

ADMINISTRATIVE PANEL DECISION

Travelscape, LLC v. gn gmh, dgfg
Case No. D2023-4316

1. The Parties

The Complainant is Travelscape, LLC, United States of America (“United States”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondent is gn gmh, dgfg, India.

2. The Domain Name and Registrar

The disputed domain name <travelcitynow.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 October 18, 2023. On October 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 18, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 19, 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 20, 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 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2023.

The Respondent sent email communications to the Center on October 19 and 20, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on November 15, 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 was founded in 1996. It markets and distributes travel-related products and services under the brand TRAVELOCITY directly to individuals, offering thousands of travel destinations to millions of travelers per month. The Complainant operates its official website at the domain name <travelocity.com>, registered on January 23, 1997.

The Complainant is the owner of the following trademark registrations for the sign “TRAVELOCITY” (the “TRAVELOCITY trademark”):

- the United States trademark TRAVELOCITY with registration No. 2254700, registered on June 22, 1999 for services in International Classes 35, 39 and 42;
- the European Union trademark TRAVELOCITY with registration No. 000163642, registered on September 14, 2001 for goods and services in International Classes 9 and 39;
- the Indian trademark TRAVELOCITY with registration No. 1055817, registered on November 1, 2001 for goods in International Class 16; and
- the Indian trademark TRAVELOCITY with registration No. 1236703, registered on September 15, 2003 for services in International Classes 39 and 42.

The disputed domain name was registered on November 8, 2022. It is currently inactive. At the time of filing of the Complaint, the disputed domain name resolved to a website that featured the TRAVELOCITY trademark and the Complainant’s logo, and provided travel-related information, articles and links to third party travel-related offerings.

5. Parties’ Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the TRAVELOCITY trademark, because it incorporates this trademark in its entirety at the head of the disputed domain name, and the addition of the word “now” at the tail of the disputed domain name does not distinguish it from the Complainant’s TRAVELOCITY trademark, which remains clearly identifiable and the primary and dominant element of the disputed domain name. According to the Complainant, the relevant consumers, on seeing the disputed domain name, will reasonably believe that it is related to the Complainant.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant’s registration and use of the TRAVELOCITY trademark long predates the registration of the disputed domain name. The Complainant maintains that its TRAVELOCITY trademark is a unique coined term, has been used extensively for over 25 years, and is one of the most recognized online travel and booking companies and websites.

The Complainant adds that the Respondent is not commonly known by the disputed domain name and has chosen to conceal its identity in the Whois records for the disputed domain name and on the website at the disputed domain name. The Complainant points out in this regard that the email address used by the Respondent is an email address used by a company in India that promotes itself as a web development and search engine optimization service as well as what is referred to as a “Paid Guest Posting Expert.” The

Complainant maintains that there is no relationship between the Complainant and the Respondent and the Respondent has never obtained any permission by the Complainant to register or use the disputed domain name.

The Complainant submits that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Complainant notes that the Respondent has used the disputed domain name, without permission or authorization from the Complainant, to capitalize on the TRAVELOCITY trademark and the Complainant's domain name <travelocity.com> for commercial gain. According to it, the Respondent has sought to profit by registering and using the disputed domain name for a website that purports to provide travel information for various destinations or travel tips, but which is actually a vehicle for providing links to various third-party online travel providers and for collecting consumer data, names and email addresses. According to the Complainant, the above shows that the Respondent has registered and used the disputed domain name to opportunistically profit from the goodwill associated with the Complainant's TRAVELOCITY trademark and to attract web users to the Respondent's website for the Respondent's profit by suggesting a connection to the Complainant's TRAVELOCITY trademark and service.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent has acted in bad faith by registering the disputed domain name that fully incorporates the Complainant's well-known TRAVELOCITY trademark in the travel industry to profit from the likely association of the disputed domain name with the Complainant and its TRAVELOCITY trademark and online travel services.

The Complainant points out that the Respondent registered the disputed domain name long after widespread use of the Complainant's TRAVELOCITY trademark, and has done so without authorization and for the purpose of trading on the goodwill and reputation built by the Complainant in its TRAVELOCITY trademark.

