

## **ADMINISTRATIVE PANEL DECISION**

Skyscanner Limited v. Carolina Rodrigues  
Case No. D2023-3678

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Panama.

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

The disputed domain name <skyscanneris.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 August 31, 2023. On September 1, 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 (Redacted) 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 amendment to the Complaint on September 4, 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 September 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2023.

The Center appointed Brigitte Joppich as the sole panelist in this matter on October 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 a metasearch engine and travel agency based in Edinburgh, Scotland. The Complainant's website achieves a wide reach. For example, in the month of July 2023, the Complainant's core website "www.skyscanner.net" attracted 46 million global visits, including 21 million unique visitors. Further, in the month of July 2023, the Complainant's website "www.skyscanner.net" was ranked 706th globally for Internet traffic and engagement and 66th in the United Kingdom. The Complainant also offers a smart device app to use its services, which to date has been downloaded over 70 million times. The Complainant's services are available in over thirty languages and in seventy currencies.

The Complainant is registered owner of numerous trademarks for SKYSCANNER, *inter alia* International trademark registration no. 1030086 SKYSCANNER, which was registered on December 1, 2009 and enjoys protection for services in classes 35, 39, and 42 (the "SKYSCANNER Mark"). Previous panels have held that the Complainant enjoys a reputation in its SKYSCANNER Mark (See *Skyscanner Limited v. Basit Ali*, WIPO Case No. [D2012-1983](#); *Skyscanner Limited v. Contact Privacy Inc. Customer 1244355693 / Mrs. K Ananthan*, WIPO Case No. [D2019-0988](#)).

The disputed domain name was registered on August 7, 2023, and according to the Complaint, resolved to an inactive page. Currently the disputed domain name appears to resolve to a pay per click website.

#### 5. Parties' Contentions

##### A. Complainant

With regard to the three elements specified in the Policy, paragraph 4(a), the Complainant contends that each of the three conditions is given in the present case.

(i) The disputed domain name is virtually identical to the SKYSCANNER Mark, the only difference being that the disputed domain name includes the letters "i" and "s" at the end of the SKYSCANNER Mark.

(ii) The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. It states that the Respondent does not own any registered rights in any trademarks which comprise part or all of the disputed domain name, that the term "Skyscanner" is not descriptive in any way, nor does it have any generic, dictionary meaning, that the Complainant has not given its consent for the Respondent to use its SKYSCANNER Mark in a domain name registration, and that the disputed domain name appears to be inactive and, therefore, is held passively.

(iii) The Complainant claims that the disputed domain name was registered and is being used in bad faith. The Complainant argues that it is likely that the Respondent was aware of the Complainant's rights prior to registering the disputed domain name, that visitors to the disputed domain name would mistakenly believe there to be an association with the Complainant, and that the SKYSCANNER Mark already enjoyed global fame at the time of the registration of the disputed domain name. The Complainant further contends that the SKYSCANNER Mark also enjoyed a great deal of exposure in the international media in November 2016, after the Complainant was acquired by Ctrip, China's largest online travel agency in a deal worth approximately GBP 1.4 billion. With regard to bad faith use, the Complainant argues that the Respondent is passively holding the disputed domain name in bad faith and that the Respondent has registered a domain name that it cannot use lawfully.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under the Policy, paragraph 4(a), the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; 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.

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

The disputed domain name is confusingly similar to the SKYSCANNER Mark as it contains such trademark in its entirety, merely adding the English word "is". The SKYSCANNER Mark is obviously recognizable within the disputed domain name.

The Panel finds that the Complainant satisfied the requirements of the Policy, paragraph 4(a)(i).

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

Even though the Policy requires the complainant to prove that the respondent has no rights or legitimate interests in the disputed domain name, it is the consensus view among UDRP panels that a complainant has to make only a *prima facie* case to fulfill the requirements of the Policy, paragraph 4(a)(ii). As a result, once a *prima facie* case is made, the burden of coming forward with evidence of the respondent's rights or legitimate interests in the disputed domain name will then shift to the respondent.

The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and that the burden of production has been shifted to the Respondent.

The Respondent did not deny these assertions in any way and therefore failed to come forward with any allegations or evidence demonstrating any rights or legitimate interests in the disputed domain name.

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either, as the disputed domain name is not actively used.

Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under the Policy, paragraphs 4(a)(ii) and 4(c).

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

The Panel is satisfied that the Respondent registered and used the disputed domain name in bad faith.

As to bad faith registration, it is hardly conceivable that the Respondent registered the disputed domain name without knowledge of the SKYSCANNER Mark, as such trademark is very well-established for many years and as the Complainant's website is one of the 750 most visited websites in the world. Given the SKYSCANNER Mark's very large online presence, and the fact that the Respondent only added the English letters "is", to the SKYSCANNER Mark, the Panel is satisfied that the Respondent registered the disputed

domain name with full knowledge of the Complainant's marks and thus in bad faith under the Policy, paragraph 4(a)(iii).

As the disputed domain name was not actively used by the Respondent, the Panel has to decide whether such passive holding is to be considered as use in bad faith under the Policy. The Respondent's nonuse of the disputed domain name could equal to bad faith use under the passive holding doctrine, first set out in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and confirmed ever since. Under this doctrine, the Panel must examine all circumstances of a case to determine whether a respondent is acting in bad faith. Examples of circumstances that may indicate bad faith use include the existence of a well-known trademark, the lack of a response to the complaint, concealment of identity and the impossibility of conceiving good faith use of a domain name.

In the present case, the Respondent did not reply to the Complaint and has therefore not provided any argument supporting an actual or contemplated good faith use of the disputed domain name. Furthermore, the disputed domain name fully incorporates the well-established SKYSCANNER Mark. The facts of this case do not support any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not infringe the Complainant's trademark rights. The Panel is therefore convinced that, even though the domain name was not being actively used in connection with an active website, the Respondent's passive holding of the disputed domain names meets the bad faith use requirement. Noting the current use for pay per click links, the Respondent in all likelihood registered the disputed domain name to take commercial advantage of the Complainant's SKYSCANNER Mark.

Consequently, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith and that the Complainant satisfied the requirements of the Policy, paragraph 4(a)(iii).

## 7. Decision

For the foregoing reasons, in accordance with the Policy, paragraph 4(i), and the Rules, paragraph 15, the Panel orders that the disputed domain name <skyscanneris.com> be transferred to the Complainant.

*/Brigitte Joppich/*

**Brigitte Joppich**

Sole Panelist

Date: November 7, 2023