

## **ADMINISTRATIVE PANEL DECISION**

Skyscanner Limited v. bai sheng  
Case No. D2023-4216

### **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 Name and Registrar**

The disputed domain names <skyscanworking.com> and <skyscanner-job23.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"), in connection with the disputed domain name <skyscanworking.com>, on October 10, 2023. On October 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 20, 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 October 24, 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 October 24, 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 October 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 17, 2023.

On October 31, 2023, the Complainant submitted a second amended Complaint whereby it requested the addition of the domain name <skyscanner-job23.com> (the “additional disputed domain name”) to this proceeding. On November 9, 2023, the Center acknowledged receipt of the Complainant’s request and specified that, the Rules do not explicitly provide for a Complaint to be amended after the commencement of proceeding to include additional domain names. The Center then specified that it is for the Panel to determine when appointed whether or not to accept the addition of new domain names to the Complaint and order further procedural steps, if any.

The Center appointed Luca Barbero as the sole panelist in this matter on November 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.

The Panel, having examined the Complaint’s request to add the domain name <skyscanner-job23.com> to the proceeding, has invited the Center to send a request for registrar verification to the Registrar regarding this additional disputed domain name.

On December 11, 2023, the Center transmitted by email to the Registrar, Gname.com Pte. Ltd., a request for registrar verification in connection with the additional disputed domain name. On December 12, 2023, the Registrar transmitted by email to the Center its verification response confirming the Respondent as the registrant for the additional disputed domain name.

To ensure that the Parties are treated with equality and that each Party was given a fair opportunity to present its case, on December 20, 2023, the Panel issued the Administrative Panel Procedural Order No. 1 (“Panel Order No.1) pursuant to paragraphs 10(a) and 10(b) of the Rules, inviting i) the Complainant to provide any further arguments regarding the additional disputed domain name in light of the disclosed Respondent information by December 25, 2023; and ii) the Respondent to comment on the second amended Complaint, by December 25, 2023.

On December 20, 2023, the Complainant sent an email communication to the Center stating that it did not intend to make further submissions. The Respondent has not submitted any comments in response to the Panel Order No. 1.

#### **4. Factual Background**

The Complainant operates the website “www.skyscanner.net”, available in over 30 languages, which enables people to research and book travel options for their trips, including flights, hotels, and car hire. The Complainant’s website attracts tens of millions of unique visits per month.

The Complainant is the owner of several trademark registrations for SKYSCANNER, including the following, as per trademark certificates submitted as Annex 2 to the Complaint:

- International trademark registration No. 1030086 for SKYSCANNER (word mark), registered on December 1, 2009, designating amongst others European Union, Armenia, Australia, Azerbaijan, Bosnia & Herzegovina, Belarus, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Türkiye and Ukraine, in international classes 35, 39, and 42;
- International trademark registration No. 900393 for SKYSCANNER (word mark), registered on March 3, 2006, designating European Union and United States of America, in classes 35, 38, and 39;
- United Kingdom trademark registration No. UK00002313916 for SKYSCANNER (word mark), filed on October 23, 2002, and registered on April 30, 2004, in international classes 35, 38, and 39.

As said above, the Complainant is also the owner of the domain name <skyscanner.net>, which was registered on July 3, 2002, and is pointed to the Complainant's website "www.skyscanner.net".

The disputed domain names <skyscanworking.com> and <skyscanner-job23.com> were registered on September 27, 2023, and October 29, 2023, respectively, and are currently not pointed to active websites. According to the screenshot provided in Annex 4 to the Complaint (which has not been contested by the Respondent), prior to the present proceeding, the disputed domain name <skyscanworking.com> was pointed to a login page displaying the indications "Air ticket – More than 100,000 customers have joined our platform to purchase tickets".

## 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 it has satisfied the first requirement based on its trademark rights on SKYSCANNER and, with reference to the disputed domain name <skyscanworking.com>, it points out that it incorporates a highly similar variation of the Complainant's trademark ("skyscan"), with the mere addition of the generic term "working" and the generic Top-Level Domain ".com".

The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain names since i) the Respondent does not own registered rights in any trademark comprising part or all of the disputed domain names, ii) SKYSCANNER is a coined mark and has no generic or dictionary meaning; and iii) the Complainant has not given its consent for the Respondent to use a highly similar variation of its registered trademarks in a domain name.

