

ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd. v. hi e, hi
Case No. D2024-4249

1. The Parties

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

The Respondent is hi e, hi, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <canva.ink> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 15, 2024. On October 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 16, 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 October 21, 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 October 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 20, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on November 27, 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 was founded in 2012 and provides an online graphic design platform, which is widely known and used by several million users per month across 190 countries to create various kinds of graphic designs.

The Complainant is the owner of the CANVA trademark, which is registered in many jurisdictions across the world, including in the United States. Among many others, the Complainant is the registered owner of the United States Trademark Registration No. 4316655, registered on April 9, 2013, for CANVA, for various services in class 42, and the International Trademark Registration No. 1204604, registered on October 1, 2013, for CANVA, covering protection for various goods in class 9.

The Complainant also owns and operates its main website at “www.canva.com”.

The Respondent is reportedly located in the United States, whereas its true identity remains unclear due to seemingly false or incomplete contact information.

The disputed domain name was registered on May 5, 2022.

According to documents provided by the Complainant, the disputed domain name was parked for over two years. During that time the disputed domain name was offered for sale on a sales platform to a price of USD 8,888. After the Complainant sent a cease and desist letter to the Respondent on August 1, 2024, the Respondent uploaded a premature website with some content under the title “a blog about tattoos by Canva Raja”.

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.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#), and, where appropriate, will decide consistent with the consensus views stated therein.

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 3.0](#), section 1.7.

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

The entirety of the CANVA mark is reproduced within the disputed domain name without any additions. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

There is particular no indication in the case file that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein. Further to the below, the Respondent's change in use of the disputed domain name is a pretext underscoring the Respondent's intent to commercially benefit from the resale of the disputed domain name.

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.

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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its CANVA trademark in mind when registering the disputed domain name. Given the Complainant's long-established use of the identical trademark, as well as the "www.canva.com" domain name from which the dispute domain name only differs as regards its Top-Level Domain, it seems that the Respondent deliberately chose the disputed domain name to target the Complainant and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel notes that the Complainant has provided evidence showing that the disputed domain name was initially offered for sale by the Respondent on a sales platform to a price far beyond out-of-pocket expenses for the registration of the disputed domain name. After the Complainant approached the Respondent by way of a cease and desist letter, the Respondent uploaded a premature website trying to cause the impression that the disputed domain name is used for a blog on the tattoos of a person with "Canva" in his name. It is obvious to the Panel that the Respondent did this merely with the purpose of concealing its illicit intentions. Rather, these circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Respondent further appears to have furnished incomplete or false contact details for purposes of registration of the disputed domain name, as the courier was unable to deliver the Center's written communication, which additionally supports a finding of bad faith.

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 <canva.ink> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: December 11, 2024