

ADMINISTRATIVE PANEL DECISION

HomeAway.com, Inc. v. Dalila Lee, Dalila Lee, Morgan Chee
Case No. D2024-1650

1. The Parties

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

The First Respondent is Dalila Lee, Japan.

The Second Respondent is Dalila Lee, United States.

The Third Respondent is Morgan Chee, United States.

2. The Domain Names and Registrars

The disputed domain names <vrboeg.com>, <vrbokg.com>, <vrbokk.com>, <vrbopc.com>, <vrbotv1.com>, and <vrbo10.com> are registered with Gname.com Pte. Ltd. (the “First Registrar”).

The disputed domain names <vrbobg.com>, <vrbooc.com>, <vrbolb.com>, and <vrbosn.com> are registered with NameSilo, LLC (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2024. On April 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 19, 2024 and April 22, 2024, the Registrars 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 Administrator, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 23, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, 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 24, 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 Respondents of the Complaint, and the proceedings commenced on May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on May 22, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 28, 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 owned by Expedia, Inc, a leading travel company with worldwide operations that comprises brands such as EXPEDIA.COM, HOTWIRE, HOTELS.COM, EGENCIA, CARRENTALS.COM, ORBITZ, TRAVELOCITY, STAYZ, WOTIF, HOMEAWAY, and VRBO.

The Complainant operates as a global online marketplace for the vacation rental industry with sites currently representing over two million online bookable listings of vacation rental homes and apartments in over 190 countries.

In addition to the <vrbo.com> domain name that is used in connection with one of the Complainant’s official website, the Complainant is the owner, amongst others, of the following trademark registrations:

- United States Trademark Registration No. 2,820,989 for VRBO, filed on December 16, 2003 and registered on March 9, 2004, in class 36;
- United States Trademark Registration No. 5,681,113 for VRBO, filed on December 8, 2016 and registered on February 19, 2018, in classes 9 and 43; and
- Canada Trademark Registration No. 015778848 for VRBO, filed on August 29, 2016, and registered on March 3, 2017, in classes 9, 36, and 43.

The disputed domain names resolved to websites that posted identical fake login pages to the one depicted in the Complainant’s official website (Exhibit N to the Amended Complaint). The disputed domain names were registered on and are presently used as follows:

Disputed Domain Name	Registration Date	Present Use
<vrbobg.com>	March 3, 2024	No active webpage
<vrbocc.com>	February 16, 2024	No active webpage
<vrboeg.com>	March 3, 2024	No active webpage
<vrbokg.com>	February 16, 2024	Website blocked due to potential phishing.
<vrbokk.com>	February 16, 2024	No active webpage
<vrbolb.com>	March 3, 2024	No active webpage
<vrbopc.com>	February 17, 2024	Website blocked due to potential phishing.

<vrbosn.com>	March 28, 2024	No active webpage
<vrbotv1.com>	February 17, 2024	Website blocked due to potential phishing.
<vrbo10.com>	January 27, 2024	Website blocked due to potential phishing.

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 brand has been used by the Complainant and its predecessors since 1995 and that the VRBO services and <vrbo.com> website have been extensively promoted throughout the United States, Canada, and many other countries through online, print, and television advertising campaigns, and email communications.

The Complainant further states that Expedia, Inc. acquired the Complainant and all of its brands, including VRBO, in November 2015 and expanded into the fast-growing USD 100 billion alternative accommodations Market, having the Complainant become a leader in this market and made significant investments in marketing its brands, as well as in product and technology.

The Complainant contends that the disputed domain names are subject to common control and the consolidation of multiple Respondents would be fair and equitable to all Parties given that all disputed domain names: (i) share a similar naming pattern, reproducing the Complainant's VRBO trademark with the addition of two letter abbreviations or numbers afterwards; (ii) resolved to websites containing fake login pages to the Complainant's website; (iii) were registered through the same two registrars; (iv) within a relatively short period of time (between January 27, 2024 and March 27, 2024); (v) use the same name servers; and (vi) share many commonalities among the underlying registrant information (two of the named registrants for the domain names are the same, namely, Dalila Lee, two of the named registrants list their address in the United States, and all three registrants use email addresses with the same provider, namely Proton mail).