The Complainant adds that the Respondent's website initially featured the Complainant's TRAVELOCITY trademark and logo, which makes it clear that the Respondent was well aware of the Complainant's rights in the TRAVELOCITY name and trademark. Following the submission of an abuse report by the Complainant to the then hosting provider of the website at the disputed domain name, the Complainant's TRAVELOCITY trademark and logo were removed from it, but it continued to feature links to third party competitors of the Complainant.

According to the Complainant, the Respondent is acting in bad faith by leveraging the notoriety of the TRAVELOCITY trademark to attract users to the website at the disputed domain name that includes numerous articles and post on various destinations and for travel tips but which appears to be meant to funnel traffic through various links to third-party online travel websites and to collect consumer data, names and email addresses. The Complainant adds that such use of the Complainant's TRAVELOCITY trademark to promote the website at the disputed domain name is parasitic and meant to take advantage of the goodwill associated with the TRAVELOCITY trademark. According to the Complainant, the use of the disputed domain name to divert web traffic is not a use in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name, but an act of bad faith.

B. Respondent

The Respondent did not submit a formal Response to the Complainant's contentions.

With its informal letters to the Center, the Respondent made the following statements (in relevant part):

"We are receiving your email regarding copied websites. Sorry which website to copy my website. So plz share the website URL. My website is only a travel news portal and not sharing any travel related service, flight ticket, content copied etc. So Plz check my website carefully. if you find any issue in websites than linke content copied, same theme copied, use other website logo and any image copied. So plz share the details than i will remove these things immediately."

“[...] If you are really close to this dispute, take this domain travelcitynow.com. I will transfer it to your account. But this is chargeable 2500 usd. IF you transfer this amount in my paypal then i will transfer this domain in your account. Because I have a lot of money invested in this domain like creating backlinks, increasing ad, web development, and hosting etc. But I don't really know about disputes and this domain related in your websites travelcity.com. I am the owner of 864+ domains and I am sharing a free news publishing. [...]”

6. Discussion and Findings

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 name. 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 the TRAVELOCITY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the TRAVELOCITY trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the TRAVELOCITY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, “now”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the TRAVELOCITY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel therefore finds that 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 name. 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 name such as those enumerated in the Policy or otherwise. The Respondent has not provided any plausible explanation why it has registered the disputed domain name and how it could legitimately use it in good faith without the consent of the Complainant.

The disputed domain name was registered years after the Complainant started using its TRAVELOCITY trademark. The Respondent states that its website is a “travel news portal and not sharing any travel related

service, flight ticket, content copied etc,” but the evidence shows that the associated website prominently featured the Complainant’s TRAVELOCITY trademark and logo and contained various links to third-party online travel websites that compete with the Complainant’s business, without disclosing the lack of relationship between the Parties. This shows that the Respondent was well aware of the TRAVELOCITY trademark and of the Complainant’s business under it, and in the absence of any evidence to the contrary, suffices for a finding that the Respondent is likely to have registered and used the disputed domain name in an attempt to profit from the goodwill of the TRAVELOCITY trademark by confusing and attracting Internet users to the website at the disputed domain name that included links to third-party competitors of the Complainant. Such activities cannot give rise to rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel therefore finds that 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.

As discussed above, the disputed domain name is confusingly similar to the distinctive TRAVELOCITY trademark which was registered in India 21 years before the registration of the disputed domain name. The evidence shows that the associated website featured the TRAVELOCITY trademark and logo and contained links to travel-related services offered by third-part competitors of the Complainant. The Respondent has not provided a plausible explanation why its actions should be regarded as being carried out in good faith, rather than as an attempt to free-ride on the goodwill of the Complainant to attract Internet users for commercial gain.

Taking the above into account, and in the lack of any contrary evidence, the Panel accepts that it is more likely than not that the Respondent has registered the disputed domain name with knowledge of the Complainant and targeting its TRAVELOCITY trademark in an attempt to attract traffic to the disputed domain name by confusing Internet users that they are reaching an online location related to the Complainant and the services it offers under the TRAVELOCITY trademark, and to offer them the services of competitors to the Complainant for commercial gain. This supports a finding of bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel therefore finds that 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 name <travelocitynow.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: November 27, 2023