

## **ADMINISTRATIVE PANEL DECISION**

Skyscanner Limited v. ISHTIAQ AHMAD, A2B CABS LTD  
Case No. D2024-1694

### **1. The Parties**

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

The Respondent is ISHTIAQ AHMAD, A2B CABS LTD, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <skyscannertaxis.com> is registered with One.com A/S (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 22, 2024. On April 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 April 25, 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 May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Response was filed with the Center on May 7, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on May 30, 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.

On June 6, 2024, the Panel issued Administrative Panel Procedural Order No 1 (“the Order”), requiring the Respondent to correct the erroneous case references in his Response by June 11, 2024. On June 10, 2024, the Respondent provided his response, acknowledging that the three erroneous citations referred to in the Order were incorrect but not correcting the other case references, which are also erroneous. The consequence is that the decisions on which the Respondent evidently wished to rely cannot be found or considered by the Panel. However, the Policy jurisprudence on the issues raised by the Respondent is well established and widely applied and the Panel is satisfied that the Respondent is not suffering any prejudice by his failure to comply with the Order.

#### **4. Factual Background**

The Complainant is a search aggregator and travel agency, founded in 2003 and based in Edinburgh, Scotland. Its website and mobile app enable customers to research and book travel options for their trips, including flights, hotels and car hire. The Complainant is the owner of the domain name <skyscanner.net> which, the Complainant says, attracts tens of millions of unique visits per month (46.59 million visits in August, 2023, for example) as well as a mobile app which has been downloaded over 70 million times. The Complainant says its services are available in over 30 languages and in 70 currencies.

The Complainant’s trading style is SKYSCANNER and it is the owner of numerous trade marks in many countries for SKYSCANNER including, by way of example only, United Kingdom Trade Mark, registration number 00002313916, registered on April 30, 2004 in classes 35, 38 and 39.

The disputed domain name was registered on March 21, 2024. It resolves to a holding page with the message “This website is under construction. Come back soon to see what it’s like”. There is no evidence that the disputed domain name has been put to any active use.

#### **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 or confusingly similar to a trade mark in which it has rights. The Complainant has many trade marks worldwide for SKYSCANNER and previous UDRP panels have found that it enjoys a reputation in its mark. The disputed domain name copies the Complainant’s SKYSCANNER mark in its entirety, the only addition to it being the term “taxis”;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name. So far as the Complainant is aware, the Respondent does not own any registered rights in any trade marks which comprise part or all of the disputed domain name. Given the famous nature of the Complainant’s mark, not only is it likely that the Respondent was aware of the Complainant’s rights prior to registering the disputed domain name but it is inevitable that Internet visitors would mistakenly believe there to be an association with the Complainant. The fact that the Respondent has activated MX (mail exchange records) associated with the disputed domain name poses a significant fraud risk, both to the Complainant and to Internet users;
- the disputed domain name was registered and is being used in bad faith. By the date of registration of the disputed domain name in March, 2024, the Complainant already enjoyed global fame in its trade marks. It is implausible that the Respondent did not have the Complainant’s business in mind at the time of registration of the disputed domain name. Although the disputed domain name does not point to an active website, the overwhelming likelihood is that it was registered by the Respondent in order to make money from it, albeit the manner in which he intends to do so is unclear. The passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith.

## B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name:

- first, the Respondent contends that there is a lack of confusing similarity between the disputed domain name and the Complainant's trade mark. The addition of the term "taxis" to the term "skyscanner" within the disputed domain name creates a separate commercial impression and prevents confusing similarity;
- second, the Respondent says he has a legitimate interest in the disputed domain name. As the Respondent is a registered trade mark owner for TAXICODE DIRECT and is a taxi aggregator and a provider of transportation services, he has a legitimate interest in using a domain name which accurately describes his business activities, which are different from the Complainant's air travel comparison services;
- third, the Respondent says that there is no evidence of bad faith registration and use. The Respondent has a reasonable basis for registering the disputed domain name and has no intention to profit from the Complainant's trade mark. The mere registration of a domain name which incorporates a third party's trade mark does not automatically constitute bad faith, particularly if a respondent is using it in connection with a bona fide offering of goods and services related to the domain name.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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 name; and
- (iii) 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 trade mark and the disputed domain name; see the 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 the Complainant has shown rights in respect of its SKYSCANNER mark; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of the disputed domain name, is usually disregarded when assessing confusing similarity.

