

## **ADMINISTRATIVE PANEL DECISION**

HomeAway.com, Inc. v. Jennifer Holtz  
Case No. D2024-2183

### **1. The Parties**

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

The Respondent is Jennifer Holtz, United States.

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

The disputed domain name <ncvrbo.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2024. On May 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 29, 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 (CONTACT PRIVACY INC. CUSTOMER 0148927255) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 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 June 2, 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 June 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 27, 2024.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 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**

Launched in 1995, VRBO is an online vacation rental marketplace operating at “vrbo.com”. VRBO is short for the tagline “vacation rentals by owner” which has been used in connection with the brand for almost twenty years. The Complainant is an online vacation rental marketplace founded in 2005, and the owner of the VRBO brand, which it acquired in 2010. In 2015, both VRBO and the Complainant were acquired by the Internet travel company Expedia. Currently, there are over two million bookable vacation listings on the VRBO website for rental of properties such as apartments, condominiums, RVs, boats, yachts, cabins, cottages, estates, and mansions in the United States, Canada, Europe, and other countries around the world, with exposure to more than 42 million travelers per month. The Complainant’s revenues from VRBO were approximately USD 1.2 billion in 2016 and approximately USD 3.3 billion in 2023. For the VRBO brand, the Complainant was recognized as a Good Housekeeping Family Travel Award Winner in the Travel Services category in 2023; as number 3 in the Most Innovative Global Brand by The Muse in 2018; as Winner of the 2016 Gold Magellan Award in the Hospital – Vacation Rentals/Villas/Time Share category by Travel Weekly, and Winner of the Gold Award in Bulldog Reporter’s 2014 digital/social Awards.

The Complainant owns a number of trademark registrations for the VRBO mark around the world, including the United States Trademark Registration Number 2820989 registered on March 9, 2004, United States Trademark Registration Number 5681113 registered on February 19, 2019, European Union Trademark Registration Number 015778848 registered on March 3, 2017, Canadian Trademark Registration Number TMA889736 registered on November 10, 2014, and Chinese Trademark Registration Number 33372168 registered on May 14, 2019.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on August 10, 2017, and as of the date of filing of the Complaint, resolved to a website purporting to be “created to host and support North County Vacation Rentals by Owners and Managers,” and offering vacation rental services. Most of the vacation rentals offered on the website are located in “North County,” a region in northern area of San Diego County, California.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the VRBO mark in which it has rights since the disputed domain name contains the VRBO mark in its entirety simply with the addition of “nc” which stands for the geographic area known as “North County” or “North Coast” which does not dispel confusing similarity.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services and that the disputed domain name carries a high degree of implied affiliation with the Complainant and its VRBO vacation rental services.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the disputed domain name incorporates the Complainant’s VRBO mark in full and that it was registered long after the Complainant’s rights in the VRBO mark were established, and its services became well-known. For this reason, the Complainant contends that the registration was for the sole purpose of trading on the goodwill and reputation built by the Complainant in the VRBO mark for the Respondent’s profit. The Complainant also contends that the Respondent is using the disputed domain name to attract and redirect web users to its own website which offers competing vacation rental services, and that it is use in bad faith for its own commercial gain targeting the Complainant. The Complainant further contends that the Respondent’s use of the disputed domain name featuring the VRBO mark will confuse Internet users to mistakenly believe that the disputed domain name is connected to, associated with, or endorsed or sponsored by the Complainant. Lastly, the Complainant contends that the Respondent’s bad

faith is further evidenced by the fact that the Respondent continued to offer competing vacation rental services despite multiple demand letters from the Complainant and the fact that it failed to respond to any of the letters.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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, “nc” – 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.

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.

Further, the Respondent's use of the disputed domain name does not represent fair use since it suggests an affiliation with the Complainant. Namely, the Respondent's services are in the exact same area of business as the Complainant, and the Respondent's use of the geographic term “nc” with the Complainant's VRBO mark and use of the confusingly similar name of “North Country Vacation Rentals By Owners and Managers” are highly suggestive of sponsorship or endorsement by the Complainant.

The Panel finds that the Complainant has established the second element 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 Respondent registered the disputed domain name which incorporates the Complainant's famous mark VRBO and used the disputed domain name to point to a website offering—the exact business of the Complainant – which shows that the Respondent was aware of and targeted the Complainant when registering the disputed domain name. Plus, the Respondent uses the Complainant's "Vacation Rentals by Owner" tagline and the website has references to VRBO which further support a finding of bad faith registration and intent to target the Complainant.

In addition, by using the disputed domain name in connection with its own vacation property rental business, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

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 <ncvrbo.com> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: July 12, 2024