

ADMINISTRATIVE PANEL DECISION

Contiki Tours International Limited v. bin mustafa mohd aliff
Case No. D2023-4153

1. The Parties

The Complainant is Contiki Tours International Limited, United Kingdom (“UK”), represented by Stevens Hewlett & Perkins, United States of America (“United States”).

The Respondent is bin mustafa mohd aliff, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <contiki.world> 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 October 5, 2023. On October 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 5, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 12, 2023, 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 16, 2023.

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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on November 14, 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's business was first established in the UK on March 23, 1981 under the original name "Legibus One Hundred and Twenty-Two Limited" and was subsequently changed to "Contiki Services Limited" in the same year and remains the name of the Complainant's parent company to this day. The Complainant offers tours, holidays and travel services in numerous countries aimed specifically at the 18 - 35 year old demographic under the CONTIKI brand. It owns numerous trade mark registrations for its CONTIKI trade mark including UK word mark registration UK00002007887 registered on January 5, 1996 and Singaporean trade mark registration T0205054I registered on May 21, 2003. It also owns the domain name registration <contiki.com> registered on November 16, 1995, from which it has operated its main website since 1996.

The disputed domain name was registered on May 25, 2023, and resolves to a website which prominently features the CONTIKI trade mark and appears to be advertising a range of travel services worldwide. However, before Internet users can move further into the website there is a log-in screen which requires that they enter their login details for the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant submits that it owns registered trade marks for its CONTIKI trade mark as set out above and that the disputed domain name wholly contains its trade mark and is identical to it, noting that the Top Level Domain ("TLD") element does not alter the assessment of identity.

The Complainant submits that the Respondent is not known by the disputed domain name and does not have any affiliation, association or business relationship of any kind with the Complainant. Moreover, says the Complainant, the Respondent is not licensed or in any way authorised by the Complainant to use the CONTIKI trade mark. Indeed, says the Complainant, the Respondent's true identity details reveal no business (genuine or otherwise) and there is suspicion as to whether the details provided by the Respondent when registering the disputed domain name are factually correct. For example, the Complainant notes that the Respondent has submitted a physical postal address located in Malaysia, but the telephone number quoted provides the national telephone code (66) for Thailand.

It is immediately obvious, according to the Complainant, that the Respondent is using the disputed domain name in order to attract the attention of the public to travel services and in particular to attract those members of the public that are familiar with the Complainant's CONTIKI business. It says that it is evident when entering the disputed domain name into an Internet browser that this website has been designed to mimic the Complainant's website and deliberately convey the impression that it is an "official" CONTIKI website and that it originates from the Complainant. The Complainant notes that it has had no previous contact whatsoever with the Respondent and that there is no affiliation or authorised agreement between the parties.

The Complainant asserts that it is beyond doubt that the Respondent has replicated the Complainant's CONTIKI trade mark and is using it in the exactly the same manner as the Complainant under the pretence of offering the same travel-related services. It says that the Respondent has no rights whatsoever in the CONTIKI trade mark and that the Respondent has created a "spoof" website that mimics entirely the Complainant's website and that the sole intention of the Respondent is to deceive the Complainant's customers into revealing their authorised login credentials (the same that would be used at the Complainant's website). The Complainant asserts that this information is then used by the Respondent to

defraud those customers it has duped into exposing their login details and the only conclusion that can be drawn is that the Respondent's interests in the CONTIKI mark are entirely illegitimate.

The existence of the Respondent's website was, according to the Complainant, first brought to its attention by a customer who was deceived into logging into the Respondent's "Contiki" portal at the disputed domain name on the misapprehension she was doing so at the Complainant's website. By acting in this way the Complainant says that she revealed her login credentials to the Respondent and following this inadvertent login it became evident that the Respondent (or another party connected to the Respondent) later accessed the Complainant's website using the customer's credentials and was able to gain entry to her stored payment card details. The Complainant notes that this resulted in an unauthorised transfer in excess of USD 4000 from the customer's account which, based on the emails from the customer submitted in evidence, she has been unable to recover.

