

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Milen Radumilo

Case No. D2023-5197

1. The Parties

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

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <scayscanner.net> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 13, 2023. On December 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 21, 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 December 21, 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 December 21, 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 December 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 22, 2024.

The Center appointed Ezgi Baklacı Gülkökar as the sole panelist in this matter on January 25, 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 Complainant owns and operates the website with the domain name <skyscanner.net>, which was registered on July 03, 2002, and the Complainant's website attracts tens of millions of unique visits per month. Furthermore, the Complainant's smart device application has been downloaded over 70 million times and the Complainant's services are available over 30 languages and 70 currencies.

The Complainant owns a global trademark portfolio of trademark registrations for the trademark SKYSCANNER, including the below trademarks among others as evidenced in Annex 2 of the Complainant:

- International Trademark Registration (IR) No. 1030086 for SKYSCANNER, designated to Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Belarus, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Türkiye and the Ukraine, registered since December 01, 2009,
- International Trademark Registration (IR) No. 900393 for SKYSCANNER, designating the European Union and the United States of America registered since March 03, 2006, covering the services in classes 35, 38 and 39;

The disputed domain name was registered on November 30, 2023, and at the time of the submission of the Complaint and writing this decision, the domain name redirects to the Complainant's website.

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 each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name is aurally identical to the Complainant's SKYSCANNER trademark, since the only distinction between the trademark and the disputed domain name is the changed word "scay", which is pronounced the same as "sky".

The Complainant also contends that the Top-Level Domain ("TLD") in the disputed domain name is not to be taken into account when comparing the disputed domain name to the Complainant's trademarks.

Rights or legitimate interests

The Complainant argues that the Respondent has no rights and legitimate interests in the disputed domain name.

In addition, the Complainant argues that the term "Skyscanner" is not descriptive, and the Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner.

Furthermore, as evidenced with the Annex 4, the Complainant contends that the disputed domain name redirects to the Complainant's website and also holds an active MX record, suggesting that the Respondent plans to use the disputed domain name to communicate with the users; creating a false impression that the disputed domain name is a domain name of the Complainant and attract and mislead Internet users.

The Complainant iterates that the Respondent's activities are designed to mislead consumers into believing that the disputed domain name is owned by the Complainant.

The disputed domain name was registered and used in bad faith

The Complainant initially argues that SKYSCANNER trademark registrations predate the creation date of the disputed domain name as evidenced by the Annex 1 and that the Respondent was aware of the Complainant's trademarks given the fame and international reputation of the SKYSCANNER marks.

The Complainant emphasizes the Respondent's exploitation of the disputed domain name, to redirect the Internet traffic to the Complainant's website and has active e-mail functionality, creating a significant fraud risk to deceive the consumers for illicit gain.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (ii) the disputed domain name has been registered and is 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 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 that 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 applicable TLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." [WIPO Overview 3.0](#), section 1.11. Here, the TLD ".net" may be disregarded.

The Panel notes that the replacement of the letter "k" in the Complainant's SKYSCANNER trademark with the letters "c" and "a" could be the result of typosquatting or the Respondent's intention of creating a domain name phonetically similar to the Complainant's SKYSCANNER trademark. The Panel finds that neither of

them would prevent a finding of confusing similarity as the Complainant's trademark SKYSCANNER remains recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. This assessment is further supported by the redirection of the disputed domain name to the Complainant's website. [WIPO Overview 3.0](#), section 1.15.

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.

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.

The Panel noted that there is no evidence showing that the Respondent holds any rights for the trademark or name "scayscanner". The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant's trademark.

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 reason or evidence to suggest that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. Further, the Panel notes that there is no evidence of the Respondent's use of, or preparation to use the disputed domain name with a bona fide offering of goods or services; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

On the contrary, what the evidence submitted by the Complainant establishes, is that the disputed domain name redirects Internet users to the Complainant's website and an active e-mail (MX) record was also detected, suggesting the existence of possible fraud risk to Internet users. Panels have held that use of a domain name for illegal activity, specifically impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that redirection of the disputed domain name to the Complainant's website, absent some alternative explanation from the Respondent, cannot be accepted as legitimate noncommercial or fair use activity within the scope of the Policy.

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 Respondent more likely than not was aware of the trademark SKYSCANNER, as the Complainant's trademark registrations predate the registration date of the disputed domain name. According to the evidence submitted by the Complainant, the Panel finds that the Respondent knew or should have known about the Complainant's rights (and such information could readily have been reached by a quick online search; see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

In addition, previous UDRP panels have held that the mere registration of a domain name that is confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). The disputed domain name, especially considering that it includes a typosquatted hence confusingly similar version of the Complainant's trademark, is so obviously connected with the Complainant and the disputed domain name redirecting the Internet traffic to the Complainant's website, clearly suggests the disputed domain name has been selected with a deliberate intent to create a confusion with the Complainant (see *General Motors LLC v. desgate*, WIPO Case No. [D2012-0451](#)).

Further, the evidence on the record provided by the Complainant shows that the Respondent has set up MX records for the disputed domain name, meaning that currently it might be used for, or in the future may be used for, email communication. Given the Respondent's lack of rights or legitimate interests in the disputed domain name, and the confusing similarity of the disputed domain name to the Complainant's famous trademark, any use of the disputed domain by the Respondent for email communication would likely cause confusion, and so would be a use in bad faith (see *bioMérieux v. Registration Private, Domains By Proxy, LLC Milton Bardmess*, WIPO Case No. [D2020-3499](#)).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that may indicate that a domain name was registered and used in bad faith. [WIPO Overview 3.0](#), section 3.2.1. Panels have moreover found that redirecting a domain name to the complainant's website creates an ongoing threat to the complainant, as Internet users may associate the disputed domain name with the Complainant's website, but the Respondent can change this redirection at any time.

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 name <scayscanner.net> be transferred to the Complainant.

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: February 7, 2024