

ADMINISTRATIVE PANEL DECISION

Christina Katsouli, Byblos PC v. Nanci Nette
Case No. D2023-5133

1. The Parties

The Complainant is Christina Katsouli, Byblos PC, Greece, represented by Tsibanoulis & Partners Law Firm, Greece.

The Respondent is Nanci Nette, United States of America.

2. The Domain Name and Registrar

The disputed domain name <byblosvilla.com> is registered with Register.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 8, 2023. On December 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 12, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on February 2, 2024. 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 Second Complainant, Byblos PC, is a Greek corporate entity, founded on October 25, 2016. It is owned by the First Complainant, Christina Katsouli, a private individual, to the extent of a 99 per cent shareholding. The Second Complainant took over the operation of the First Complainant's business following its incorporation in October 2016. For convenience, unless the context indicates otherwise, the Panel will refer to the First Complainant and the Second Complainant together as "the Complainant". The Complainant is engaged in the business of tourism services, namely the provision of holiday residences, under the BYBLOS VILLA mark.

Correspondence between the First Complainant's business manager and its web developer between March and July 2015 demonstrates that the disputed domain name was originally created on behalf of the First Complainant when it was registered on April 29, 2015. The associated website was live from no later than August 2015 and has been used to promote the Complainant's business continuously since that date. The Complainant's first booking under the BYBLOS VILLA mark is dated July 16, 2015. The Complainant provides evidence that it advertised under the mark via Google AdWords (some 25 campaigns from 2015 to date), Booking.com, TripAdvisor.com, and other worldwide booking agencies. According to Google Analytics, just under 300,000 Internet users visited the Complainant's website over this period.

The Complainant claims rights in the BYBLOS VILLA unregistered trademark.

The Complainant inadvertently failed to renew the disputed domain name in about June 2023. It was then registered by the Respondent, which has not participated in the administrative proceeding. The Complainant continues to operate under the BYBLOS VILLA mark under an alternative domain name which it had also registered in 2015.

The disputed domain name currently resolves to a website that displays pay-per-click ("PPC") links at times in Greek and at times in English related to tourism, namely the sector in which the Complainant is active. For example, the website has displayed a link titled "holiday rentals". The disputed domain name also resolves at times to a security services page which suggests that it may have an SSL certificate configuration issue. The Complainant points to the decision in *HomeAway.com, Inc. v. Nanci Nette*, WIPO Case No. [D2023-1561](#), a case involving the present Respondent, in which the facts and circumstances are broadly analogous to the present case. The Complainant notes that the Respondent has been the losing respondent in at least 74 other proceedings under the Policy. The volume of cases brought against it suggests that the Respondent may be engaged in large-scale cybersquatting.

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 name.

Notably, the Complainant contends that the disputed domain name is identical to and reproduces the Complainant's BYBLOS VILLA unregistered trademark in its entirety coupled with the generic Top-Level Domain ("gTLD") ".com", which should be disregarded for comparison purposes. The Complainant asserts that the Respondent is not known by the disputed domain name, has no permission to use the Complainant's BYBLOS VILLA unregistered trademark, and is not using the disputed domain name for a bona fide offering of goods or services, given its use as a PPC page. The Complainant concludes that the identity between its unregistered mark and the disputed domain name carries a high degree of implied affiliation. The Complainant adds that its online use of the BYBLOS VILLA unregistered mark since 2015 means that the Respondent cannot claim to have been unaware thereof when the Respondent registered the disputed domain name, suggesting opportunistic bad faith on the Respondent's part. Finally, the

Complainant asserts that the use of the disputed domain name to point to PPC that competes with the Complainant's business is indicative of use in bad faith within the meaning of the Policy.

B. Respondent

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

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.

The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. In terms of duration and use of the BYBLOS VILLA mark, the Panel notes that the Complainant has traded continuously under such mark for almost nine years. The Complainant has demonstrated source identifying capacity under said mark. It has built a reasonably substantial business thereunder, including conducting online advertising campaigns. Beyond its own website (formerly associated with the disputed domain name) the Complainant is able to demonstrate that it has maintained a presence on multiple worldwide booking agency websites making reference to said mark, or a close variant thereof (Byblos Luxury Villa) and that it has secured bookings from the general public for its holiday residences across the entire period from 2015 to date. The Panel notes in passing that the Complainant is not using the BYBLOS VILLA mark in a geographically descriptive sense, such as, for example, to describe a particular residence in a place named Byblos, but rather in a more arbitrary sense.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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 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.

There is no evidence that the disputed domain name is being used in connection with a bona fide offering of goods or services. The PPC use of the website associated with the disputed domain name appears to reference the line of business of the Complainant and, in consequence, would not typically be considered to be bona fide. [WIPO Overview 3.0](#), section 2.9. The Panel has however given consideration to whether the use of the disputed domain name (in other words, the PPC advertising) might be considered to be genuinely related to the dictionary meaning of the disputed domain name. [WIPO Overview 3.0](#), section 2.10. That section notes that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests upon the respondent, and that in order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights.

On one view, the composition of the disputed domain name could be thought of as a geographic term alongside a dictionary word (“Byblos” can refer to a geographic location in Lebanon such that “Byblos villa” could be a descriptive phrase). If this were the Panel’s only consideration, it might be feasible to suggest that the Respondent’s use of the disputed domain name with travel industry related PPC could give rise to a right or legitimate interest here, due to it potentially referencing holiday accommodation in a named geographic area. While the Complainant states that the PPC advertising occasionally appears in the Greek language, suggesting that the Complainant’s mark could be being targeted, the Complainant does not explain whether it took any steps to exclude the possibility that such advertisements might be automatically geo-targeted to its own location rather than part of any active scheme to reference the Complainant’s mark. Such possibility could have been excluded, for example, by accessing the PPC advertisements in a clean browser with no prior search history via a range of geographically distributed proxies rather than from the Complainant’s location alone. Had the Greek language still appeared when the PPC was triggered, this might have suggested targeting of the Complainant’s mark.