Moreover, the Complainant states that the Respondent has not used the disputed domain names in connection with a *bona fide* or noncommercial use and points out that the disputed domain name <skyscanworking.com> was pointed in the past to a platform named "Air Ticket", displaying the same home page that was previously published on other domain names used in connection with an employment scam, that were subject to the UDRP case *Skyscanner Limited v. bai sheng*, WIPO Case No. [D2023-3966](#).

The Complainant submits as Annex 5 to the Complaint screenshots of the website at <skyscannerairticket.com> (included in the cited WIPO Case No. [D2023-3966](#), along with screenshots of the other relevant domain names at issue there) and images shared by an individual impersonating an employee of the Complainant promoting the correspondent website via the Telegram platform, indicating to individuals how to sign up and receive commission. The Complainant further submits that it is aware that the Respondent's websites have been used in connection with a fraudulent activity directed towards the Complainant's customers seeking to collect personal information, including bank details, by claiming joining the platform and booking flights via the site which would result in a commission payment.

With reference to the circumstances evidencing bad faith, the Complainant submits that the disputed domain names were registered long after the Complainant obtained rights in the SKYSCANNER trademark, and that the Respondent has clearly been using the disputed domain name <skyscanworking.com> in bad faith with the aim of misleading consumers in to believing they were dealing with the Complainant, to defraud the Complainant's consumers for illicit gain, including to gain access to consumers' sensitive personal information.

As to the additional disputed domain name <skyscanner-job23.com>, which has not been pointed to an active website, the Complainant submits that, taking into account the broader circumstances demonstrating bad faith registration and use of domain names that target the Complainant's rights for illicit gain, the passive holding of <skyscanner-job23.com> also constitutes use in bad faith. The Complainant submits that it is a

matter of time before this disputed domain name is used for the same fraudulent purposes as the disputed domain name <skyscanworking.com>.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1.1. Consolidation of Multiple Respondents**

Paragraph 10(e) of the Rules provides that a panel shall decide a request by a party to consolidate multiple domain name disputes in accordance with the Policy and the Rules.

As stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "Where 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. Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s)."

The Complainant asserted that the disputed domain names are under common control since the registrant is based in same location, were registered using the same Registrar, and use the same hosting services.

The Panel notes that the disputed domain names were registered in a short period, i.e., between the end of September and the end of October 2023, and that, based on the Registrar verification responses provided to the Center, both disputed domain names are registered with the same registrant name (Bai Sheng) and country (Malaysia), and with the indication of similar email addresses consisting of the combination of the term "baisheng" with numerals.

Moreover, the additional disputed domain name <skyscanner-job23.com> was registered three days after the Complaint against <skyscanworking.com> was notified to the Respondent.

Based on the elements highlighted above, the Panel finds that the disputed domain names are, on balance of probabilities, under control of the same individual or entity.

The Panel also finds that the consolidation in this case is fair and equitable to the Parties and concludes that the consolidation of the multiple domain names is appropriate in this case and is consistent with the Policy and Rules as well as with prior relevant UDRP decisions in this area (see, amongst others, *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

### **6.1.2. Addition of domain names following Notification of the Complaint**

As highlighted in the Procedural History, the Complaint was originally filed in connection with the disputed domain name <skyscanworking.com> and the Complainant filed a (second) amended Complaint after notification of the Complaint requesting to add <skyscanner-job23.com> to the proceeding.

As stated in section 4.12.2 of the [WIPO Overview 3.0](#), “Requests for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment. Except in limited cases where there is clear evidence of respondent gaming/attempts to frustrate the proceedings (e.g., by the respondent’s registration of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings (which are expected to take place with due expedition). Moreover, a panel declining such request would not prevent the filing of a separate complaint where such additional domain names may be addressed. In those cases where panels would grant such a request, the complainant would need to hold relevant trademark rights and the proposed additional domain names would need to be *prima facie* registered by the same or related respondent. Moreover, in the event a panel would grant such a request, it may also order partial or full re-notification of the proceeding (which may impact case timelines)”.

In the case at hand, in view of the fact that the Respondent registered the additional disputed domain name <skyscanner-job23.com>, incorporating the Complainant’s mark, on October 29, 2023, i.e., three days after the Center’s notification of the Complaint in this case, and considering the Respondent’s reiterated conduct since it had registered the first disputed domain name <skyscanworking.com> the very same day in which a prior Complaint against the Respondent was notified, the Panel finds that the Respondent clearly attempted to frustrate the proceedings.

Therefore, the Panel has deemed appropriate to accept the Complainant’s request for addition of the disputed domain name <skyscanner-job23.com> and, as highlighted in the Procedural History, gave the Parties the opportunity to provide further comments following such determination by issuing the Panel Order No. 1, but no further comments have been submitted by both of them. Therefore, the Panel will now proceed to a decision on the merits of the case based on the documents before him.

