

ADMINISTRATIVE PANEL DECISION

HomeAway.com, Inc. v. 10 蛋蛋, 上海; and gterg dfgedqw, bfgdfd
Case No. D2024-1404

1. The Parties

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

The Respondents are 10 蛋蛋, 上海; and gterg dfgedqw, bfgdfd, both located in China.

2. The Domain Names and Registrar

The disputed domain names <luxuriousvrbo-bbi.com>, <luxuriousvrbo-bio.com>, <luxuriousvrbo-coy.com>, <luxuriousvrbo-ddy.com>, <luxuriousvrbo-net.com>, <luxuriousvrbo-opt.com>, <luxuriousvrbo-ppa.com>, <luxuriousvrbo-soy.com>, <luxuriousvrbo-yyj.com>, <luxury-vrbo-bk.com>, <luxury-vrbo-bo.com>, <luxury-vrbo-ck.com>, <luxury-vrbo-dv.com>, <luxury-vrbo-ed.com>, <luxury-vrbo-jk.com>, <luxury-vrbo-lo.com>, <luxury-vrbo-net.com>, <luxury-vrbo-ok.com>, <luxury-vrbo-yk.com>, <simple-vrbo-ai.com>, <simple-vrbo-gd.com>, <simple-vrbo-info.com>, <simple-vrbo-org.com>, <simple-vrbo-xw.com>, <travelhotel-vrbo-al.com>, <travelhotel-vrbo.com>, <travelhotel-vrbo-cv.com>, <travelhotel-vrbo-op.com>, <travelvrbo-asx.com>, <travelvrbo-awq.com>, <travelvrbo-cdf.com>, <travelvrbo-chat.com>, <travelvrbo-chn.com>, <travelvrbo-cvb.com>, <travelvrbo-dase.com>, <travelvrbo-dsc.com>, <travelvrbo-dsvc.com>, <travelvrbo-eco.com>, <travelvrbo-erx.com>, <travelvrbo-kiwi.com>, <travelvrbo-live.com>, <travelvrbo-lxu.com>, <travelvrbo-ppe.com>, <travelvrbo-tob.com>, <travelvrbo-wet.com>, <travelvrbo-woy.com>, <vrbo-luxury-bio.com>, <vrbo-luxury-bud.com>, <vrbo-luxury-cus.com>, <vrbo-luxury-iyj.com>, <vrbo-luxury-kyr.com>, <vrbo-luxury-kyu.com>, <vrbo-luxury-otw.com>, <vrbo-luxury-rqy.com>, <vrbo-luxury-yeq.com>, <vrbo-luxury-yuq.com>, <vrbo-travelhotel-ad.com>, <vrbo-travelhotel-bio.com>, <vrbo-travelhotel-biy.com>, <vrbo-travelhotel-bo.com>, <vrbo-travelhotel-cio.com>, <vrbo-travelhotel-hu.com>, <vrbo-travelhotel-net.com>, <vrbo-travelhotel-opp.com>, <vrbo-travelhotel-org.com>, and <vrbo-travelhotel-ppa.com> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 12, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Domain Protection Services) and contact

information in the Complaint.

The Center sent an email communication to the Complainant on April 15, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on April 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 April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 13, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on May 21, 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 operates a global online marketplace for vacation rentals, offering over two million bookable listings in more than 190 countries. Through VRBO services, property owners can reach over 42 million travelers each month. The platform lists a variety of rental properties, including homes, apartments, condos, RVs, boats, yachts, cabins, cottages, estates, mansions, and yurts, across the United States, Canada, Europe, and other global destinations.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- United States trademark registration No. 2820989, registered on March 9, 2004, for the word mark VRBO, in class 36; and
- European Union trademark registration No. 015778848, registered on March 3, 2017, for the word mark VRBO, in classes 9, 36, and 43.

The Complainant is also the owner of the domain name <vrbo.com>, registered on July 30, 1996.

