

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. 杨智超 (yang zhi chao)
Case No. D2023-3983

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom (or “UK”), represented by Lewis Silkin LLP, United Kingdom.

The Respondent is 杨智超 (yang zhi chao), China.

2. The Domain Names and Registrar

The disputed domain names <bskyscanner.com>, <dkyscanner.com>, <mskyscanner.com>, <oskyscanner.com>, <rskyscanner.com>, <skykscanner.com>, <skynscanner.com>, <skypscanner.com>, <skyscannera.com>, <skytscanner.com>, <skywscanner.com>, <tskyscanner.com>, and <wskyscanner.com> are registered with Xin Net Technology Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 22, 2023. On September 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 27, 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 27, 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 in English on September 28, 2023.

On September 27, 2023, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain names is Chinese. On September 27, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on October 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 27, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on November 3, 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, Skyscanner Limited, is a travel agency based in Edinburgh, Scotland, and Skyscanner is its namesake metasearch engine. The Complainant's website, "www.skyscanner.net", is available in over 30 languages and is used by 100 million people per month. The company lets people research and book travel options for their trips, including flights, hotels, and car hire.

Skyscanner was developed in 2002 and the Complainant was subsequently incorporated in 2003.

It was subsequently acquired by the Ctrip Group, and currently has offices all over the world, including Singapore, China, and the United States of America ("U.S").

The Complainant's smart device app has been downloaded over 70 million times. The Complainant's services are available in 70 currencies. Further, as of November 2019, the Complainant's website was ranked 1,671st globally for Internet traffic and engagement and 107th in the UK.

The Complainant is the owner of numerous SKYSCANNER trade marks worldwide, including the following:

- U.S. Trade Mark Registration No. 4420284, registered on October 22, 2013;
- U.S. Trade Mark Registration No. 3242752, registered on May 15, 2007;
- India Trade Mark Registration No. 1890840, registered on December 2, 2009;
- UK Trade Mark Registration No. UK00002313916, registered on April 30, 2004;
- Canadian Trade Mark Registration No. TMA786689, registered on January 10, 2011; and
- New Zealand Trade Mark Registration No. 816550, registered on October 7, 2010.

The registration date of the disputed domain names is identical (*i.e.*, April 1, 2023), apart from <skyscannera.com> which was registered on March 29, 2023.

At the time of the filing of the Complaint, the disputed domain names resolved to various parking pages displaying Pay-Per-Click ("PPC") links such as "Cheap Airline Tickets", "Cheapest Flights", and "Skyscanner Flights".

5. Parties' Contentions

A. Complainant

The disputed domain names are virtually identical to the Complainant's SKYSCANNER mark. The disputed domain names are composed of the SKYSCANNER mark in its entirety with the inclusion of an additional letter in each domain name (the "Additions"). This is a classic example of typosquatting domain names.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has no registered rights in SKYSCANNER. The Complainant's SKYSCANNER mark is not descriptive, and has no generic or dictionary meaning. The Complainant has never licensed or otherwise authorized the Respondent to use its SKYSCANNER trade mark in a domain name.

The Respondent is using the disputed domain names for PPC links to competing businesses and specifically targeted the Complainant's rights for financial gain.

Given the famous nature of the Complainant's trade mark, the Respondent must have been aware of the Complainant's rights in the SKYSCANNER trade mark when he registered the disputed domain names. There exists an inevitable risk that the disputed domain names will cause confusion as it could lead average consumers to mistakenly believe that the disputed domain names are related to the Complainant's official websites.

