

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd. v. Hamza OPLEX
Case No. D2024-4152

1. The Parties

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

The Respondent is Hamza OPLEX, Morocco.

2. The Domain Name and Registrar

The disputed domain name <thecanvabile.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 9, 2024. On October 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 10, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 of the Complaint, and the proceedings commenced on October 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 3, 2024. The Respondent sent email communications to the Center on October 14 and October 15, 2024, and later on October 25, 2024. On November 4, the Center informed the Parties that it would proceed to Panel Appointment.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on November 7, 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

The Complainant, Canva Pty Ltd., is an Australian based company operating an online graphic design platform founded in 2012. Users of the Complainant's services have thousands of images and templates to choose from when creating graphic designs. The Complainant's CANVA offerings relate to many uses and contexts (for presentations, social media posts, and a range of print products).

The Complainant was valued at USD 40 billion in September 2021 and currently has more than 130 million active users per month with customers across 190 countries.

The Complainant is, inter alia, the owner of;

United States of America trademark registration No. 4316655 for CANVA (word), registered on April 9, 2013, in class 42.

Australian trademark registration No. 1483138 for CANVA (word), registered on September 9, 2013, in class 9.

International trademark registration No. 1204604 for CANVA (word), registered on January 1, 2015, in class 9.

International trademark registration No. 1429641 for CANVA (word), registered on March 16, 2018, in classes 9, 40, and 42.

The Complainant has also established a strong social media presence, with millions of followers, and uses the CANVA trademark to promote its services under this name, in particular on:

- Facebook: "www.facebook.com/canva"
- Instagram: "www.instagram.com/canva"
- Twitter (X): "www.twitter.com/canva"
- Pinterest: "https://www.pinterest.co.uk/canva"

The disputed domain name was registered on January 29, 2024.

The disputed domain name resolves to a website where a bundle package is offered for download which includes various template designs, access to Canva Pro, Canva Mastery Course, and a Canva ebook, i.e. products identical to those of the Complainant.

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 confusingly similar to the Complainant's trademark; that the Respondent has no legitimate interests in the disputed domain name, and particularly that the Respondent was aware of the Complainant's trademark when registering the disputed domain name; and that the Respondent registered and used the disputed domain name to advertise products identical to the Complainant's offerings in order to exploit the Complainant's CANVA trademark for its own benefit, and that this is a clear inference of bad faith use and registration of the disputed domain name.

B. Respondent

The Respondent has made no formal reply to the Complainant's contentions. However, the Respondent, following the Center notification to the Parties of the Commencement of the Proceedings, sent some informal

email communications to the Center, respectively on October 14, 15, and 25, 2024. In synthesis, in its first email communication the Respondent affirmed that:

- a) It launched its store out of genuine admiration for Canva as a platform without the intention of causing any harm or to infringe upon anyone's rights;
- b) This venture was a way for the Respondent to generate an income and improve their livelihood;
- c) In light of the Complaint, the Respondent is prepared to comply with the Center's decision, whether it involves cancelling or transferring the disputed domain name;
- d) The Respondent would be grateful for the opportunity to collaborate with or work for Canva in some capacity.

In its second and third email communications the Respondent respectively affirmed that: "I can cancel the domain if needed, just let me know when and how ?", and then "Just take the domain I don't want any problems".

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain names, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel finds the mark is incorporated entirely and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "the" and "bible", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the 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 the Respondent may demonstrate 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 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 Respondent states that it launched the website at the disputed domain name in "genuine admiration" of the Complainant, yet such admiration does not permit the Respondent to capitalize on the Complainant's trademark by misleading Internet users expecting to find the Complainant at the disputed domain name, particularly given that both the composition and use of the disputed domain name imply an affiliation to the Complainant.

Panels have held that the use of a domain name for illegitimate activity as here, claimed as advertising products identical to the Complainant's offerings in order to exploit the Complainant's CANVA trademark for its own benefit, 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 a domain name in bad faith.

In the present case, the Panel notes that the Respondent was aware of the Complainant's trademark registrations and rights to the CANVA trademark when it registered the disputed domain name.

The disputed domain name contains in its entirety, without any authorization or approval, the Complainant's registered CANVA trademarks, and this is the only distinctive component of the disputed domain name.

The disputed domain name was registered many years after the Complainant's trademark was registered. In addition, in its informal communications, the Respondent has affirmed that it has "launched its store out of genuine admiration for Canva as a platform ...", and "as a way for [the Respondent] to generate an income and improve [its] livelihood".

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the CANVA trademark and trade name and targeted those.

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.

Panels have held that the use of a domain name for illegitimate activity as here, claimed to be used to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the products that it purports to offer on it, constitutes bad faith use of the disputed domain name for the purposes of the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 <thecanvabile.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 15, 2024