The services provided under the VRBO trademark and the "www.vrbo.com" website have been widely advertised across the United States, Canada, and numerous other countries through online, print, and television campaigns, as well as email marketing. The "www.vrbo.com" website is among the Complainant's most popular rental platforms, attracting an estimated average of 40 to 57 million visits per month over the past year.

The disputed domain names were registered between December 24, 2023, and February 24, 2024.

All disputed domain names have been used to resolve to login pages and some of them used to display the VRBO trademark and/or logo and invites Internet users to input their username and password.

The disputed domain names <luxuriousvrbo-bbi.com>, <luxuriousvrbo-bio.com>, <luxuriousvrbo-coy.com>, <luxuriousvrbo-ddy.com>, <luxuriousvrbo-net.com>, <luxuriousvrbo-opt.com>, <luxuriousvrbo-ppa.com>,

<luxuriousvrbo-soy.com>, <luxuriousvrbo-yyj.com>, <luxury-vrbo-dv.com>, <travelhotel-vrbo-cv.com>, <travelhotel-vrbo-op.com>, <travelvrbo-chat.com>, <travelvrbo-chn.com>, <travelvrbo-erx.com>, <travelvrbo-kiwi.com>, <travelvrbo-ppe.com>, <vrbo-luxury-yuq.com>, <vrbo-travelhotel-ad.com>, <vrbo-travelhotel-biy.com>, <vrbo-travelhotel-bo.com>, <vrbo-travelhotel-cio.com>, <vrbo-travelhotel-hu.com>, <vrbo-travelhotel-net.com>, <vrbo-travelhotel-opp.com>, <vrbo-travelhotel-org.com>, <travelvrbo-live.com>, <travelvrbo-awq.com>, <travelvrbo-cdf.com>, and <vrbo-travelhotel-ppa.com> currently display an inactive page with the message “This site can’t be reached”.

Other disputed domain names, including <simple-vrbo-org.com>, <travelhotel-vrbo.com>, <travelvrbo-asx.com>, <travelvrbo-cvb.com>, <travelvrbo-dase.com>, <travelvrbo-dsc.com>, <travelvrbo-dsvc.com>, <travelvrbo-eco.com>, <vrbo-travelhotel-bio.com> currently display a warning message “Dangerous site Attackers on the site you’re trying to visit might trick you into installing software or revealing things like your password, phone, or credit card number. Chrome strongly recommends going back to safety”.

Finally, the disputed domain names <vrbo-luxury-bio.com>, <vrbo-luxury-bud.com>, <vrbo-luxury-cus.com>, <vrbo-luxury-iyj.com>, <vrbo-luxury-kyr.com>, <vrbo-luxury-kyu.com>, <vrbo-luxury-otw.com>, <vrbo-luxury-rqy.com>, <vrbo-luxury-yeq.com> currently lead to a parking page featuring pay-per-click (“PPC”) links redirecting to websites of unrelated third parties operating in the same sector as the Complainant.

In addition, the Complainant provided evidence that the Respondents have used at least some of the disputed domain names as part of a fraudulent employment scheme.

The Respondents are apparently located in China.

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 asserts that the VRBO trademark has acquired a high degree of public recognition and distinctiveness and embody valuable reputation and goodwill belonging exclusively to the Complainant.

According to the Complainant, the disputed domain names are confusingly similar to the Complainant’s trademark VRBO as it incorporates the entire trademark. The addition of common words, such as “hotel,” “travel,” or “luxury” and “luxurious” along with abbreviations, such as “ai,” “bk,” “bio,” “net,” “opt,” “tob”, or the like, to the VRBO trademark does not alter the overall impression that the disputed domain names are associated with the Complainant’s trademark or prevent the confusing similarity between the disputed domain names and the Complainant’s trademark.

