

ADMINISTRATIVE PANEL DECISION

**InterContinental Hotels Group PLC, Six Continents Limited (Six Continents) v.
Suhail Khazaal / E D L Digital Marketing Management LLC
Case No. DAE2024-0012**

1. The Parties

Complainants are InterContinental Hotels Group PLC and Six Continents Limited (Six Continents), United States of America (“United States”), represented by The GigaLaw Firm, United States.

Respondent is Suhail Khazaal, E D L Digital Marketing Management LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <sixsensesmarina.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2024. On June 21, 2024, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On June 24, 2024, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 27, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was July 17, 2024.

On June 27, 2024, the Center received an email communication from a third party which stated in part “In accordance with our policies, we have taken down sixsensesmarina.ae to website or content from being associated with it”. The email also advised that the third party had promptly informed “our client about the trademark conflict and they are happy to formally relinquish the domain name sixsensesmarina.ae to the rightful owner, as determined ‘.aeDA’ dispute resolution process”. On July 23, 2024, the Center received a

second email from the third party stating “we are willing to transfer the domain name sixsensesmarina.ae to complainant”. The Center sent a possible settlement email on July 23, 2024, giving Complainants until July 30, 2024, to submit a suspension request for settlement purposes. Complainants sent an email on July 24, 2024, stating that suspension of the proceedings was not requested and “instead asks that this case proceed as quickly as possible to the next stage”.

The Center appointed Scott R. Austin as the sole panelist in this matter on August 8, 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

Without contest by Respondent, Complainants assert in their Complaint and its Annexes attached provide evidence sufficient to support that:

InterContinental Hotels Group PLC and its wholly owned subsidiary Six Continents Limited (collectively hereinafter referred to as “Complainant” for purposes of this decision) form part of the InterContinental Hotels Group (“IHG”), one of the world’s largest hotel groups, which owns, manages, leases or franchises, through various subsidiaries, 6,368 hotels and 946,382 guest rooms in about 100 countries. Complainant, through various subsidiaries, operates Six Senses Hotels, Resorts & Spas, to provide hotel services and related bookings and reservations services under trademarks that consist of or contain the terms SIX SENSES (the “SIX SENSES Mark”) in connection with 25 hotels and 1,783 guest rooms in Asia and the Pacific; Europe; the Middle East and Africa; and the Americas.

Complainant is also the registrant of numerous domain names that contain or are similar to the SIX SENSES Mark, including <sixsenses.com>, created on April 12, 2000, used to access its official website located at “www.sixsenses.com” (the “Official SIX SENSES Mark Website”) which provides information about Complainant’s hotel services and reservation booking and features the SIX SENSES Mark and official logo (the “SIX SENSES Logo”) throughout.

Complainant asserts that it (or its affiliates) owns at least 429 registrations in at least 100 countries or geographic regions worldwide for trademarks that consist of or contain the SIX SENSES Mark or SIX SENSES Logo, including:

- United States Trademark Registration No. 4,551,528, SIX SENSES, registered June 17, 2014, for “Organisation of travel; Travel agency services, namely, making reservations and bookings for transportation” in International Class 39 and claiming a first use date of January 31, 2004;
- United States Trademark Registration No. 4,960,590, SIX SENSES, registered May 17, 2016, for “making reservations and bookings for others for accommodations, meals and services at hotels, resorts, restaurants” in International Class 43 and claiming a first use date of January 31, 2004;
- United States Trademark Registration No. 4,960,591,  words plus design, registered May 17, 2016, for “making reservations and bookings for others for accommodations, meals and services at hotels, resorts, restaurants” in International Class 43 and claiming a first use date of January 31, 2004;
- Australian Trademark Registration No. 1,016,645, SIX SENSES, registered August 20, 2004, for use in connection with, inter alia, “business management of hotels and resorts”; and
- European Union Trademark Registration No. 2,812,113, SIX SENSES, registered on December 17, 2004, for use in connection with, inter alia, “management of hotels and vacation centres”.

Although the public Whois lookup provided by the Registrar is devoid of any creation or registration date information, the .aeDA verification response transmitted by email to the Center shows the disputed domain

name was registered on March 29, 2024. As of the date of the filing of the Complaint, the disputed domain name resolved to a website configured to falsely appear to be a website for, or associated with, Complainant – by prominently displaying the SIX SENSES Logo and advertising “Six Senses Residences Dubai Marina” – “a 125-storey residential building under development in Dubai Marina, Dubai” as well as a copyright legend using Complainant’s SIX SENSES Mark, purportedly to lead consumers to believe Respondent’s website originates with or is affiliated with Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not submit any formal response or substantively reply to Complainant’s contentions. In email communications to the Center on June 27, 2024, and July 23, 2024, received from a third party seemingly connected to the email provider for Respondent, Respondent’s willingness to voluntarily transfer the disputed domain name to Complainant was expressed. Complainant did not request a suspension for settlement and stated its preference for the proceeding to continue to decision.