### **6.2. Substantive Issues**

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondent are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that 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 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. Indeed, the Complainant has provided evidence of ownership of trademark registrations for SKYSCANNER in several countries.

The Panel notes that the dominant feature of the Complainant's mark, consisting of the wording "skyscan", is recognizable within the disputed domain name <skyscanworking.com>, whilst the Complainant's mark is entirely reproduced in the additional disputed domain name <skyscanner-job23.com>. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms "working", "job", and the numeral "23" may bear on assessment of the second and third elements, the Panel finds the addition of such terms and number 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.

Therefore, 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 names.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

According to the evidence on record, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain names. Moreover, there is no element from which the Panel could infer the Respondent's rights and legitimate interests over the disputed domain names, or that the Respondent, might be commonly known by the disputed domain names.

As mentioned above, prior to the present proceeding, the disputed domain name <skyscanworking.com>, currently not redirected to an active website, previously pointed to an active webpage requiring users to login and indicating: "Air ticket – More than 100,000 customers have joined our platform to purchase tickets". Based on the documents and statements provided by the Complainant, the website to which the disputed domain name <skyscanworking.com> resolved before the start of the proceeding was identical to the one displayed at other domain names, registered by the Respondent and subject of the prior UDRP case *Skyscanner Limited v. bai sheng*, WIPO Case No. [D2023-3966](#), which were involved in a fraudulent activity directed towards the Complainant's customers seeking to collect personal information, including bank details, by requesting to join a platform and impersonating the Complainant.

Considering the circumstances, the Panel finds that also the additional disputed domain name <skyscanner-job23.com>, currently not redirected to any active website, might have been registered for the same purpose.

In view of the above and in the absence of a Response, the Panel finds that, based on the records, the Respondent has not used the disputed domain names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Moreover, the Panel finds that the disputed domain names are inherently misleading. As stated in section 2.5.1 above, "Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

Furthermore, Panels have held that the use of a domain name for illegal activity such as phishing or impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, 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 finds that the Respondent registered the disputed domain names in bad faith, having full knowledge of the Complainant and its trademark, particularly because they incorporate the entirety or the core of the Complainant's trademark and were registered long after the Complainant obtained rights in the SKYSCANNER mark. Moreover, the Respondent used the disputed domain name <skyscanworking.com> in connection with a website promoting air ticket services.

Furthermore, the Panel notes that the Respondent registered the disputed domain name <skyscanworking.com> after the Complainant had filed a Complaint with the Center against ten domain names registered by the Respondent (<skyscannerairefare.com>, <skyscannerairticket.com>, <skyscannerplane.com>, <skyscannerwork.com> <skyscanner-plane.com>, <skyscanner-work.com >, <skyscannerworldwide.com>, <skyscanner-airfare.com>, <skyscanner-airticket.com>, and <skyscanner-worldwide.com>), which were transferred to the Complainant according to the decision rendered in that case (*Skyscanner Limited v. bai sheng*, WIPO Case No. [D2023-3966](#)). Notably, the disputed domain name <skyscanworking.com> was registered on the same day the Center notified the Complaint in the prior case, i.e., on September 27, 2023. In addition, the Respondent registered the additional disputed domain name <skyscanner-job23.com> on October 29, 2023, three days after the Center's notification of the Complaint in the present proceeding.

In view of the prior use made by the Respondent of the disputed domain name <skyscanworking.com> described above, the Panel also finds that the Respondent intentionally attempted to attract, for commercial gain, Internet users to the corresponding website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

At the time of the drafting of the Decision, the disputed domain names do not resolve to active websites. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available 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.

Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, the composition of the disputed domain names, and the Respondent's failure to provide a Response and finds that in the circumstances of this case the current passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel further finds that the Respondent registered the disputed domain names in order to prevent the Complainant from reflecting its trademark in corresponding domain names and that it engaged in a pattern of such conduct according to paragraph 4(b)(ii) of the Policy since, besides the disputed domain names, it registered ten additional domain names incorporating the Complainant's trademark which were subject to the prior UDRP case *Skyscanner Limited vs Bai Sheng*, WIPO Case No. [D2023-3966](#), and that the panel ordered to transfer to the Complainant.

Therefore, based on the available record, the Panel finds that the Complainant has established the third element 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 names <skyscanworking.com> and <skyscanner-job23.com> be transferred to the Complainant.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: January 8, 2024