

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. 李红波 (li hong bo)

Case No. D2024-3144

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is 李红波 (li hong bo), China.

2. The Domain Name and Registrar

The disputed domain name <skyscanmer.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 31, 2024. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 amendment to the Complaint in English on August 12, 2024.

On August 8, 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 August 12, 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. However, the Respondent filed a Response in Chinese on August 11, 2024, requesting that the decision be issued in Chinese.

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 in English and Chinese of the Complaint, and the proceeding commenced on August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. The Respondent sent several email communications in English to the Center on August 14, 2024. On September 9, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 18, 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

A. Complainant

The Complainant is a company incorporated in the United Kingdom and a leading global provider of online flight, hotel, and accommodation booking services, since 2002, under the trade mark SKYSCANNER (the "Trade Mark").

The Complainant is the owner of registrations for the Trade Mark in numerous jurisdictions worldwide, including European Union Registration No. 0900393, with a registration date of March 3, 2006; and European Union Registration No. 1030086, with a registration date of December 1, 2009.

B. Respondent

The Respondent is apparently an individual resident in China.

C. The Disputed Domain Name

The disputed domain name was registered on June 16, 2021.

D. Use of the Disputed Domain Name

The disputed domain name is resolved to an English language pay-per-click ("PPC") website (the "Website") providing sponsored links to websites relating to "Skyscanner Flights", "Skyscanner Flight", and "Booking Site for Clients".

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 name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

On August 11, 2024 (prior to the Center's formal notification of the Complaint), the Respondent filed a Chinese language Response - claiming that the disputed domain name had been legally registered; contending that the English words "sky" and "scan" are commonly used words and "mer" means "more" to

the Respondent, and the disputed domain name was registered for his personal use and is now temporarily parked; denying that the disputed domain name is confusingly similar to the disputed domain name; denying that the disputed domain name was registered and is being used in bad faith; contending that the Respondent had attempted to remove all advertisements from the Website as soon as the Respondent was informed about the Complaint; and finally requesting the Panel to deny the Complaint with a finding of reverse domain name hijacking.

On August 14, 2024, the Respondent sent an English language communication to the Center, offering to transfer the disputed domain name to the Complainant “at cost price (\$100)”. The Respondent sent another two English language communications to the Center on the same day with no substantive content.

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. 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.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the Parties and undue delay to the proceeding.

The Complaint was filed in English. The Complainant has requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name and the Website are in the English language.

The Respondent did not comment on the Complainant's request for the language of the proceeding to be English. However, the Respondent requested that the decision be issued in Chinese in his Response, and subsequently sent email communications to the Center in 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 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.5.1).

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, and the decision should be rendered in English.

6.2 Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

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 Trade Mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Trade Mark is recognizable within the disputed domain name. It consists of a misspelling of the Complainant's Trade Mark. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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 non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has 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 name. The Respondent asserts that he registered the disputed domain name because the English words "sky" and "scan" are commonly used words and "mer" means "more". Although "sky" and "scan" are dictionary words in English, the Panel finds that the combination of "sky", "scan" and "mer" is uncommon and has no apparent meaning in English. The Panel further notes that the Respondent contends that the disputed domain name was registered for his personal use with no supporting evidence. The Panel also does not agree with the Respondent that the use of the disputed domain name to host a parked page under the circumstances of this case gives the Respondent rights or legitimate interests in the disputed domain name. Rather, the Panel finds that the PPC links on the website at the disputed domain name compete with or capitalize on the reputation and goodwill of the Complainant's Trade Mark, which does not represent a bona fide offering.

Therefore, the Panel finds that 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.

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 enumerates 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 has registered and used the disputed domain name that is a misspelling of the Trade Mark, without authorisation, in order to derive commercial revenue via sponsored links that may compete with the services provided by the Complainant. The Panel finds that the Respondent's registration and use of the disputed domain name amounts to bad faith under paragraph 4(b)(iv) of the Policy.

Moreover, after the formal commencement of the proceeding, the Respondent also offered to transfer the disputed domain name to the Complainant “at cost price (\$100)”, which may further support the finding of the Respondent's bad faith.

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

D. Reserve Domain Name Hijacking

The Panel finds that the Complainant has established three elements in this case. Therefore, the Complaint was not filed in bad faith.

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 <skyscanmer.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Date: October 8, 2024