For the purpose of considering the first element, the Panel finds the Complainant's SKYSCANNER mark distinctive in the context of the services for which it has been registered. The disputed domain name comprises the entirety of the Complainant's mark and adds the term "taxis", which is descriptive in the context of the Respondent's claimed services and does not serve to distinguish the disputed domain name from the Complainant's mark. The Respondent's contention that the addition of the term "taxis" creates a separate commercial impression and prevents the disputed domain name from being found confusingly similar to the Complainant's mark is not accepted. In this respect, see the section 1.8 of the [WIPO Overview 3.0](#); "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Complainant's mark is clearly recognizable within the disputed domain name and, for the above reasons, based on the available record, the Panel finds that 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 by which a respondent may demonstrate rights or legitimate interests in a domain name. Whilst 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 impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has he made demonstrable preparations to use, the disputed domain name, or a name corresponding to the disputed domain name, in connection with a bona fide offering of goods or services. Whilst the Respondent claims that he is using, or intends to use, the disputed domain name in connection with taxi aggregation and transportation services, it only resolves to a holding page. In this respect, see section 2.2 of the [WIPO Overview 3.0](#) which gives examples of the type of evidence a respondent seeking to establish that has it made demonstrable preparations to use a domain name in connection with a bona fide offering of goods or services is expected to adduce and explains that "While such indicia are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of bona fide pre-complaint preparations is required". The Respondent has not submitted any evidence of his plans for his business. Moreover, the trade mark which the Respondent says he owns, TAXICODE DIRECT, does not give any right to him to use the term "skyscanner" within the disputed domain name.

The mere existence of a holding page does not comprise use in connection with a bona fide offering of goods and services; see, for example *VKR Holding A/S v. k uli, k uli*, WIPO Case No. [D2023-0469](#) ("holding a domain name passively, without making any use of it, [...] does not confer any rights or legitimate interests in the disputed domain name on the Respondent"). Moreover, the Respondent is incorrect in asserting that the disputed domain name accurately reflects his services as a taxi aggregator and transportation provider; the distinctive portion of the disputed domain name, which comprises the Complainant's SKYSCANNER mark, has no connection at all with the services the Respondent claims to provide;

- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [WIPO Overview 3.0](#), section 2.4;
- the Complainant has made out a prima facie case under the second element and the burden of production shifts to the Respondent. As is evident from the preceding analysis, he has not put forward any factors to demonstrate his rights or legitimate interests in the disputed domain name.

For the above reasons, 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 Respondent does not suggest that he was unaware of the Complainant's mark as at the date of registration of the disputed domain name. His contention is that he was entitled to register it because of his claimed activities in the fields of taxi aggregation and transportation. However, not only has the Respondent not provided any evidence to support his contention that he is active in these fields, but he has failed to explain how the term "skyscanner" is in any way descriptive of his claimed undertaking. Accordingly, the Panel does not accept the Respondent's claim that he has no intention to profit from the Complainant's trade mark, because the only plausible reason for including it within the disputed domain name is to do just that.

It is evident from the record that, shortly after the Respondent's registration of the disputed domain name in March 2024, it resolved to the form of "coming soon" page described above. The Respondent's Response suggests that he intends to use the disputed domain name to encourage Internet users to visit his (yet to be established) website. This suggests both an awareness by the Respondent of the Complainant's SKYSCANNER mark as at the date of registration of the disputed domain name and an intention on his part to take unfair advantage of it. It is well-established under the Policy that registration of a domain name by an unconnected party with knowledge of a complainant's trade mark registration and where the domain name is put to a misleading use (or the evidence suggests that such is the respondent's intention) establishes bad faith; see, for example, *The Frankie Shop LLC v. xi bing*, WIPO Case No. [D2023-3311](#). The likelihood of confusion in relation to the disputed domain name is particularly acute as the Complainant already offers services in relation to car hire comparisons and at least some Internet users will likely believe the Complainant has started to offer facilities in relation to the alternative travel mode of taxi hire. The Respondent's registration of the disputed domain name is accordingly in bad faith.

The Respondent is correct in asserting that the registration of a domain name which incorporates a third party's trade mark does not automatically constitute bad faith, particularly if a respondent is using it in connection with a bona fide offering of goods and services related to the domain name. In other words, whether bad faith is found depends on the circumstances of each case. In the context of these proceedings Respondent is not using the disputed domain name in good faith in that he is using the repute of the Complainant's SKYSCANNER mark in order to drive traffic to his website. Whether the Complainant is presently deriving any direct commercial benefit from the holding page to which the disputed domain name presently resolves is questionable, but the disputed domain name in the hands of the Respondent has the potential to cause confusion to Internet users, who will associate it with the Complainant and create the potential for the Respondent thereby to derive financial advantage from it.

So far as the inactive status of the disputed domain name is concerned, from the inception of the UDRP, panelists have found that the non-use of a domain name (which includes a "coming soon" page of the type to which the disputed domain name resolves) would not prevent a finding of bad faith under the doctrine of passive holding; see the [WIPO Overview 3.0](#), section 3.3 and by way of example, *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Complainant has provided evidence which establishes, for the purpose of the Policy, that its SKYSCANNER trade mark is distinctive, particularly in the context of the goods and services for which it is registered; (ii) whilst the Respondent has responded to the Complaint, he has not provided evidence of any actual or contemplated good faith use of the disputed domain name; (iii) the Respondent's name and contact details were initially redacted for privacy; and (iv) there is no evidence of any plausible good faith use to which the disputed domain name

can be put by the Respondent. In the circumstances of this case, therefore, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. See, for example, *Gallery Department, LLC v. ahmad Akram*, WIPO Case No. [D2023-3455](#).

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain name has been in bad faith.

## 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 <skyscannertaxis.com> be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: June 13, 2024