

## ADMINISTRATIVE PANEL DECISION

HomeAway.com, Inc. v. dalila lee, qingsong tian, morgan chee  
Case No. D2024-2342

### 1. The Parties

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

The Respondents are dalila lee, Japan, qingsong tian, China, morgan chee, United States.

### 2. The Domain Names and Registrars

The disputed domain names <vrbonqn.com>, <vrboin.com>, <vrbojd.com>, <vrbonxn.com> are registered with NameSilo, LLC (the “First Registrar”); the disputed domain names <vrbontn.com>, <vrboel.com>, <vrboen.com>, <vrbokl.com>, <vrbopp.com>, <vrbosk.com> are registered with Gname.com Pte. Ltd. (the “Second Registrar”); the disputed domain name <vrbo.plus> is registered with GoDaddy.com, LLC. (the “Third Registrar”)

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 10, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 10, and June 11, 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, PRIVACYGUARDIAN.ORG LLC, DOMAINS BY PROXY, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 11, 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 June 13, 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 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 9, 2024.

The Center appointed Gonçalo M. C. Da Cunha Ferreira as the sole panelist in this matter on July 24, 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 HomeAway.com, Inc., owned by Expedia, Inc, a leading travel company with worldwide operations that comprises, among many others, the brands HOMEAWAY and VRBO.

The Complainant is 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.

For more than two decades, the Complainant and its predecessors have continuously advertised and offered services and products under the VRBO name and mark. The VRBO services and “www.vrbo.com” website have been extensively promoted throughout the U.S., Canada, and many other 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 April 11, 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, 2019, in classes 9 and 43; and
- China Trademark Registration No. 33372168 for VRBO, filed on September 7, 2018 and registered on May 14, 2019, in classes 9, 36 and 43;

All of the disputed domain names were registered through the same two Registrars, namely Gname.com Pte Ltd. and NameSilo, LLC, between March 21 and March 28, 2024, except for <vrbo.plus> that was registered through GoDaddy.com, LLC on May 10, 2024, and have all resolved to websites that posted identical but fake login pages to the one depicted in the Complainant's official website.

#### **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 contends that:

1. the disputed domain names fully incorporate the Complainant's exact VRBO mark;
2. the Respondent's use of additional letters at the tail or the generic Top-Level Domain ("gTLD") extension ".plus" do not distinguish the disputed domain names from the Complainant's VRBO mark and that VRBO is clearly identifiable and the primary and dominant element of the disputed domain names;
3. it is not feasible to believe that the Respondent was unaware of the VRBO mark by the time of the disputed domain name's registration;
4. that Relevant consumers who encounter the Respondent's disputed domain names, or receive email using the disputed domain names are likely to be misdirected and diverted to the Respondent's website;
5. the disputed domain names are not, nor could they be contended to be, a legitimate name or nickname of the Respondent, nor are they in any other way identified with or related to any rights or legitimate interests of the Respondent;
6. there is no relationship between the Complainant and the Respondent giving rise to any license, permission, or other right by which the Respondent could own or use any domain name incorporating the exact VRBO mark;
7. the Complainant does not sponsor or endorse the Respondent's activities in any respect and has not provided its consent to the Respondent's use and exploitation of the VRBO mark in the disputed domain names;
8. the Respondent is neither using the disputed domain names in connection with a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain names;
9. the Respondent has used the disputed domain Names, without permission or authorization from the Complainant;
10. the Respondent has knowingly registered and is using the disputed domain names in bad faith;
11. the Respondent registered the disputed domain names long after widespread use of the Complainant's VRBO mark and has done so without authorization;

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different disputed domain name registrants. The Complainant alleges that the disputed 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 (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 domain name servers; 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 (referred to below as "the Respondent") in a single proceeding.

### **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.

Also, the Panel finds the addition of the tail of most of the Domain Names, such as "nqn", "nxn", "en", "in", "jd" or the gTLD extensions ".plus", and ".com" do 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.

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.

The Complainant has proven the Respondent has used the disputed domain names without permission or authorization from the Complainant, that there is no relationship between the Complainant and the Respondent giving rise to any license, permission, or other right by which the Respondent could own or use any domain name incorporating the exact VRBO mark and that the Complainant does not sponsor or endorse the Respondent's activities in any respect and has not provided its consent to the Respondent's use and exploitation of the VRBO mark in the disputed domain names.

Moreover, as held in *HomeAway.com, Inc. v. Dalila Lee, Dalila Lee, Morgan Chee*, WIPO Case No. [D2024-1650](#) "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."

The Panel finds the second element of the Policy has been established.

### **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 had intentionally attempted to attract Internet users to the websites of the disputed domain names creating a likelihood of confusion with the Complainant's mark, once they all resolved to websites that posted identical but fake login pages to the one depicted in the Complainant's official website.

Panels have held that the use of a domain name for illegal activity as applicable to this case: impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Similar circumstances have been found recently relating the same Respondent to alike facts (See *HomeAway.com, Inc. v. Dalila Lee, Dalila Lee, Morgan Chee*, WIPO Case No. [D2024-1650](#)).

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 <vrboel.com>, <vrboen.com>, <vrboin.com>, <vrbojd.com>, <vrbokl.com>, <vrbonqn.com>, <vrbontn.com>, <vrbonxn.com>, <vrbo.plus>, <vrbopp.com>, <vrbosk.com> be transferred to the Complainant.

*/Gonçalo M. C. Da Cunha Ferreira/*

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: August 7, 2024