

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. bai sheng
Case No. D2023-3966

1. The Parties

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

The Respondent is bai sheng, Malaysia.

2. The Domain Names and Registrar

The disputed domain names, <skyscanner-airfare.com>, <skyscannerairfare.com>, <skyscanner-airticket.com>, <skyscannerairticket.com>, <skyscanner-plane.com>, <skyscannerplane.com>, <skyscanner-work.com>, <skyscannerwork.com>, <skyscanner-worldwide.com>, and <skyscannerworldwide.com>, are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 22, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 25, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 25, 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 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 18, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on October 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.

4. Factual Background

The Complainant is the proprietor of numerous trademark registrations across various jurisdictions for or including SKYSCANNER, such as the following:

- The International Trademark registration number 900393 for the word SKYSCANNER, registered on March 3, 2006, covering services in Nice classes 35, 38, 39, and designating the European Union and the United States of America; and

- The International Trademark registration number 1030086 for the word SKYSCANNER, registered on December 1, 2009, covering services in Nice classes 35, 39, and 42, and designating, *inter alia*, the European Union, the Republic of Korea, Singapore, Japan, Viet Nam, Australia, and Mexico.

The Complainant's website, available at "www.skyscanner.net", attracts tens of millions of unique visits per month and, the Complainant's SKYSCANNER smart device application has been downloaded over 70 million times. The Complainant's services are available in over thirty languages and in seventy currencies. In November 2019 the Complainant's website was ranked the 1,671st globally for Internet traffic and engagement and the 107th in the United Kingdom.

The disputed domain names <skyscannerairfare.com>, <skyscannerairticket.com>, <skyscannerplane.com>, <skyscannerwork.com>, <skyscannerworldwide.com> were registered on August 23, 2023; and the disputed domain names <skyscanner-airfare.com>, <skyscanner-airticket.com>, <skyscanner-plane.com>, <skyscanner-work.com> and <skyscanner-worldwide.com> were registered on September 14, 2023.

At the time of filing the Complaint, the disputed domain name <skyscannerwork.com> was used in connection with an air ticket selling platform; all the other disputed domain names were inactive.

According to Annex 4 to the Complaint, the disputed domain names <skyscannerairfare.com>, <skyscannerairticket.com>, <skyscannerplane.com>, and <skyscannerwork.com> were used in connection with webpages offering a members "Air Ticket" platform using the blue color of the Complainant's sunrise device, and after login in, the Complainant's logo was displayed at the top of the page. Further, it was provided evidence of frauds committed when logged on the website under the disputed domain name <skyscannerairticket.com>, where, an individual, impersonating an employee of the Complainant, was promoting the website instructing the Internet users accessing this website how to sign up and receive commission, and in such was it was aiming to collect personal information, including bank details.

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 the disputed domain names are confusingly similar to its trademark SKYSCANNER, which enjoys international reputation, together with the generic terms "air", "fare", "ticket", "work", "plane" and "worldwide", terms closely related to the Complainant's services; that the Respondent has no rights or legitimate interests in the disputed domain names; and that the Respondent registered and

is currently using or is likely to use the disputed domain names in relation to a job offer scam targeting English speaking consumers, that the disputed domain names have all been used to pose to the Complainant's business and entice consumers making crypto-currency deposits in cryptocurrency wallets linked to the Respondent, which are afterwards seized.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 mark is recognizable 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, "air", "fare", "ticket", "work", "plane" and "worldwide", 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.

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, 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 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 resolve or used to resolve to websites impersonating the Complainant, promoting similar services, displaying the Complainant’s trademark without any consent or approval or statement clarifying such, and were used in connection with fraudulent activities directed towards the Complainant’s clients diverted on such websites. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly because they incorporate the Complainant’s distinctive trademark registered since at least 2006, together with terms directly related to the Complainant’s business. Furthermore, the use of some of the disputed domain names in relation to similar services corroborates this judgement.

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.

According to the evidence provided in the Annex 4 to Complaint, and unrefuted by the Respondent, prior to the present proceeding, the disputed domain names <skyscannerairfare.com>, <skyscannerairticket.com>, <skyscannerplane.com>, and <skyscannerwork.com> were used in connection with websites promoting air ticket services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain names incorporate the Complainant's reputable trademark together with additional terms related to the Complainant business, the websites operated under the disputed domain names promoted competing services and displayed the Complainant's SKYSCANNER mark and has no disclaimer, the Panel finds that the Respondent intended to attract Internet users accessing the websites corresponding to the disputed domain names who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain. Furthermore, as discussed under the sections 4 and 6B of the Decision, the Respondent's impersonation of the Complainant in relation to a job offer scam clearly indicate the bad faith. This activity may also disrupt the Complainant's business and tarnish its trademark.

At the time of filing the Complaint, the majority of the disputed domain names resolved to error pages.

UDRP 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 do 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.

The Panel notes the distinctiveness and international reputation of the Complainant's trademark; the composition of the disputed domain names; the Respondent's failure to provide a response in this procedure; the Respondent's provision of inaccurate or incomplete contact details in the WhoIs, 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.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. The Panel finds that registering for at least ten disputed domain names incorporating the Complainant's distinctive trademark, within a four week timeframe, can be considered a pattern of abusive conduct and registration of the disputed domain names in bad faith.

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 <skyscanner-airfare.com>, <skyscannerairfare.com>, <skyscanner-airticket.com>, <skyscannerairticket.com>, <skyscanner-plane.com>, <skyscannerplane.com>, <skyscanner-work.com>, <skyscannerwork.com>, <skyscanner-worldwide.com>, and <skyscannerworldwide.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: October 30, 2023