

ADMINISTRATIVE PANEL DECISION

SeatGeek v. CSE TICKETS TICKETS

Case No. D2024-3812

1. The Parties

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

Respondent is CSE TICKETS TICKETS, U.S.

2. The Domain Name and Registrar

The disputed domain name <seatgeektransfers.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (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 Domain Name. On September 19, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) 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. The Response was filed with the Center on October 16, 2024.

Prior to receipt of the formal Response by Respondent, Respondent sent an email communication on September 28, 2024 to the Center, stating that the Domain Name was being offered for sale to Complainant and that the parties are in settlement negotiations. Respondent also noted in that communication that the “domain is not being actively used”.

On September 30, 2024, the Center sent a communication to the parties, indicating that Complainant should submit a request for suspension to implement a settlement agreement between the parties.

On October 1, 2024, Complainant sent a communication to the Center indicating that a settlement has not been reached and that Complainant was requesting that the proceeding be reinstated. The Center acknowledged the following day, October 2, 2024, that the proceeding will continue.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on October 23, 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.

On November 7, 2024, Complainant submitted an unsolicited Supplemental Filing to the Center by email. Respondent also submitted an unsolicited Supplemental Filing to the Center by email on the same day, November 7, 2024, in response to Complainant’s Supplemental Filing.

4. Factual Background

Complainant, generally known as “SeatGeek”, is based in New York, U.S. It 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 or print tickets.

Complainant owns U.S. registered trademark number 4,062,477 for the SEATGEEK word mark, registered on November 29, 2011, and their website is located at “www.seatgeek.com”.

The Domain Name was registered on August 22, 2024. At the time of the filing of the Complaint, the Domain Name resolved to an inactive page. At the time of the Decision, the Domain Name resolves to a parked page inviting users to sign up for updates.

5. Parties’ Contentions

A. Complainant

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

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant’s service mark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark and service mark registrations for SEATGEEK, and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well known SEATGEEK services.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name in bad faith, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name other than diverting customers into a ticket transfer scam. Further,

Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent argued that (i) Complainant provided false trademark information in the Complaint; (ii) Respondent has the right and a legitimate interest in the Domain Name under fair use, without commercial gain and without "diverting consumers"; (iii) Complainant is unable to show any evidence of bad faith by Respondent, as Respondent attempted through a good faith effort for the transfer of the Domain Name to Complainant, based on the assumption that Complainant may in the future expand its business model and purpose; and (iv) Complainant is in violation of reverse domain name hijacking.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

The Panel will first consider these three elements of the Policy without including consideration of the Supplemental Filings of November 7, 2024.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

Complainant has provided evidence of its rights in the SEATGEEK service mark, as noted above under section 4. Complainant has therefore proven that it has the requisite rights in the SEATGEEK service mark.

With Complainant's rights in the SEATGEEK service mark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case is, ".com"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's SEATGEEK service mark. The use of Complainant's service mark in its entirety, with the addition of the term "transfers" after Complainant's SEATGEEK service mark, does not prevent a finding of confusing similarity between the Domain Name and the SEATGEEK service mark as it is recognizable in the Domain Name.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof

always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its SEATGEEK trademark, and does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not an authorized reseller and is not related to Complainant. Respondent is also not known to be associated with the SEATGEEK service mark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name resolved to an inactive webpage. Although Complainant has not provided any evidence that would show the use of the Domain Name, this is supported by Respondent's communication dated September 28, 2024, in which Respondent indicated that "seatgeektransfers.com is being offered for sale to Seatgeek and is in settlement negotiations for purchase. This domain is not being actively used...".

Respondent argued that it has rights and legitimate interests in the Domain Name "under fair use, without commercial gain, and without diverting consumers." Specifically, Respondent noted that it "serves to educate the consumer of the complexities of the 'ticketing transfer' process." There is no evidence to support such efforts, as Respondent has indicated that the Domain Name was not actively used, and Respondent supplied no evidence of any of the efforts Respondent had indicated in its Response nor of demonstrable preparations to use the Domain Name in connection with such efforts. Rather, as reflected above, the Respondent admits to offering the Domain Name for sale to the Complainant, which is clearly not a noncommercial use of the Domain Name and reflects an intent to capitalize on the Complainant's trademark.