The Complainant contends that the Respondents have no rights or legitimate interests in the disputed domain names for the following reasons: 1) the Complainant’s adoption and extensive use of the VRBO trademark predates the Respondents’ registration and first use of the disputed domain names; 2) the Respondents are not commonly known by the disputed domain names; 3) the Complainant is not affiliated with the Respondents, and it has never licensed or otherwise authorized the Respondents to register the disputed domain names; 4) the Complainant does not sponsor or endorse the Respondents’ activities in any respect and has not consented to the Respondents’ use of the VRBO trademark in the disputed domain names; and 5) the Respondents are not using the disputed domain names in connection with a bona fide offering of goods or services, nor making legitimate noncommercial or fair use of the disputed domain names, but instead for the purpose of capitalizing on the VRBO trademark solely for commercial gain and engaging in fraudulent activities, including impersonating the Complainant, to deceive consumers or job

seekers.

Finally, the Complainant argues that the Respondents have registered and are using the disputed domain names in bad faith for the following reasons: 1) the Complainant's trademark significantly predates the registration of the disputed domain names, and the Complainant's VRBO trademark is well known and widely used. This indicates that the Respondents were aware of the Complainant's trademark; 2) the Respondents use the disputed domain names in connection with fraudulent schemes to deceive consumers into disclosing personal information and to impersonate the Complainant for the purpose of engaging in fake employment schemes; 3) there is a risk that, due to the combination of the disputed domain names including the VRBO trademark, Internet users will mistakenly believe that the disputed domain names are connected to, associated with, or endorsed or sponsored by the Complainant.

B. Respondents

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

6. Discussion and Findings

I. Preliminary Issue: Consolidation of Multiple Underlying Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names in this proceeding are all owned and controlled by the same party or the same operating group using aliases.

First, all the disputed domain names follow similar naming conventions, incorporating travel-related terms with the VRBO trademark and short abbreviations separated by hyphens. Second, the disputed domain names have been used to host fake login pages imitating the Complainant's VRBO platform and some of them are displaying the VRBO trademark and/or logo, and some disputed domain names are part of the same fraudulent employment scheme.

Third, all the disputed domain names were registered through the same Registrar, between December 24, 2023, and February 24, 2024. Lastly, the two listed Respondents in this proceeding use email addresses from the same provider (Outlook.com) and follow the same naming convention including the name "judian" and the number "10" in both email addresses.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

II. Substantive Issues

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 solely 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 names. [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 names. 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 other terms, such as "hotel," "travel," "live," "chat" or "luxury" and "luxurious" and others, along with abbreviations, such as "ai," "bk," "bio," "net," "opt," "tob", and others, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

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 Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the VRBO trademark or to seek registration of any domain name incorporating the trademark. The Respondent is also not known to be associated with the VRBO trademark, and there is no evidence showing that the Respondent has been commonly known by the disputed domain names. [WIPO Overview 3.0](#), section 2.3.

Based on the available record, the Panel finds that the Respondent is obviously not making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue ([WIPO Overview 3.0](#), section 2.4).

Indeed, all disputed domain names have been used to resolve fake login pages, some of them reproducing the Complainant's VRBO trademark and logo and impersonating the Complainant, as part of a fraudulent scheme to deceive Internet users into sharing their login details and other confidential information, under the false representation of interacting with the Complainant's official platform. UDRP panels have held that the use of a domain name for illegal activity, such as impersonation/passing off or other types of fraud such as in the present case, some disputed domain names were used as part of a fraudulent employment scheme, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Currently, some disputed domain names are used for parking pages featuring PPC links to services competitive to the Complainant's services. Given that the disputed domain names consist of the Complainant's well known VRBO trademark combined with terms related to the Complainant's services, such as "hotel" and "travel," this use does not represent a bona fide offering because it capitalizes on the reputation and goodwill of the Complainant's trademark. [WIPO Overview 3.0](#), section 2.9.