Nevertheless, the mere possibility of a legitimate use associated with a dictionary phrase is not the end of the matter. On this topic, panels also tend to look at factors such as the status and fame of the relevant mark and whether the respondent has registered and legitimately used other domain names containing dictionary words or phrases in connection with the respective dictionary meaning. [WIPO Overview 3.0](#), section 2.10.1. Considering the status of the relevant mark in the present case, it may be seen that the Complainant has advertised this widely across multiple international travel agencies and has conducted 25 Internet advertising campaigns. It is not unreasonable to infer that this would have resulted in a reasonably substantial Internet footprint for said mark, not least due to the aggregated search engine optimization efforts of the various agencies. The mark’s status is also supported by the evidence of some 300,000 visitors to the Complainant’s website.

There is no evidence before the Panel that the Respondent has registered and legitimately used other domain names containing dictionary words or phrases in connection with the respective dictionary meaning. On the contrary, the Panel has been presented with the history of the Respondent’s modus operandi as discussed in the next section of this Decision, which suggests that the Respondent is engaged in a substantial pattern of conduct involving the making of opportunistic domain name registrations which target the holder of the trademark referenced therein, suggesting that the disputed domain name is more likely than not to be part of that pattern. In all of these circumstances, the Panel considers that the balance of probabilities is comprehensively tipped in the Complainant’s favor on this topic. It would have been necessary for the Respondent to provide a convincing rebuttal of the Complainant’s case for there to have been a finding of rights and legitimate interests in its favor, yet the Respondent has chosen to remain silent in the face of the Complainant’s allegations and evidence.

The Panel finds that the presence of PPC on the associated website more probably than not targets the Complainant’s holiday lettings business and is not, nor was intended to be, a descriptive use, for example, referencing villas in Byblos.

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.

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.

The Panel considers that paragraph 4(b)(ii) of the Policy is engaged in the present case on the basis of the record before it. It is clear to the Panel from the large volume of previous cases involving the Respondent that the Respondent has engaged in a pattern of conduct whereby it has registered domain names in order to prevent the owner of a trademark from reflecting such mark in a domain name. The panel's remarks in *HomeAway.com, Inc. v. Nanci Nette*, WIPO Case No. [D2023-1561](#) are highly apposite to the present case:

"[...] this Complaint presents a quintessential example where Respondent has engaged in a pattern of bad faith registration and use within paragraph 4(b)(ii) of the Policy. [WIPO Overview 3.0](#), section 3.1.2. ("This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner.") Complainant has cited over 50 cases where Respondent was found to have registered and used domain names in bad faith, all of which resulted in decisions against Respondent. These cases demonstrate that Respondent has repeatedly targeted in bad faith well-known trademarks and many other brands".

Furthermore, as also noted in that case, panels have recognized that the opportunistic registration of domain names following a complainant's prior inadvertent expiry may support an inference of bad faith, citing among others *Lifetime Assistance, Inc. v. Domain Asset Holdings, LLC*, WIPO Case No. [D2011-2137](#) in which the respondent was found to have registered the domain name concerned immediately after the lapse of the complainant's registration in circumstances where any trademark or Internet based search would have easily disclosed the complainant's trademark rights and long-established use. The present record discloses a similar scenario, particularly given the Complainant's previous activities and its extensive advertising of its BYBLOS VILLA mark on numerous international travel platforms. In other words, the Complainant's mark is highly likely to have benefited not only from its own search engine optimization but also from that of its agency partners, resulting in a degree of prominence on relevant searches. In these circumstances, the Panel is satisfied that even a modest Internet search for the disputed domain name on any popular search engine would have disclosed the Complainant's interest and the extent of its goodwill. Given the use to which the disputed domain name has been put subsequent to its registration by the Respondent, the Panel finds that the disputed domain name is not likely to have been registered in ignorance of the Complainant's interest, its rights, and its goodwill.

Furthermore, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 in terms of paragraph 4(b)(iv) of the Policy. The disputed domain name is an exact match for the Complainant's BYBLOS VILLA unregistered mark. This is not surprising given that it used to be registered to the Complainant. Where a mark has built up goodwill through substantial activities, including via a particular domain name over a lengthy period, the deliberate and opportunistic registration of that domain name by an unauthorized party is highly likely to lead to confusion with that mark, if not inevitably so. It seems to the Panel that, in this case, the Respondent intended to profit from that confusion to maximize the revenue that it would obtain from the volume of clicks on PPC advertisements keyed to the Complainant's line of business. The Panel considers that the Respondent expected to receive a high volume of Internet users arriving at its website in the expectation that it was the Complainant's site and intended to point these in the direction of the PPC. It should also be noted that, to the extent that any such PPC is automatically generated or provided by a third party, the Respondent cannot disclaim responsibility for content appearing on the website associated with

the disputed domain name. Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.5.

In short, there are sufficient indicia of registration and use in bad faith to be drawn from the circumstances of this case, as reinforced by the previous cases against the Respondent in which there has been a finding of registration and use in bad faith, that this raises a case for the Respondent to answer. No such answer has been forthcoming from the Respondent and its silence speaks volumes to the Panel in this matter. The Complaint was clear and unequivocal in its allegations regarding the Respondent's particular modus operandi, and it is therefore notable that the Respondent has made no attempt to either contradict the Complainant's assertions or otherwise to explain how its registration and use of the disputed domain name might be considered to be good faith activities in the context of this particular case.

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 name <byblosvilla.com> be transferred to the Second Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: February 16, 2024