

ADMINISTRATIVE PANEL DECISION

Trivago N.V. v. don julio
Case No. DCO2022-0104

1. The Parties

The Complainant is Trivago N.V., Germany, internally represented.

The Respondent is don julio, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <trivaigo.co> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 23, 2022. On November 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 30, 2022, 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 December 2, 2022.

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 December 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on January 10, 2023. 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 is the registered owner of trademarks in several jurisdictions for the term “trivago”, e.g. International trademark registration No. 910828 TRIVAGO (word), registered on August 18, 2006 for services in classes 35, 38, 39 and 42, designating several countries worldwide, amongst others United States, where the Respondent is located.

The disputed domain name was registered on November 10, 2022. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page displaying Pay-Per-Click (“PPC”) links. The disputed domain name is currently inactive.

5. Parties’ Contentions

A. Complainant

It results from the Complainant’s allegations that it maintains a worldwide hotel comparison website (*i.e.* hotel price comparison and booking service), which operates in over 50 markets and is available in over thirty languages and has been operating since 2006. The Complainant is publicly listed on the NASDAQ. According to the Complainant, it conducts worldwide advertising campaigns using various marketing channels such as TV, out-of-home advertising, radio, search engine marketing, display and affiliate marketing, email marketing, online video, app marketing and content marketing and spends considerable amounts of money on this.

Furthermore, the Complainant uses the domain name <trivago.com>, in order to promote its services.

The Complainant contends that its trademark TRIVAGO is well-known worldwide.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant’s earlier trademark, since the dominant features of the Complainant’s trademark (*i.e.* its three syllable structure, identical first and last syllable and almost identical second syllable) is clearly recognizable in the disputed domain name. The first and third syllables of the disputed domain name are identical to the Complainant’s trademark. The Respondent has added an “i” to the Complainant’s trademark so that the second syllable “va” of the Complainant’s trademark is “vai” in the disputed domain name. In any other respect, both terms are identical.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it is in no way affiliated with the Respondent, and has not licensed or permitted the Respondent to use its trademarks in any fashion. In addition, no trademark registration for the mark ‘trivaigo’ in favor of the Respondent can be retrieved from the WIPO trademark database. Finally, there is no evidence the Respondent is making a *bona fide* or legitimate non-commercial or fair use of the disputed domain name. The disputed domain name is used as a mere parking page providing no real content for Internet users. It leads to sponsored links, which leads to the reasonable assumption that the Respondent earns PPC revenue in relation to such sponsored links.

Finally, the Complainant contends that the disputed domain name was registered and was being used in bad faith. According to the Complainant, since it maintains a well-known worldwide hotel comparison website, there is no credible explanation for the Respondent’s choice of the disputed domain name. It is not possible to conceive a plausible situation where the Respondent was unaware of the Complainant’s business or trademarks when the Respondent registered the disputed domain name and there is no plausible circumstance where the Respondent can use the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of various trademark registrations for TRIVAGO. Reference is made in particular to *e.g.* International trademark registration No. 910828 TRIVAGO (word), registered on August 18, 2006 for services in classes 35, 38, 39 and 42, designating several countries worldwide, amongst others United States, where the Respondent is located.

It is the view of this Panel that the addition of the vowel “i” between the letters “a” and “g” in the disputed domain name results to be a common, obvious, or intentional misspelling of the Complainant’s trademark, and cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark since the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.9).

Finally, the country code Top-Level Domain “.co” of the disputed domain name is generally disregarded under the first element confusing similarity test (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must further establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark TRIVAGO or the registration of the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might have been commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name consists of a common, obvious, or intentional misspelling of the Complainant's registered trademark TRIVAGO, so that this Panel finds it most likely that employing a misspelling in this way signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant (see *e.g. Holding Le Duff "HLD" v. Chris saber*, WIPO Case No. [D2022-4167](#)).

Furthermore, it results from the undisputed evidence before the Panel that the disputed domain name resolves to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users (*i.e.*, a parking page displaying PPC links). Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent *bona fide* offering of goods or services, where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#) at section 2.9, with further references). This Panel shares this view. Therefore, such use can neither be considered as *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It is acknowledged that once the panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must, lastly, establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in its paragraph 4(b) may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy). It is the view of this Panel that these circumstances are met in the case at hand. The Complainant's trademarks have existed for many years. Therefore, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's trademarks when the Respondent registered the disputed domain name. Registration of the disputed domain name by the Respondent in awareness of the TRIVAGO mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith.

The disputed domain name does not currently resolve to an active website. In this regard, the Panel notes that the passive holding does not preclude a finding of bad faith (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). However, the Complainant also proved that the disputed domain name resolved to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users, so that the Panel is satisfied that the disputed domain name, consisting of a common, obvious, or intentional misspelling

of the Complainant's registered trademark TRIVAGO is being used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's 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 the Respondent's website or location, or of a product or service on the Respondent's website or location.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

(1) the disputed domain name consists of a misspelling of the Complainant's trademark (*i.e.* typosquatting); (2) the Respondent failed to submit a response or to provide any evidence of actual or contemplated good faith use; (3) the Respondent concealing its identity through the use of a privacy service; (4) the implausibility of any good faith use to which the disputed domain name may be put.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) 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 <trivaigo.co> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: January 25, 2023