

ADMINISTRATIVE PANEL DECISION

InterContinental Hotels Group PLC and Six Continents Limited v. Bête Le Poil De La, Le Poil De La Bête
Case No. D2024-2493

1. The Parties

The Complainants are InterContinental Hotels Group PLC, United States of America (“United States”) (the “Complainant 1”) and Six Continents Limited, United States (the “Complainant 2”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Bête Le Poil De La, Le Poil De La Bête, France.

2. The Domain Name and Registrar

The disputed domain name <six-senses-residences-marina.com> (the “Domain Name”) is registered with Infomaniak Network SA (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2024. On June 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Privacy Trustee SA) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on June 28, 2024.

On June 28, 2024, the Center informed the parties in French and English, that the language of the registration agreement for the Domain Name is French. On the same day, the Complainants requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the 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 July 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 29, 2024.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on August 5, 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 1 is one of a number of companies collectively known as InterContinental Hotels Group ("IHG"), one of the world's largest hotel groups. The companies within IHG own, manage, lease or franchise, through various subsidiaries a number of hotels and guest rooms in about 100 countries and territories around the world. IHG owns a portfolio of hotel brands including Six Senses Hotels, Resorts & Spas.

The Complainant 2 is wholly owned by the Complainant 1.

The Complainant 2 is the owner of numerous SIX SENSES trademark registrations, including:

- the International Trademark Registration for SIX SENSES (figurative) No. 936600, registered on August 23, 2007;
- the International Trademark Registration for SIX SENSES (word) No. 1359674, registered on March 31, 2017; and
- the European Union Trade Mark Registration for SIX SENSES (word) No. 002812113, registered on December 17, 2004.

The Complainants also use numerous domain names incorporating the SIX SENSES trademark, such as <sixsenses.com>.

The Domain Name was registered on April 24, 2024.

At the time of submitting the Complaint, the Domain Name resolved to a website displaying the SIX SENSES trademark of the Complainant 2 and advertising luxury residential development in Dubai (the "Website"). As of the date of this Decision, the Domain Name does not resolve to any active website.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the Domain Name.

First, the Complainants contend that the Domain Name is confusingly similar to the trademark in which the Complainants have rights.

Second, the Complainants argue that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainants submit that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary Matters

A. Language of the Proceeding

The language of the Registration Agreement for the Domain Name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for several reasons. First, the Complainants submit that the Domain Name consists solely of words in the English language. Second, the Complainants note that the Website associated with the Domain Name consists solely of content in the English language.

The Respondent did not comment on the Complainant's request for the language of the proceeding be English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into French. Moreover, the Panel notes that the Respondent did not comment, let alone object, to the Complainants' arguments concerning the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

B. Consolidation of Multiple Complainants

Neither the Policy nor the Rules expressly provide for the consolidation of multiple complainants, and generally read in singular terms of a "complainant" when referring to proceedings under the Policy. See *MLB Advanced Media, The Phillies, Padres LP v. OreNet, Inc.*, WIPO Case No. [D2009-0985](#).

Nonetheless, previous UDRP panels have concluded that consolidation of multiple complainants in a single complaint is permissible. In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. See section 4.11.1 of the [WIPO Overview 3.0](#).

Moreover, it is well accepted that a trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. See section 1.4.1, [WIPO Overview 3.0](#).

In the present case the Panel finds that as the Complainants are affiliated companies it is both equitable and

procedurally efficient to allow the Complainants to proceed with the single consolidated Complaint.

6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainants to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Under the first element, the Complainants must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainants have rights.

The Complainant 2 holds valid SIX SENSES trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the terms “-residences” and “-marina” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the SIX SENSES trademark. Panels have consistently held that 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. See section 1.8 of the [WIPO Overview 3.0](#).

Moreover, the Domain Name differs from the SIX SENSES trademark by the addition of a hyphen separating the terms “six” and “senses”. It is well established that use or absence of punctuation marks, such as hyphens, does not alter the fact that a trademark is recognizable within the disputed domain name. See *Six Continents Hotels, Inc. v. Helen Siew*, WIPO Case No. [D2004-0656](#).

The Top-Level Domain “.com” in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel considers that the Domain Name is confusingly similar to the SIX SENSES trademark of the Complainant 2 for purposes of the Policy. Thus, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second element, the Complainants must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the Domain Name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Based on the records, the Panel finds that the Complainants have established a prima facie case that the Respondent does not have any rights or legitimated interests in the Domain Name, and the burden of production of evidence shifts to the Respondent. See section 2.5.1 of the [WIPO Overview 3.0](#). Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the SIX SENSES trademark registrations of the Complainant 2 predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant 2 has licensed or otherwise permitted the Respondent to use the SIX SENSES trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, at the time of submitting the Complaint, the Domain Name has resolved to the Website which displays the SIX SENSES trademark of the Complainant 2, while it promotes luxury residential development in Dubai of a third party. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Given the above, the Panel concludes that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainants must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the rights of the Complainant 2 in the SIX SENSES trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of this trademark at the time of registration. This finding is supported by the content of the Website which displays the SIX SENSES trademark and promotes a residential development in Dubai competing with the Complainants' business. Moreover, it has been proven to the Panel's satisfaction that the SIX SENSES trademark is well-known and unique to the Complainants. Thus, the Respondent could not likely reasonably ignore the reputation of products and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the SIX SENSES trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to resolve Internet users to the Website displaying the SIX SENSES trademark of the Complainant 2 and advertising luxury residential development in Dubai. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to this Website by creating a likelihood of confusion with the SIX SENSES trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

For the reasons discussed above, the Panel finds that the third element of the Policy has been established.

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 Domain Name <six-senses-residences-marina.com> be transferred to the Complainants.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: August 19, 2024