

ADMINISTRATIVE PANEL DECISION

Saban Capital Group v. Vedat Barha
Case No. D2024-3646

1. The Parties

The Complainant is Saban Capital Group, United States of America (“United States”), represented by Markmonitor, United States.

The Respondent is Vedat Barha, Spain, represented by ABG Intellectual Property Law, S.L., Spain.

2. The Domain Name and Registrar

The disputed domain name <sabanrealestate.com> is registered with Soluciones Corporativas IP, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 10, 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 (Whois Privacy Service Protects this domain Soluciones Corporativas IP, c/o Whois Proxy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 September 16, 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 September 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 12, 2024. The Response was filed with the Center on October 11, 2024.

The Center appointed John Swinson as the sole panelist in this matter on October 17, 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.

Due to the file size of the Response, the Complainant did not receive the Response when it was filed.

On October 25, 2024, the Panel issued a procedural order to resend the Response to the Complainant in line with the Center's "Practical Guidelines regarding File Size and Format." The procedural order also inquired with the Complainant about the status of the Complaint and provided the Respondent the opportunity to comment.

On November 4, 2024, the Complainant requested that the Complaint be withdrawn due the circumstances arising from the Respondent's response that could not be reasonable foreseen by the Complainant despite the due diligence taken by the Complainant.

On November 7, 2024, the Respondent stated that the Respondent does not object to the withdrawal of the proceedings requested by the Complainant.

4. Factual Background

Even though the Complaint has been withdrawn, the Panel considers it appropriate in the circumstances to summarize the factual background to provide context for the withdrawal of the Complaint.

The Complainant is a leading private investment firm based in Los Angeles, United States, that manages a globally diversified portfolio of investments across real estate, venture capital, growth equity, private equity, public equity and fixed income. The Complainant was formed in 2001 by businessman and entertainment industry pioneer Haim Saban. The Complainant focuses its investment portfolio on real estate, digital media space, feature films, as well as philanthropy.

The Complainant owns a portfolio of United States trademark registrations for or including the term SABAN including United States Trademark No. 2944322 for SABAN registered on April 26, 2005, covering services in classes 36 and 41.

The Complainant owns several domain names that included "saban" and owns and uses the domain name <saban.com>.

The Complainant's real estate group was formed in 2009 as Saban Real Estate, LLC.

According to the Complainant, Saban Real Estate entered the spotlight in March 2019 when it reported completing a USD 430 million sale of a 14-property 1.5 million-square-foot real estate portfolio located in 11 states of the United States and leased predominantly to the United States federal government.

The disputed domain name was registered on May 16, 2019.

At the present time, the disputed domain name diverts to a website located at <creo-realestate.com>. This website states: "CREO Real Estate is a one-of-a-kind boutique agency offering you a range of full service real estate solutions. With our in-depth knowledge of the market and our innovative approach, we offer you a personalised experience to find your true opportunity." The website lists residential properties for sale and rent in Spain, Greece and Turkey.

The Respondent's full legal name (according to his official national identity document (DNI) from Spain) is "Vedat Barha Seban". The DNI states that he was born in Turkey, is a Spanish national and lives in Spain. The Respondent states that "Barha" his surname from his paternal side and "Saban" from this maternal side.

The Respondent is involved in the real estate business and is the founding and executive director of CREO Real Estate in Barcelona.

Additionally, the Respondent is associated with a family business called Saban Construction Company. This is a company from Turkey with the full legal name of "SABAN YAPI INŞAAT ANONİM ŞİRKETİ". This company has been named as such since 2007. The President of Saban Construction Company is Raul Saban, who is a maternal uncle of the Respondent.

The Saban Construction Company owns a Turkish trademark registration for "saban" (No. 2005 22616) filed on June 3, 2005, granted on May 16, 2006 and currently in force, for goods in class 12 and services in classes 37, 39, 42 and 43. The Saban Construction Company registered the domain name <sabaninsaat.com> in 2005.

According to a declaration from Raul Saban, in March 2019 Raul Saban asked the Respondent to register the disputed domain name as well as a second domain name <sabanproperties.com> on behalf of Saban Construction Company.

5. Discussion and Findings

In the Response, the Respondent provided documentary evidence that the Respondent's surname is "Barha Saban".

The Respondent has also provided evidence that the Respondent's uncle, Raul Saban, is an executive for the Saban Construction Company. The Response states that the Respondent registered the disputed domain name on behalf of the Saban Construction Company.

It is important to point out that the above facts would not have been known by the Complainant at the time of filing the Complaint.

The Complainant could not reasonably have known the last name of the Respondent at the time of filing the Complaint as it was not revealed WHOIS records or the Registrar's data; it was not visible at that time on Respondent's website to which the disputed domain name redirects; and online sources related to the Respondent did not indicate "Saban" as the Respondent's last name.

Additionally, the Complainant could not have reasonably foreseen at the time of filing the Complaint of the connection between the Respondent and Saban Construction Company.

In light of the information provided in the Response, and prior decisions under the Policy, the Complainant took the action of seeking to withdraw the Complaint. ("It is difficult to conceive of a better means of establishing that one is 'commonly known' by a word than by showing that the word is his family name." *The California Milk Processor Board v. Center Ring Productions, LLC*, WIPO Case No. [D2011-1689](#). See also *CKL Holdings N.V. v. Paul Flammea*, WIPO Case No. [D2016-1340](#); and *Cheyne Capital Holdings Limited v. Sheri Kempe, cheynegroup*, WIPO Case No. [D2022-2070](#).) The Respondent understandably did not object to this course of action.

In the circumstances, it is in the Panel's view appropriate and good conduct for the Complainant to withdraw the Complaint once the Complainant became aware of the facts contained in the Response which it could not have reasonably foreseen when it filed the Complaint.

7. Decision

For the foregoing reasons, the Panel records that the Complaint is withdrawn.

/John Swinson/

John Swinson

Sole Panelist

Date: November 11, 2024