

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Milen Radumilo

Case No. D2024-0085

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 <sw2sskyscanner.net> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2024, 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 for Privacy (DT), Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2024, 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 January 16, 2024.

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 January 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 9, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on February 16, 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 is operating a worldwide travel search engines website with more than 46 million visits per month, and ranks within the top 750 of the most trafficked sites on the Internet.

The mobile app of the Complainant has been downloaded 70 million times, and the Complainant's services are available in over 30 languages and 70 currencies.

The Complainant has evidenced to be the registered owner of numerous trademarks worldwide relating to its trademarks SKYSCANNER, including, but not limited, to the following:

- International Trademark registration No. 900393, registered on March 3, 2006, for the word mark SKYSCANNER, in classes 35, 38 and 39;
- International Trademark registration No. 1030086, registered on December 1, 2009, for the word mark SKYSCANNER, in classes 35, 39 and 42;
- International Trademark registration No. 1133058, registered on August 16, 2012, for the figurative mark SKYSCANNER, in classes 35, 39 and 42;

The Complainant is also the owner of the domain name <skyscanner.net>, registered on May 23, 1997.

The aforementioned trademarks and domain name were registered before the disputed domain name, which was registered on November 30, 2023. The disputed domain name currently resolves to the Complainant's official website at "www.skyscanner.net", through which the Complainant advertises and promotes the services offered under its SKYSCANNER trademark internationally. The disputed domain name has active Mail Exchange ("MX") records.

The Respondent, according to the disclosed Whois information for the disputed domain name, is located in Romania.

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 submits that it enjoys a global reputation in its SKYSCANNER trademark.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark SKYSCANNER as it incorporates the entire trademark. The addition of the terms "sw2s" to the SKYSCANNER trademark does not render the disputed domain name dissimilar to the Complainant's trademark. In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name.

The Complainant further contends that the trademark SKYSCANNER is well-known, and the Respondent knew about the Complainant's trademark, which evidences bad faith registration. Furthermore, the

Complainant submits that the disputed domain name redirects visitors to the Complainant's official website and that this use cannot be considered a bona fide offering of goods or services. Finally, the Complainant argues that the disputed domain name has active MX records, thus potentially presenting a risk to be used in facilitating phishing activities while pretending to be the Complainant.

Therefore, the Complainant alleges that the registration and use of the disputed domain name was, and currently is, in bad faith, contrary to the Policy and the Rules.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

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

Although the addition of other terms, here, "sw2s", 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks. Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

In addition, the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Currently, the disputed domain name redirects Internet users to the Complainant’s official website. Such use of the disputed domain name does not qualify as bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on the Respondent any rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), section 2.5.3.

Moreover, given that the disputed domain name incorporates the Complainant’s SKYSCANNER trademark and directs to the Complainant’s official website, the disputed domain name carries, as such, a high risk of implied affiliation or suggests sponsorship and/or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any 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.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith.

The Panel observes that the Complainant’s SKYSCANNER trademarks significantly predate the Respondent’s registration of the disputed domain name. The Complainant is also well- established and

widely recognized. In fact, given the Complainant's global reputation and its trademark registrations, the Panel deems it highly unlikely that the Respondent was unaware of the Complainant's rights in the said trademarks. The Panel considers that with a simple Google search, the Respondent could have easily discovered the existence of the Complainant. Therefore, the Respondent knew or should have known the Complainant's trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Moreover, the Respondent's knowledge of the Complainant and its trademarks can be readily inferred from the Respondent's use of the disputed domain name for redirecting users to the official Complainant's website. The redirection of the disputed domain name to the Complainant's website establishes actual knowledge and targeting of the Complainant and an intention to create a likelihood of confusion. Numerous panels have found that under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith. See *PayPal Inc. v. Jon Shanks*, WIPO Case No. [D2014-0888](#) and *Instagram, LLC v. Ingramer, Wiseway SIA 40203255185* Case No. [D2021-4364](#) and [WIPO Overview 3.0](#), section 3.1.4.

Therefore, in the Panel's view, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website.

Furthermore, the Complainant has presented evidence indicating that the Respondent has configured MX records for the disputed domain name. This implies the potential for the Respondent to use the disputed domain name for sending fraudulent emails, engaging in phishing attempts, or other illegal activities. See *Confédération Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi*, WIPO Case No. [D2016-1980](#); or *Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#). Also, the connection with the Complainant's official website may lead the users receiving emails linked to the disputed domain name to believe that the content of these emails is genuine and officially endorsed by the Complainant.

In the absence of any evidence to contend against the Complainant's evidence and claims, this Panel accepts the Complainant's evidence and finds that the Respondent has registered and used the disputed domain name, without the Complainant's consent or authorization, for the likely purpose of capitalizing on the reputation of the Complainant's trademarks to target the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <sw2sskyscanner.net> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: February 26, 2024