Furthermore, the composition of the disputed domain names is such that they carry a risk of implied affiliation with the Complainant and/or endorsement by the trademark owner, which cannot be considered as fair use. [WIPO Overview 3.0](#), section 2.5.1.

Finally, the fact that some other disputed domain names currently resolve to an inactive page does not alter the aforementioned conclusions.

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.

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

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 Complainant's well known VRBO trademark substantially predates the Respondent's registration of the disputed domain names. Therefore, the Respondent knew or should have known of the Complainant's trademark at the time of registering the disputed domain names. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain names that are confusingly similar to the Complainant's widely known trademark by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's awareness of the Complainant and its trademark can be easily inferred from the use of the disputed domain names. By employing the disputed domain names to resolve to fake login pages featuring the Complainant's VRBO trademark and logo and to impersonate the Complainant in fraudulent employment schemes, it is evident that the Respondent was aware of the business activities associated with the Complainant's VRBO trademark. Panels have held that the use of a domain name for illegal activity, here, fraudulent employment scheme, and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 trademark as to the source, sponsorship, affiliation, or endorsement of its websites or of the products on its websites. Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of registration and use of a domain names in bad faith. [WIPO Overview 3.0](#), section 3.1.4

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 <luxuriousvrbo-bbi.com>, <luxuriousvrbo-bio.com>, <luxuriousvrbo-coy.com>, <luxuriousvrbo-ddy.com>, <luxuriousvrbo-net.com>, <luxuriousvrbo-opt.com>, <luxuriousvrbo-ppa.com>, <luxuriousvrbo-soy.com>, <luxuriousvrbo-yyj.com>, <luxury-vrbo-bk.com>, <luxury-vrbo-bo.com>, <luxury-vrbo-ck.com>, <luxury-vrbo-dv.com>, <luxury-vrbo-ed.com>, <luxury-vrbo-jk.com>, <luxury-vrbo-lo.com>, <luxury-vrbo-net.com>, <luxury-vrbo-ok.com>, <luxury-vrbo-yk.com>, <simple-vrbo-ai.com>, <simple-vrbo-gd.com>, <simple-vrbo-info.com>, <simple-vrbo-org.com>, <simple-vrbo-xw.com>, <travelhotel-vrbo-al.com>, <travelhotel-vrbo.com>, <travelhotel-vrbo-cv.com>, <travelhotel-vrbo-op.com>, <travelvrbo-asx.com>, <travelvrbo-awq.com>, <travelvrbo-cdf.com>, <travelvrbo-chat.com>, <travelvrbo-chn.com>, <travelvrbo-cvb.com>, <travelvrbo-dase.com>, <travelvrbo-dsc.com>, <travelvrbo-dsvc.com>, <travelvrbo-eco.com>, <travelvrbo-erx.com>, <travelvrbo-kiwi.com>, <travelvrbo-live.com>, <travelvrbo-lxu.com>, <travelvrbo-ppe.com>, <travelvrbo-tob.com>, <travelvrbo-wet.com>, <travelvrbo-woy.com>, <vrbo-luxury-bio.com>, <vrbo-luxury-bud.com>, <vrbo-luxury-cus.com>, <vrbo-luxury-iyj.com>, <vrbo-luxury-kyr.com>, <vrbo-luxury-kyu.com>, <vrbo-luxury-otw.com>, <vrbo-luxury-rqy.com>, <vrbo-luxury-yeq.com>, <vrbo-luxury-yuq.com>, <vrbo-travelhotel-ad.com>, <vrbo-travelhotel-bio.com>, <vrbo-travelhotel-biy.com>, <vrbo-travelhotel-bo.com>, <vrbo-travelhotel-cio.com>, <vrbo-travelhotel-hu.com>, <vrbo-travelhotel-net.com>, <vrbo-travelhotel-opp.com>, <vrbo-travelhotel-org.com>, and <vrbo-travelhotel-ppa.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: May 27, 2024