

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd. v. kbbayar kbbayar, honorable winning
Case No. D2024-2614

1. The Parties

The Complainant is Canva Pty Ltd., Australia, represented by SafeNames Ltd, United Kingdom.

The Respondent is kbbayar kbbayar, honorable winning, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <canva.best> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 July 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 July 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 24, 2024.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on August 14, 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 an Australian based company operating an online graphic design platform founded in 2012. Users of the Complainant's services have thousands of images and templates to choose from when creating graphic designs. The Complainant's CANVA offerings relate to many uses and contexts (for presentations, social media posts, and a range of print products).

The Complainant was valued at USD 40 billion in September 2021 and currently has more than 130 million active users per month with customers across 190 countries.

The Complainant is the holder of various CANVA trademarks including:

- United States of America Reg. No. 4316655 for the word mark CANVA, (registered on April 9, 2013), in class 42;
- Australian Reg. No. 1483138 for the word mark CANVA, (registered on March 29, 2012), in class 9; and
- International Reg. No. 1429641 for the word mark CANVA, (registered on March 16, 2018), in classes 9, 40, and 42.

The Complainant offers services from its main website, "www.canva.com", launched in 2012. Third-party Internet traffic statistics indicate that the Complainant's main website received an average of more than 850 million visits per month between March and May 2024.

The disputed domain name was registered on May 13, 2024, and it does not resolve to an active website at the time of the decision. The evidence shows that the disputed domain name previously resolved to a website replicating the official CANVA branding and layout of the official CANVA website.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is identical to the Complainant's trademark CANVA.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark CANVA.

Lastly, the Complainant says that the disputed domain name was registered and is used in bad faith. It is evident that the Respondent had full knowledge of the Complainant's rights in its mark by the identical disputed domain name redirecting to a website impersonating the Complainant. This impersonation consisted of using the official CANVA branding and layout of the official CANVA website. The website was designed to appear virtually identical to that displayed on the Complainant's official website, and requested personal information for users to "sign up", such as email address and phone number.

The Complainant, therefore, claims that the Respondent is using the disputed domain names with the aim to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark and for the purpose of disrupting the Complainant's business and targeting the Complainant's trademark and its clients.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove the followings:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A trademark registration provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner.

As indicated above, the Complainant holds several trademark registrations for the trademark CANVA. The disputed domain name is identical the Complainant's CANVA trademark in its entirety.

As regards the generic Top-Level Domain ".best", it is typically disregarded under the confusing similarity test under the Policy.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The onus is on the Complainant to make out at least a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case. See section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel accepts the Complainant's submissions that the Respondent does not appear to be commonly known by the disputed domain name, has not used, or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain name, and has no consent from the Complainant to use its trademark.

The Respondent has not filed a Response.

Furthermore, the Panel finds that the identical disputed domain name carries a high risk of implied affiliation with the Complainant, which was clearly the intention of the Respondent given the impersonating nature of the website to which the disputed domain name resolved. See section 2.5.1 of the [WIPO Overview 3.0](#).

Panels have moreover held that the use of a domain name for illegal activity as in this case such as impersonation and passing off can never confer rights or legitimate interests on a respondent.

The Complainant has made out its prima facie case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeed in relation to the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant has established the third element of the Policy.

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 accepts the Complainant's assertions that the trademark CANVA is a well-known trademark. The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (see *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); and *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

The Panel finds that the Respondent has registered and used the disputed domain name for fraudulent and illicit activity. The Complainant's trademark was registered for not less than 12 years at the time of the registration of the disputed domain name.

The Panel notes that the disputed domain name was previously resolved to a website impersonating the Complainant. This impersonation consisted of using the official CANVA branding and layout of the official CANVA website. The website was designed to appear virtually identical to that displayed on the Complainant's official website, and requested personal information for users to "sign up", such as email address and phone number.

The Panel is convinced that the Respondent has the Complainant's trademark in mind at the time of its registration.

Panels have held that the use of a domain name for illegal activity here, claimed by impersonation/passing off and collecting personal information such as phone numbers constitutes bad faith use. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Given the Respondent's lack of participation in this proceeding, the previous use of the disputed domain name that displayed the Complainant's trademarks and was being used to offer a "CANVA" application, and the identical nature of the disputed domain name, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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 <canva.best> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: September 6, 2024