According to the Complainant, the disputed domain names incorporate the Complainant's well-known VRBO trademark in its entirety; the addition of the "bg", "cc", "eg", "kg", "kk", "lb", "pc", "sn", "tv1", and "10" not preventing a finding of confusing similarity thereof.

As to the absence of rights or legitimate interests, the Complainant argues it has not authorized the Respondent to register or use the disputed domain names nor are the Respondents commonly known by the disputed domain names. There also does not exist any relationship between the Complainant and the Respondents giving rise to any license, permission, or other right by which the Respondents could own or use any domain name incorporating the VRBO trademark. Rather the Respondents have used the disputed domain names, without permission or authorization from the Complainant, to capitalize on the VRBO name and mark solely for commercial gain as part of a fraudulent scheme to impersonate the Complainant in order to trick unsuspecting consumers into providing login or other personal information for the financial or other benefit of the Respondents.

In what it relates to the bad faith registration and use of the disputed domain names, the Complainant asserts that the Respondent was fully aware of the Complainant and its well-reputed trademark at the time of registration of the disputed domain names as shown by the use made of the disputed domain names in an attempt to impersonate the Complainant and defraud its customers.

B. Respondents

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

6. Discussion and Findings

6.1 Procedural matter – Consolidation of Multiple 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, as seen above, that all disputed domain names: (i) entirely incorporate the Complainant's VRBO trademark; (ii) were registered within a relatively short period of time; (iii) resolved to practically identical websites before the filing of the Complaint, impersonating the Complainant; (iv) similar contact information; (v) share the same DNS; and (vi) share the same two registrars.

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 in a single proceeding, hereby referring to them as the "Respondent".

6.2 Substantive matter

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain names:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 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 entirety of the mark is reproduced 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 (“bg”, “cc”, “eg”, “kg”, “kk”, “lb”, “pc”, “sn”, “tv1”, and “10”) 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 Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a prima facie case against the Respondent under the second UDRP element.

In that sense, the Panel notes that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names, indeed stating that it has not authorized the Respondent to register or use the disputed domain names and also that there has never existed a formal business relationship between the Respondent and the Complainant giving rise to any license, permission, or other right by which the Respondent could own or use any domain name incorporating the VRBO trademark.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain names or the absence of any trademarks registered by the Respondent corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

Also, according to the evidence submitted by the Complainant, the use made of the disputed domain names in connection websites impersonating the Complainant, clearly suggest at least an affiliation with the Complainant which in fact does not exist. Lastly, the lack of any disclaimer in the websites that resolved from the disputed domain names at the time the Complaint was filed indicate that the Respondent was actively attempting to create the false impression that the disputed domain names are linked, endorsed or authorized by the Complainant, what is not true.

The present inactive use of some of the disputed domain names further cannot be characterized as a bona fide offering of goods or services.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain names. The second element of the Policy has also been met.

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.

The registration and use of the disputed domain names in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names, not having submitted a response;
- (ii) the well-known status of the Complainant's trademark;
- (iii) the nature of the disputed domain names (reproducing the entirety of the Complainant's trademark), and the Respondent's likely intention to unduly profit from the value of the Complainant's trademark, suggest rather a clear indication of the Respondent's registration and holding of the disputed domain names in bad faith, with the implausibility of any good faith use to which the disputed domain names may be put;
- (iv) the Respondent's choice to use privacy protection services to conceal its identity;
- (v) the indication of what appears to be false or incomplete contact information, not having the Center been able to deliver the Written notice to the addresses provided; and
- (vi) the current inactive use of part of the disputed domain names ([WIPO Overview 3.0](#), section 3.3).

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 <vrbobg.com>, <vrbocc.com>, <vrboeg.com>, <vrbokg.com>, <vrbokk.com>, <vrbolb.com>, <vrbopec.com>, <vrbosn.com>, <vrbotv1.com>, and <vrbo10.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: June 7, 2024