Accordingly, Complainant has established a prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name, reinforcing the notion that Respondent was not using the Domain Name in connection with a bona fide offering.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you 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 complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the SEATGEEK service mark long predates the registration of the Domain Name. Complainant has also reflected the likelihood of the Respondent's intent to target its trademark through the descriptive addition of "transfer" to its trademark, providing in evidence the Complainant's support web page that deals directly with the "transfer" of its mobile tickets. Therefore, Respondent was aware of the SEATGEEK trademark when it registered the Domain Name, and knew, or should have known that the Domain Name was confusingly similar to Complainant's trademark. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's service mark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

As noted above, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, as supported in Respondent's communication dated September 28, 2024, Respondent indicated that "This domain is not being actively used...".

Respondent argued that it "serves to educate the consumer of the complexities of the 'ticketing transfer' process." There is no evidence to support such efforts; in fact, Respondent has indicated that the Domain Name was not actively used, and Respondent supplied no evidence of any of the educational efforts Respondent had indicated in its Response nor of demonstrable preparations to use the Domain Name in connection with such efforts. Instead, as reflected above, the Respondent has apparently offered the Domain Name for sale to the Complainant, which reflects bad faith registration and use vis-à-vis paragraph 4(b)(i) of the Policy.

Further, the record shows that mail servers have been configured in connection with the Domain Name. Complainant asserts that this may be used to facilitate the sending and receiving of emails, which may in turn lead to misleading and potential attempts to reach Complainant's SEATGEEK customers, and may result in giving the false impression to Internet users that the Domain Name is owned by Complainant.

While no evidence of such use has actually been presented, the Respondent's control of the Domain Name and thus the related mail servers represent an implied ongoing threat to the Complainant that renders any plausible good faith use unlikely in the circumstances of this proceeding.

At the time of the Decision, the Domain Name resolves to a parked webpage inviting users to sign up for updates, which does not change the Panel's finding of Respondent's bad faith.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) of the Policy.

D. Supplemental Filings dated November 7, 2024

On November 7, 2024, Complainant sent an unsolicited Supplemental Filing to the Center by email. In response, Respondent also sent an unsolicited Supplemental Filing to the Center by email on the same day.

(i) Complainant's Supplemental Filing of November 7, 2024

In its Supplemental Filing, Complainant noted that additional evidence of bad faith by Respondent that could not have been raised in the initial Complaint or the amendment because the offer for sale of the Domain Name by Respondent was presented seven days after the filing of the original UDRP Complaint and five days after the amended Complaint was filed.

This evidence was in the form of a written offer for sale by Respondent to transfer ownership of the Domain Name to Complainant for "a reasonable sum of" USD 328,000.

Complainant asserts that this is evidence that Respondent has registered and acquired the Domain Name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to Complainant, who is the owner of the trademark or service mark . . . "for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name", which is indicative of bad faith by Respondent.

(ii) Respondent's response to Complainant's Supplemental Filing of November 7, 2024

Respondent requests that the Complaint be dismissed and claims that the additional evidence provided occurred after the filing of the Complaint and is irrelevant in this matter.

Respondent asserts that Complainant made no monetary offer in the Complaint for the Domain Name and that a compromise could not be reached without such an offer. Respondent also stated that Complainant had adequate time to make an offer to Respondent, and that no such offer was made, indicating a lack of commitment, and thus the Complaint should be dismissed in favor of Respondent.

(iii) The Panel's Consideration of the Supplemental Filings

Pursuant to paragraphs 10 and 12 of the Rules, consideration and/or determination of appropriate procedural steps, if any, are a matter for the Panel's sole discretion.

The Panel accepts both Supplemental Filings. However, the Panel notes that without considering the Supplemental Filings, Complainant had met its burden and satisfied all three elements of paragraph 4(a) of the Policy.

Further, the Panel notes that the Supplemental Filing provided by Complainant is further proof and evidence that Respondent has registered and acquired the Domain Name in bad faith under paragraph 4b(i) of the Policy. The evidence provided shows that Respondent "acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark ... for valuable consideration in excess of out-of-pocket costs directly related to the domain name".

Respondent's Supplemental Filing, in fact, confirms and reinforces Respondent's communication dated September 28, 2024, in which Respondent indicated that "seatgeektransfers.com is being offered for sale to Seatgeek" as noted in the sections above.

Accordingly, the Panel finds that the Supplemental Filings are further evidence that Respondent registered and is using the Domain Name in bad faith and confirms that Complainant succeeds under the third element 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 Domain Name <seatgeektransfers.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: November 9, 2024