The Complainant says that it is abundantly clear that the nature of the Respondent's enterprise was to obtain a domain name to which it has no legitimate right and to use the disputed domain name in order to masquerade as the Complainant's business by creating a replica of the Complainant's website and to elicit the login details belonging to the Complainant's genuine customers by placing a login screen as the doorway to the site entry, thereby forcing the Complainant's customers into entering their login details at the earliest opportunity on arriving at the Respondent's website.

This, says the Complainant, is a deliberate and malicious act undertaken in order to obtain the login credentials of customers. It says that the Respondent's actions are criminal actions in that the Complainant's customers are deliberately targeted in order to bypass the layer of security in place and gain direct access to their financial details securely stored at the Complainant's server. According to the Complainant, not only does this harm the customers financially and emotionally, there is a real danger of harm to the Complainant's business and to its reputation in the event that consumer confidence is eroded as a consequence of the Respondent's actions. This conduct, says the Complainant, amounts to registration and use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns numerous trade mark registrations for its CONTIKI trade mark including UK word mark registration UK00002007887 registered on January 5, 1996 and Singaporean trade mark registration T0205054I registered on May 21, 2003. The disputed domain name wholly incorporates its CONTIKI trade mark and is therefore identical to it. Accordingly, the Panel finds that the Complaint succeeds under the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that the Respondent is not known by the disputed domain name and does not have any affiliation, association or business relationship of any kind with the Complainant. It has also asserted that the Respondent is not licensed or in any way authorised by the Complainant to use the CONTIKI trade mark. The Complainant has also asserted that the Respondent's true identity details reveal no business (genuine or otherwise) and there is suspicion as to whether the details provided by the Respondent when registering the contested domain are factually correct in that the Respondent has submitted a physical postal address located in Malaysia, but the telephone number quoted provides the national telephone code (66) for Thailand.

It is apparent that the Respondent is using the disputed domain name in order to attract Internet users that are familiar with the Complainant's CONTIKI business by masquerading on the website at the disputed domain name as if it is the Complainant. This includes by making an unauthorised use of the Complainant's mark on the website and by advertising travel related services in conjunction with it. By confusing customers as to the ownership or affiliation of the website such that they enter their login details for the Complainant's CONTIKI website so as to obtain any funds in their accounts (as is demonstrated by the customer email evidence on the record and which is unchallenged by the Respondent), the Respondent is defrauding Internet users. This conduct is obviously in bad faith and is not consistent with the Respondent having any rights or legitimate interests in the disputed domain name. As a result the Complaint also succeeds under the second element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered in May 2023, many years after the registration and initial use of the Complainant's CONTIKI trade mark. The CONTIKI mark has been substantially used by the Complainant in a number of countries and enjoys a reputation in relation to the various travel services provided under it. This mark features prominently on the website at the disputed domain name and therefore it is more likely than not that the Respondent was well aware of the Complainant's business and mark at the date of registration of the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

Internet users seeing the disputed domain name would naturally assume that it would lead them to a business run by, or connected with, the Complainant in relation to its travel services. On arriving at the website to which the disputed domain name resolves they see the CONTIKI mark featured prominently in the same font as on the Complainant's website together with apparent advertisements for tours in various countries. In these circumstances it is hardly surprising that at least one customer thought it was a *bona fide* site and was confused into entering her log in details for the Complainant's website and unfortunately was defrauded of the funds in her account with the Complainant. The Panel finds that this amounts to confusing Internet users as to the source, sponsorship, affiliation or endorsement of the website in terms of paragraph 4(b)(iv) of the Policy which is evidence of registration and use in bad faith.

The Respondent's use of the disputed domain name for this purpose is plainly fraudulent conduct of the type that the Policy was intended by its framers to remedy. The likelihood that the Respondent has given false contact details, as submitted by the Complainant and the Respondent's use of a privacy service to mask its identity, only reinforces the Panel's view of the Respondent's bad faith.

Accordingly, the Panel finds that the disputed domain name has been registered and used in bad faith and that the Complaint also succeeds under this 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 <contiki.world> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: November 27, 2023