

## ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. bai sheng

Case No. D2023-5218

### 1. The Parties

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is bai sheng, Malaysia.

### 2. The Domain Name and Registrar

The disputed domain name <skyscanneruser.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2023. On December 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 18, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 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 amendment to the Complaint on December 20, 2023.

The Center verified that the Complaint together with the amendment to 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 January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 29, 2024.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on February 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 is the proprietor of several trademark registrations granted worldwide containing the term “skyscanner”. Inter alia, the Complainant owns the following rights over the trademark SKYSCANNER:

- International Registration No. 900393 for SKYSCANNER (registered on March 3, 2006), covering, “advertising services provided via the Internet, opinion polling, data processing, provision of business information, business information services, namely data feeds, auctioneering; all relating to travel” in Class 35, “providing access to a search engine relating to travel” in Class 38 and “travel information and arrangement services provided from an Internet website; providing information via means of a global computer network in relation to travel; travel information provided online from a computer database; travel information accessible via a mobile phone utilizing wireless application protocol technology” in Class 39; and
- International Registration No. 1030086 for SKYSCANNER (registered on December 1, 2009), covering “advertising services provided via the Internet, opinion polling, data processing, provision of business information, data feeds, auctioneering, all relating to travel” in Class 35, “travel information and arrangement services provided from an Internet website providing information via means of a global computer network; travel information provided online from a computer database; travel information accessible via a mobile phone utilizing wireless application protocol technology” in Class 39 and “operating of a search engine relating to travel” in Class 42, designating multiple jurisdictions including Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Belarus, European Union, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Turkey, and the Ukraine.

In addition, the Complainant also owns other registered marks, such as:

- International Registration No. 1133058 for SKYSCANNER (Cloud device), registered on August 16, 2012;
- Indian Application No. 1890840 for SKYSCANNER, registered on December 2, 2009;
- Indian Application No. 2287020 for SKYSCANNER (Cloud Device), registered on February 22, 2012;
- United Kingdom Registration No. 2313916 for SKYSCANNER, registered on April 30, 2004;
- Canadian Registration No. TMA786689 for SKYSCANNER, registered on January 10, 2011; and
- New Zealand Registration No. 816550 for SKYSCANNER, registered on October 7, 2010.

Proof of all these rights were attached in Annex 2 to the Complaint.

The Complainant also operates the “www.skyscanner.net” website which is said to attract tens of millions visits per month, and its SKYSCANNER smart device app has been downloaded 70 million times. Screenshots of the Complainant’s website and the Internet traffic and engagement website SimilarWeb confirming these facts were attached at Annex 3 of the Complaint.

The disputed domain name was registered on November 25, 2023, and is currently inactive, but has been used in connection with a webpage offering consumers to book flights and receive commission.

#### 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.

Notably, the Complainant states that the disputed domain name is confusingly similar to the trademark - in fact, the disputed domain name includes the trademark in its entirety, followed by the term “user”, which has

no effect whatsoever in distancing the disputed domain name from the registered trademark - and can be related to the consumers of the Complainant's current services.

The Respondent has no rights nor legitimate interests in the disputed domain name, whereas the Respondent has not acquired any trademark rights with respect to the disputed domain name. As stated by the documents presented, the registration and use of the trademark SKYSCANNER predates the registration of the disputed domain name in more than a decade.

Moreover, the Respondent is not commonly known by the disputed domain name. The Respondent has also not secured a license nor any other authorization from the Complainant to use the Trademark.

Lastly, the disputed domain name currently does not direct to an active website, but it has been used in connection with a scam offering air tickets in exchange of commission. In addition, the disputed domain name appeared in an advertisement of a fake job offer. This advertisement was shared through Telegram to unsuspecting Internet users.

In sum, the Complainant alleges that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- 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 to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The disputed domain name is confusingly similar to the SKYSCANNER trademark, as the latter is entirely incorporated in the disputed domain name, with the mere addition of the term "user".

The Complainant has presented consistent evidence of ownership of the trademark SKYSCANNER in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark.

The use of the trademark with the addition of the term "user" in the disputed domain name does not prevent a finding of confusing similarity with the trademark.

The trademark is clearly recognizable in the disputed domain name and as set out in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, the addition of other terms would not prevent a finding that a disputed domain name is confusingly similar to the relevant mark for purposes of the first element.

Lastly, the Panel notes that, in accordance with section 1.11.1 of the [WIPO Overview 3.0](#), the generic Top-Level Domain ("gTLD"), in this case ".com", is in principle disregarded under the first element.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

## **B. Rights or Legitimate Interests**

The Panel notes that the trademark SKYSCANNER is widely known as identifying the Complainant's activities, and that the Complainant did not license this to the Respondent.

Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

The Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such prima facie case.

The disputed domain name reproduces the Complainant's mark SKYSCANNER in its entirety, with the addition of the term "user", which carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

In addition, the disputed domain name has been used to resolve to a website impersonating the Complainant, without any consent or approval or statement clarifying such, and were used in connection with fraudulent activities directed towards the Complainant's clients.

Previous UDRP panels have established that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel, thus, finds for the Complainant under the second element of the Policy.

## **C. Registered and Used in Bad Faith**

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant's mark.

The composition of the disputed domain name points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that, it is more likely than not, that the disputed domain name has been registered to take unfair advantage due to its value as a trademark owned by the Complainant.

According to the evidence provided in Annexes 4 to 6 to Complaint, and unrefuted by the Respondent, prior to the present proceeding, the disputed domain name was used in connection with a website promoting air ticket services. In addition, the disputed domain name appeared in an advertisement of a fake job offer. This advertisement was shared through Telegram to unsuspecting Internet users.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name 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" is evidence of registration and use in bad faith.

Here, the Panel notes the distinctive and well-known nature of the Complainant's trademark SKYSCANNER, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put, support a finding of bad faith.

In the totality of the circumstances, the Panel finds the Respondent has registered and is using the disputed domain name in bad faith.

## **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 <skyscanneruser.com> be transferred to the Complainant.

*/Alvaro Loureiro Oliveira/*

**Alvaro Loureiro Oliveira**

Sole Panelist

Date: February 20, 2024