6. Discussion and Findings

Paragraph 15(a) of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Because “the UAE Domain Name Dispute Resolution Policy is substantially similar to the Uniform Domain Name Dispute Resolution Policy (‘UDRP’), it is appropriate to “refer to prior UDRP cases and principles as well as sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (‘[WIPO Overview 3.0](#)’), where applicable”. *JUUL Labs, Inc. v. Lucky Nazma*, WIPO Case No. [DAE2024-0006](#).

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 6(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. [WIPO Overview 3.0](#), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 6(a) of the Policy and on the balance of the probabilities that:

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

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

A. Identical or Confusingly Similar

To prove this element, Complainant must first establish that there is a trademark or service mark in which it has rights. Based on the facts referenced in Section 4 and supporting documents submitted, Complainant has shown rights in the SIX SENSES Mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1; see also *InterContinental Hotels Group PLC, Six Continents Limited v. Exotic Russian Spa, Tags N Ticks Technologies*, WIPO Case No. [D2023-0831](#) (transfer of <sixsensesrussianspa.com>).

With Complainant's rights in the SIX SENSES Mark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's SIX SENSES Mark. It is well accepted that the first element functions primarily as a standing requirement and that the 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.

Prior UDRP panels have held the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other words to such marks. [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"); see also *BNP Paribas v. Ronan Laster*, WIPO Case No. [D2017-2167](#); *Oki Data Americas, Inc. v. Asdinc.com*, WIPO Case No. [D2001-0903](#).

The disputed domain name incorporates Complainant's SIX SENSES Mark in its entirety and adds the term "marina". Respondent's addition to Complainant's SIX SENSES Mark of this term does not prevent a finding of confusing similarity for the reasons stated in the UDRP precedents cited above. The addition of the Top-Level Domain ("TLD"), ".ae" in this case, is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11; see also *Research in Motion Limited v. thamer Ahmed Alfarshooti*, WIPO Case No. [D2012-1146](#).

Complainant's SIX SENSES Mark remains fully recognizable as incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name confusingly similar to the SIX SENSES Mark in which Complainant has rights and Complainant has thus satisfied its burden under paragraph 6(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, the complainant has to make out a prima facie case that the respondent does not have rights to or legitimate interests in the disputed domain name, and if successful the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the disputed domain name. If the respondent fails to come forward with such evidence, a complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also *The American Automobile Association, Inc. v. aaaaautoinsurance.com Privacy--Protect.org, aaa-netaccess.com Privacy--Protect.org, aaanetacceess.com Privacy--Protect.org, Isaac Goldstein*, WIPO Case No. [D2011-2069](#).

Paragraph 6(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 6(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or legitimate interests.

The first example, under paragraph 6(c)(i) of the Policy, is where "before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services".

Here, the Annexes to the Complaint show that the disputed domain name resolves to a website configured by Respondent to falsely appear to be a website for, or associated with, Complainant – by prominently displaying the SIX SENSES Logo and advertising “Six Senses Residences Dubai Marina” – “a 125-storey residential building under development in Dubai Marina, Dubai” as well as a copyright legend using Complainant’s SIX SENSES Mark. Complainant contends such configuration and content was created by Respondent to lead consumers to reasonably believe Respondent’s website originates with or is affiliated with Complainant.

Prior UDRP panels have held that the use of disputed domain names to confuse and attract Internet users through misuse of a well-known trademark, and the provision of content which promotes goods and services impersonating and competitive to Complainant cannot be considered use in connection with a bona fide offering of goods or services under Paragraph 6(c)(i). See *The Clorox Company v. WhoisGuard Protected, WhoisGuard, Inc. / Enos Villanueva, Melissa Rosenberg, Yang Ming*, WIPO Case No. [D2021-0603](#); *Arla Foods a/s v. Jucco Holdings*, WIPO Case No. [D2006-0409](#).

Prior UDRP panels have also held that the use of a domain name for illegal activity involving impersonation and fraud (e.g., phishing, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1. See also, *Springer Nature Limited v. Registration Private, Domains By Proxy, LLC / Collections Springer Nature*, WIPO Case No. [D2020-0955](#).

