests.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (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 further analyze the potential concurrence of the above circumstances.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy the Complainant has satisfied the threshold requirement of having relevant trademark rights for CANVA mark throughout the world, including in the United States, where the Respondent is located. As noted in the [WIPO Overview 3.0](#), section 1.2.1: "Where the Complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case".

In order to establish the confusing similarity test, panels typically do a side-by-side comparison between the trademark and the domain name to establish if the complainant's trademark is recognizable within the domain name. In this case, the disputed domain name incorporates the trademark CANVA in its entirety with the addition of the hyphen and the word "login". As stated in [WIPO Overview 3.0](#), section 1.7: "[...] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing". Panels have also established that, where the relevant trademark is recognizable, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first UDRP element (see [WIPO Overview 3.0](#), section 1.8).

In view of the above, the Panel concludes that the Complainant's CANVA mark remains clearly recognizable in the disputed domain name; the addition of the hyphen and the word "login" does not prevent a finding of confusing similarity.

Furthermore, it is well accepted by UDRP panels that a gTLD, such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

For all of the above-mentioned reasons, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's mark, which means that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not a *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial or fair use of the disputed domain name.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of the [WIPO Overview 3.0](#), a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with evidence of relevant rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Respondent chose not to contest the Complainant's allegations and has failed to come forward with any evidence to refute the Complainant's *prima facie* showing that the Respondent lacks rights or legitimate interests. The Panel therefore accepts these allegations as undisputed facts.

From the record in this case, the Respondent has no trademark rights to the term CANVA or any other term used in the disputed domain name. Neither has the Respondent received any license from the Complainant to use domain names featuring the CANVA trademark.

The Respondent is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not commonly known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark.

The disputed domain name currently resolves to a pay-per-click (PPC) advertising page. However, the case file also shows that the disputed domain name previously resolved to a website offering identical services to those offered under the CANVA mark, and initially displayed the official CANVA logo. These assertions and evidence in the case file are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. With the evidence on file, the Panel therefore concludes that the Respondent has no rights or legitimate interests in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, the Complainant must show that the disputed domain name has been registered and is being used in bad faith.

The registration of the disputed domain name took place by the Respondent more than 10 years after the CANVA trademark registration.

The Complainant's CANVA trademark is well known and has been continuously and extensively used for many years and as a result acquired considerable reputation and goodwill worldwide. Accordingly, the Panel is satisfied that the Respondent must have been aware of the trademark CANVA when it registered the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith, with a deliberate intent to create an impression of an association with the Complainant. See [WIPO Overview 3.0](#), section 3.2.2.

Further, the Complainant sent a cease-and-desist letter to the Respondent in June 2023. The Complainant did not receive a response to this correspondence. Instead, the Respondent merely changed the content of the disputed domain name to host PPC links and transferred it to a different registrar. Previous UDRP panels have stated that a lack of reply to a notification prior to commencing the proceedings infers bad faith behaviour (see *Facebook, Inc. and Instagram, LLC v. C W / c w, c w*, WIPO Case No. [D2018-1159](#)).

The Respondent initially used the disputed domain name to redirect online users to its own website that offered services which directly competed with the Complainant's own graphic design services. In fact, the Complainant's logo was previously used, as were images of its website. Therefore, the Panel believes that the Respondent has used the CANVA mark in the disputed domain name to attract online users looking for the services of the Complainant, only for those online users to be directed to the Respondent's own competing services.

The current use of the disputed domain name, to host PPC advertisements, is also evidence of the Respondent's bad faith. The circumstances of this case indicate the Respondent is using the value and goodwill of the Complainant's CANVA mark in order to attract revenue through the PPC links hosted on the disputed domain name. This constitutes a clear attempt to generate a commercial gain, particularly by misleading Internet users with the disputed domain name and subsequently redirecting these Internet users to third-party websites. Previous panels have stated that these circumstances amount to "unduly taking advantage of the well-known nature of Complainant's mark to attract more Internet users and generate revenue" (see *Canva Pty Ltd v. Wu Yu*, WIPO Case No. [DCO2022-0005](#)).

Moreover, according to the case file, the Respondent has engaged in a pattern of registering infringing domain names, preventing the rightsholders from reflecting their marks, which also prove bad faith from the part of the Respondent. Evidence of the Respondent's pattern of bad faith registrations is shown through the 57 past UDRP cases involving the Respondent, almost all of which found in favor of complainants. The above is sufficient evidence to demonstrate that the Respondent, displaying a pattern of such conduct, has registered domain names to prevent the owner of the respective trademarks from reflecting that mark in a corresponding domain name. See, e.g., *LinkedIn Corporation v. Nanci Nette*, WIPO Case No. [D2023-2290](#), *Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Nanci Nette*, WIPO Case No.

[D2019-2545](#), and *Echobox Audio, LLC v. Nanci Nette*, WIPO Case No. D2019-075. As stated in [WIPO Overview 3.0](#), section 3.1.2, “UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner”.

All the above circumstances confirm the Respondent’s bad faith in the disputed domain name under the Policy. Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(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, <canva-login.com>, be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: October 17, 2023