The disputed domain names were registered and are being used in bad faith. The disputed domain names were registered between March 29, 2023 and April 1, 2023. The Respondent registered the disputed domain names long after the Complainant's SKYSCANNER marks were registered. The Complainant's SKYSCANNER marks also enjoyed significant exposure in the international media in November 2016, after the Complainant was acquired by Ctrip, China's largest on-line travel agency in a deal worth approximately GBP 1.4 billion. There were various international press releases relating to the acquisition.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. The Complainant requested that the language of the proceeding be English for the following main reasons:

- (i) the disputed domain names incorporate the Complainant's SKYSCANNER trade mark, which comprises the English words "sky" and "scanner";
- (ii) the disputed domain names resolve to websites containing PPC links which are all displayed in English; and
- (iii) requiring the Complaint and evidence to be translated into Chinese would place a disproportionate burden on the Complainant. The Respondent appears to have at least a working knowledge of English but the Respondent does not understand Mandarin.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

With reference to the guidance notes set out in section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understands the English language, having registered a series of domain names which incorporate the term "skyscanner", albeit with the Additions. The PPC links on the parked pages reflect words in English and notably, nothing in Chinese. The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefor by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Complainant has established it has rights in the SKYSCANNER trade mark. The disputed domain names comprise a combination of the said trade mark with the Additions. The Panel is of the view that the Complainant's SKYSCANNER mark is clearly identifiable in the disputed domain names, despite the Additions, being intentional misspellings of the trade mark SKYSCANNER. A domain name which consists of a common, obvious, or intentional misspelling of a trade mark has been considered by panels to be confusingly similar to the relevant mark for purposes of the first element. (See [WIPO Overview 3.0](#), section 1.9.)

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant's registrations and extensive use of the SKYSCANNER trade mark long predate the registration date of the disputed domain names. The Complainant did not license nor authorize the Respondent to use its trade mark in a domain name. Neither is there any evidence that the Respondent is commonly known by the name "Skyscanner", or any of the disputed domain names. The use of the disputed domain names which incorporate a misspelt version of the Complainant's SKYSCANNER trade mark, and/or incorporating additional random letters, in relation to parking pages with PPC links that purport to offer goods and/or services that are similar to those offered by the Complainant, do not constitute a *bona fide* offering of good or services within the meaning of paragraph 4(c)(i) of the Policy nor a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy. The subject matter reflected on the parked pages (e.g. "Cheap Airline Tickets", "Cheapest Flights", and "Skyscanner Flights") correspond to and/or is related to that of the Complainant's line of business.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainant's assertions and evidence. In any event, it is the Panel's view that it is not plausible that any rights or legitimate interests can be asserted or supported by the Respondent.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

A complainant has the burden of proving that the respondent registered and is using the domain name(s) in dispute in bad faith. Paragraph 4(b) of the Policy states that:

"[T]he following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [the respondent has] registered or [the respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [its] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location.”

Given the unrebutted well-established use and fame of the Complainant's SKYSCANNER trade mark, and the Respondent's intentional registration of the 13 domain names on the same day and/or within a span over a few days, all of which incorporate misspelled versions of the Complainant's said mark, it is evident that the Respondent was well aware of and specifically targeted the Complainant and its SKYSCANNER trade mark. There is no conceivable valid or good faith use by the Respondent, in the absence of any consent given by the Complainant. The Panel is therefore persuaded that the circumstances in this case fall within the scope of paragraph 4(b)(iv) of the Policy.

The Panel also notes that the Respondent is a repeated cybersquatter, having been named as respondent in more than 50 published decisions. The Panel accordingly draws an adverse inference from this pattern of bad faith conduct. See, for example, *Barclays Bank UK PLC v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2023-3590](#); *Southern Glazer's Wine and Spirits, LLC v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2022-4786](#); *CenterPoint Energy, Inc. v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4046](#).

Hence, the Panel concludes that the Respondent has registered and used the disputed domain names in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been satisfied.

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 <bskyscanner.com>, <dskskyscanner.com>, <mskyscanner.com>, <oskyscanner.com>, <rskyscanner.com>, <skykskyscanner.com>, <skynskyscanner.com>, <skypskyscanner.com>, <skyscannera.com>, <skytkskyscanner.com>, <skywskyscanner.com>, <tskyscanner.com>, and <wskyscanner.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: November 15, 2023