Applying the foregoing decisions to these facts this Panel finds the disputed domain name is not being used in connection with a bona fide offering of goods or services sufficient to demonstrate Respondent has any rights or legitimate interests in the disputed domain name under the factors specified by paragraph 6(c)(i) of the Policy.

The second example, under paragraph 6(c)(ii) of the Policy, is a scenario in which a respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way to Complainant, does not carry out any activity for, nor has any commercial relationship with Respondent. Neither has Complainant granted any license or authorization to Respondent to make any use of Complainant’s SIX SENSES Mark or to apply for registration of the disputed domain name. Complainant has never authorized Respondent to use the SIX SENSES Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Six Continents Hotels, Inc. v. Patrick Ory*, WIPO Case No. [D2003-0098](#); *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#).

Complainant also shows that Respondent is not commonly known by the disputed domain name because the registrant/registrant organization listed in the Whois record submitted with the Complaint displayed and the Registrar confirmed the registrant/registrant organization in its verification process, “Suhail Khazaal / E D L Digital Marketing Management LLC”, of the United States, as Respondent. Neither name bears any resemblance to the disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is commonly known by the disputed domain name, that he is licensed or otherwise authorized to use Complainant’s trademark, or that he has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is of no help to Respondent and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See *Chicago Pneumatic Tool Company LLC v. Texas International Property Associates- NA NA*, WIPO Case No. [D2008-0144](#); see also *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

Finally, under this element, Complainant contends that Respondent cannot establish rights or legitimate interests under paragraph 6(c)(iii) of the Policy because Respondent has configured its website to enable Respondent to falsely hold itself out as Complainant or Complainant’s affiliate for purposes of Respondent’s commercial gain. Prior UDRP panels have held that a respondent’s use of a disputed domain name in connection with a website that creates a misleading impression of association with the Complainant for the Respondent’s commercial gain does not give rise to any rights or legitimate interests in the disputed domain

name. See, e.g., *BHP Billiton Innovation Pty Ltd v. Zong Wang*, WIPO Case No. [D2017-0537](#); *Six Continents Hotels v. "m on"*, WIPO Case No. [D2012-2525](#).

In light of the above, and with no Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain name. Complainant has successfully met its burden under paragraph 6(a)(ii) of the Policy.

C. Registered or is Being Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered or used in bad faith under paragraph 6(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 6(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under paragraph 6(a)(iii) of the Policy and may make a finding of bad faith that is not limited to the enumerated factors in Policy paragraph 6(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends that given its extensive worldwide portfolio of at least 429 registrations in at least 100 countries or geographic regions for the SIX SENSES Mark, the oldest of which was registered in 2004, and the global reach of its hotel and reservations booking services at hotels worldwide, "it is obvious that the SIX SENSES Mark is famous or widely-known" and, therefore, the mere registration of the disputed domain name creates a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Complainant further contends that given the disputed domain name incorporates the SIX SENSES Mark in its entirety, this shows Respondent's actual knowledge of the SIX SENSES Mark based on its worldwide recognition, and use by Complainant for almost 20 years before Respondent registered the disputed domain name. Prior UDRP panels have found that where, as here, it would be implausible to believe that a respondent selected and was using the disputed domain name for any other purpose than to trade on a complainant's trademark rights and reputation, establishes a fact pattern that repeatedly has been held to constitute bad faith registration and use. See *Six Continents Hotels v. Lin hongyu, Cheng Qi Lin*, WIPO Case No. [D2017-2033](#); see also *Houghton Mifflin Co. v. THE Weathermen, Inc.*, WIPO Case No. [D2001-0211](#).

Finally, as noted in Section 6.B above, Respondent has intentionally configured the disputed domain name to enhance confusion and point to association with Complainant and its SIX SENSES Mark by adding the SIX SENSES Logo and a copyright legend using the SIX SENSES Mark and using the disputed domain name to direct consumers to Respondent's copycat website providing online hotel accommodations and reservations booking services purportedly in competition with Complainant's services. The Panel finds that these facts demonstrate a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with Complainant's SIX SENSES Mark as to the source, sponsorship, affiliation or endorsement of Respondent's website, and, therefore, evidence of registration and use of the disputed domain name in bad faith under paragraph 6(b)(iv) of the Policy. See, e.g., *Arla Foods amba v. Jucco Holdings*, WIPO Case No. [D2006-0409](#); *Microsoft Corporation v. Gioacchino Zerbo*, WIPO Case No. [D2005-0644](#); *Travelscape, LLC v. WhoisGuard Protected, WhoisGuard, Inc. / Irwin Periola*, WIPO Case No. [D2020-2741](#).

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied paragraph 6(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <sixsensesmarina.ae> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Panelist

Date: August 22, 2024