

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd. v. 崔华英 崔华英 (Hua Ying Cui)
Case No. D2024-2662

1. The Parties

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

The Respondent is 崔华英 崔华英 (Hua Ying Cui), China.

2. The Domain Name and Registrar

The Disputed Domain Name <cannva.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on June 28, 2024. On July 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 2, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 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 in English on July 5, 2024.

On July 3, 2024, the Center informed the parties in Chinese and English, that the language of the Registration Agreement for the Disputed Domain Name is Chinese. On July 5, 2024, the Complainant confirmed its request that English 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 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 in Chinese and English, and the proceedings commenced on July 9, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was July 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 4, 2024.

The Center appointed Kar Liang Soh as the sole panelist in this matter on August 12, 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

Founded in 2012, the Complainant is an Australian online graphic design platform that provides users with images and templates for creating graphic design under the trademark CANVA. The Complainant is well-known around the world, particularly in the field of graphic design. According to the Complainant's website, the Complainant currently has more than 130 million active users per month across 190 countries. The Complainant was valued at USD 40 billion in a Forbes article dated September 14, 2021.

The Complainant has been using the trademark CANVA since 2012 in various forms, including incorporating it into a logo. The Complainant holds multiple registrations around the world incorporating the word CANVA (the "CANVA Trademark"), including:

Jurisdiction	Registration No.	Registration Date
Australia	1483138	March 29, 2012
United States of America	4316655	April 9, 2013
International Registration	1429641	March 16, 2018
Brazil	914660462	April 30, 2019
International Registration	1689790	March 21, 2022

The Complainant operates and offers services to its users via their website at "www.canva.com". The Complainant has also registered multiple other domain names featuring the CANVA Trademark with various generic Top-Level Domains ("gTLD") and country code Top-Level Domain ("ccTLD") extensions. These other domain names include <canva.biz>, <canva.us>, and <canva.cn>. In addition, the Complainant has established a social media presence under the CANVA Trademark, with 2.5 million followers on Facebook and 1.9 million followers on Instagram. The top hits of an Internet search on popular search engines of the word CANVA are related to the CANVA Trademark and the Complainant's services. The CANVA Trademark has been the target of cybersquatting previously (e.g., *Canva Pty Ltd v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2021-2395](#)).

The Respondent appears to be an individual based in China. Although very little information about the Respondent is available beyond the Whois information of the Disputed Domain Name and the Registrar's verification in this proceedings, the Respondent's email address is associated with the registrant of a portfolio of domain names incorporating third party trademarks such as <celticfc.cn>, <miele.com.cn> and <wallstreetjournal.cn>. The Respondent's name has also appeared as respondent in a previous UDRP proceedings, namely *ZipRecruiter Inc. v. Cui Huaying, Cuihuaying*, WIPO Case No. [D2020-0426](#).

The Disputed Domain Name was registered on December 22, 2016. On or around February 6, 2023, the Disputed Domain Name resolved to a pay-per-click parking page that provided advertising results for websites relating to the word "canvas". On or around May 23, 2024, the Disputed Domain Name redirected Internet users multiple times to ultimately land on a webpage claiming "Windows locked due to unusual activity" and prompting Internet users to "log in" with "Microsoft ID and password". When the Complainant notified the webhosting provider of the Respondent's website's behaviour, the webhosting provider blocked the website. The webhosting provider also confirmed that they provide domain name parking service and will share advertising revenue with the owner of the parked domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- a) The Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights. The Disputed Domain Name is distinguishable from the Complainant's CANVA Trademark only by the inclusion of an additional "n" which proceeds the first "n" present in the CANVA Trademark. The repetition of a single character in this way constitutes a common misspelling intended to confuse Internet users as a means of redirecting Internet traffic (i.e., "typosquatting").
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Respondent is not commonly known by the term CANVA. The Respondent has not used, nor prepared to use, the Disputed Domain Name in connection with a bona fide offering of goods or services. It was previously used to direct Internet users to pay-per-click advertisement links that redirected users to competing offerings of the Complainant. The Disputed Domain Name redirected Internet users to malicious software. When an Internet user is redirected to and clicked on the "log in" prompt, their device is locked and an attempt to install malware is initiated. The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name because the Respondent has generated monetary revenue by diverting online users to the Disputed Domain Name and to competing offerings, as well as for the purpose of distributing malicious software.
- c) The Disputed Domain Name was registered and is being used in bad faith. The Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the CANVA Trademark. The Disputed Domain Name was previously used to direct Internet users to a webpage that displayed pay-per-click hyperlinks. Historical screenshots from 2022 indicate that the only other use for the Disputed Domain Name was to advertise it for sale. The Respondent maintains a portfolio of domain names that infringe on third-party trademarks, and the Respondent's behavior constitutes a pattern of conduct falling under paragraph 4(b)(ii) of the Policy.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement of the Disputed Domain Name is Chinese. Accordingly, the default language of the proceeding should be Chinese. However, under paragraph 11(a) of the Rules, the Panel is empowered to determine a different language of proceeding having regard to the circumstances. Pursuant to the Complainant's request, the Panel determines that English shall be the language of the proceeding having considered the following factors:

- a) The Respondent has been notified in Chinese and English of the Complaint, and has chosen not to participate in the proceeding by not filing a Response;
- b) The Disputed Domain Name resolved to a website that is wholly in English, demonstrating the Respondent's likely competence in the English language;
- c) The Complainant and its representatives are not familiar with the Chinese language. The Complainant has confirmed that conducting the proceedings in Chinese will result in the incurrence of additional expenses and unnecessary delay;

- d) The Complainant has already been submitted in English and no obvious procedural benefit would arise should the Panel insist on Chinese being the language of the proceeding. On the contrary, doing so at such an advanced stage of the proceeding would in all likelihood delay the proceeding unnecessarily; and
- e) The Panel is bilingual in English and Chinese, and is well-equipped to deal with submissions by the Parties in either language.

6.2. Discussion

The Complainant must establish all three limbs of paragraph 4(a) of the Policy on the facts in order to succeed in this proceeding:

- a) The Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights;
- b) The Respondent has no rights or legitimate interests in the Disputed Domain Name; and
- c) The Disputed Domain Name was registered and used in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the CANVA Trademark by virtue of their various trademark registrations. The Disputed Domain Name incorporates all the letters of the CANVA Trademark but adopts a duplicate letter “n”.

According to section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), UDRP panels have established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element of paragraph 4(a) of the Policy. The Panel is of the view that the Disputed Domain Name is an obvious misspelling of the CANVA Trademark. The CANVA Trademark remains readily recognizable in the Disputed Domain Name and the duplication of a single letter “n” does not prevent a finding of confusing similarity between the Disputed Domain Names and the CANVA Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the CANVA Trademark. The first limb of paragraph 4(a) of the Policy is thus established.

B. Rights or Legitimate Interests

There is no evidence before the Panel to suggest that the Respondent is commonly known by the Disputed Domain Name. There is also no evidence to suggest that the Respondent has registered any trademarks or holds any rights to the term “cannva”. There is similarly no evidence that the Disputed Domain Name is used in a noncommercial or fair manner.

The Complainant has provided evidence that the Disputed Domain Name previously resolved to a pay-per-click parking website that potentially generated shared advertising revenue with the webhost. The Complainant also demonstrated that the parking website redirected Internet users to malicious software which led to the webhost blocking the website. Such uses of a domain name cannot by any imagination be considered noncommercial or fair use.

In view of the above, the Panel is satisfied that the facts present a prima facie case that the Respondent does not have rights or legitimate interests in the Disputed Domain Name. The Respondent did not file a response to demonstrate any rights or legitimate interests in respect of the Disputed Domain Name and has thus failed to rebut the prima facie case. Therefore, the Complainant has successfully established the second limb of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. In particular, paragraph 4(b)(iv) of the Policy states:

“by using the domain, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online source, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.”

The Panel is satisfied from the evidence that the CANVA Trademark has accrued substantial goodwill and reputation, particularly in the graphic design market. The Complainant has shown that a basic Internet search for “canva” would have readily informed the Respondent of the Complainant and/or the CANVA Trademark prominence in the market. The Panel is persuaded that the Respondent clearly must have been aware of the CANVA Trademark when registering the Disputed Domain Name, and intentionally targeted the CANVA Trademark to take advantage of its reputation.

The admission of shared advertising revenue by the webhost with which the website resolved from the Disputed Domain Name was parked indicates the Respondent’s intention for commercial gain within the meaning of paragraph 4(b)(iv). Consequently, the Panel is satisfied that the Disputed Domain Name was indeed using the Disputed Domain Name to attract Internet users to the Respondent’s website by creating a likelihood of confusion with the CANVA Trademark as its source, sponsorship, affiliation or endorsement in the manner outlined in paragraph 4(b)(iv) of the Policy. On this basis, the Complainant has shown that the Disputed Domain Name was registered and use in bad faith.

Furthermore, the Complainant has made very serious allegations about the Respondent, including the use of the Disputed Domain Name to distribute malicious software and the association of the Respondent’s email address with a portfolio of domain names incorporating third-party trademarks. An ordinary respondent faced with such accusations would have responded strongly if these allegations were in fact untrue. The Respondent’s lack of response is very telling and leads the Panel to conclusion that these allegations are justified and further corroborates the Panel’s finding of bad faith registration and use.

In light of the above, the Panel holds that the Complainant has successfully established the third limb of paragraph 4(a) 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.com> be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: September 5, 2024