

## ADMINISTRATIVE PANEL DECISION

SeatGeek v. John smith  
Case No. D2024-3811

### 1. The Parties

Complainant is SeatGeek, United States of America (“United States”), represented by Soteria LLC, United States.

Respondent is John smith, United States.

### 2. The Domain Name and Registrar

The Disputed Domain Name <seatgeeks.info> is registered with Hostinger Operations, UAB (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 19, 2024. On September 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 20, 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 Protect, LLC (PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to Complainant on September 20, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 20, 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 Respondent of the Complaint, and the proceedings commenced on September 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 17, 2024.

Due to an apparent issue with the earlier notification of September 26, 2024, the Center re-notified the Complaint on October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. Respondent did not submit any response. Accordingly, the Center re-notified Respondent's default on November 13, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on November 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**

Complainant is a mobile-focused ticket platform that enables users to buy and sell tickets for live sports, concerts, and theater events. Complainant allows both mobile app and desktop users to browse events, view interactive color-coded seat maps, complete purchases, and receive electronic print tickets.

Complainant owns a United States registration for its SEATGEEK service mark (the "SEATGEEK Mark") as follows:

United States Service Mark Registration No. 4,062,477 SEATGEEK registered November 29, 2011, in international class 42.

The Disputed Domain Name was registered on August 21, 2024, and resolves to a website which displays Complainant's logo and impersonates Complainant's customer support phone webpage.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the Disputed Domain Name is identical to Complainant's registered SEATGEEK Mark. Complainant's principal website is located at "www.seatgeek.com".

Complainant alleges that Respondent is neither affiliated with nor a licensee of Complainant, nor is Respondent authorized to register or use the SEATGEEK Mark.

Complainant further alleges that Respondent has not used the Disputed Domain Name in connection with any preparations for a bona fide offering of goods or services. There is no evidence indicating that Respondent has been commonly known by the Disputed Domain Name and Respondent does not own any trademark rights to SEATGEEK. Complainant further alleges that Respondent has not displayed the intent to use the Disputed Domain Name for any legitimate business.

Complainant further alleges that Respondent has directly used Complainant's logo and impersonated Complainant's customer support phone webpage, misleading and diverting consumers. Complainant further alleges that the Disputed Domain Name is malicious and harmful to the SEATGEEK Mark, as it gives the false impression that the website to which the Disputed Domain Name resolves is owned by Complainant.

Complainant submits that its service mark has been used in commerce for over a decade and is registered in the United States. This strongly suggests that Respondent had actual and constructive knowledge of Complainant and its brand elements when Respondent registered the Disputed Domain Name.

Complainant further submits that it is highly unlikely that the registration of the Disputed Domain Name was coincidental and should be considered as evidence of bad faith registration according to the Policy

Complainant further submits that Respondent has violated paragraph 4(b)(iv) of the Policy.

Complainant contends that it has satisfied each of the three essential elements required under the Policy for a transfer of the Disputed Domain Name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements of the claims are met. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the SEATGEEK Mark in which Complainant has rights;
- ii) that 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**

[WIPO Overview 3.0](#), section 1.2.1, states that registration of a trademark is prima facie evidence of having trademark rights for purposes of standing to file a UDRP case. Therefore, Complainant has enforceable rights in the SEATGEEK Mark.

Complainant has shown rights in respect of the SEATGEEK Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 SEATGEEK Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The entirety of the SEATGEEK Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the SEATGEEK Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the letter "s", may bear on assessment of the second and third elements, the Panel finds the addition of such letter does not prevent a finding of confusing similarity between the Disputed Domain Name and the SEATGEEK Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 circumstances in which Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the SEATGEEK Mark.

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 the disputed 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 the 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 disputed 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

Panels have held that the use of the disputed domain name for illegitimate activity, here claimed as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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 the Disputed Domain Name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain

Name registration to Complainant who is the owner of the SEATGEEK Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the SEATGEEK Mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the SEATGEEK Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

Complainant alleges that Respondent has directly used Complainant's logo and impersonated Complainant's customer support phone webpage, misleading and diverting consumers. Complainant further alleges that the Disputed Domain Name is malicious and harmful to the SEATGEEK Mark, as it gives the false impression that the website to which the Disputed Domain Name resolves is owned by Complainant.

Complainant submits that its service mark has been used in commerce for over a decade and is registered in the United States. This strongly suggests that Respondent had actual and constructive knowledge of Complainant and its brand elements when Respondent registered the Disputed Domain Name.

The Panel finds that Complainant has established the prerequisites of paragraph 4(b)(iv) of the Policy.

Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 <seatgeeks.info> be transferred to Complainant.

*/Richard W. Page/*

**Richard W. Page**

Sole Panelist

Date: November 25, 2024