

## **ADMINISTRATIVE PANEL DECISION**

Trivago N.V. v. vic alderman  
Case No. D2023-5232

### **1. The Parties**

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

The Respondent is vic alderman, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <trivago.eu.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 15, 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 15, 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 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 amended Complaint on December 21, 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 January 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on February 5, 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 a public company incorporated under the laws of Netherlands (Kingdom of the) with its principal place of business in Düsseldorf, Germany. The Complainant maintains a well-known worldwide hotel comparison website where named hotel price comparison and booking services could be found.

The Complainant is the owner of numerous earlier registered TRIVAGO trademarks in various jurisdictions, including TRIVAGO word trademark registered in United Kingdom, on February 7, 2014, under the registration number UK00912129565 for goods and services in classes 35, 38, 39, 42 and 43 ("TRIVAGO trademark").

The Complainant is the registrant of a several domain names incorporating the Complainant's TRIVAGO trademark, like <trivago.com> registered on February 18, 2004.

The disputed domain name was registered on December 5, 2023, and it resolves to an inactive webpage, containing only the message "The content of the page cannot be displayed".

#### 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 contends that:

(i) It operates on the market under the brand TRIVAGO since 2006, starting in Germany and building a worldwide operating platform through the years. The Complainant operates in 190 countries with 53 domain names worldwide. The Complainant is publicly listed on the NASDAQ, pioneered hotel metasearch and has a global TRIVAGO trademark portfolio that includes trademark registrations through Europe, United States of America, Australia, the Middle East, Africa and Asia. The Complainant conducts worldwide advertising campaigns using various marketing channels such as TV, radio, search engine marketing, online video etc., on which the Complainant spends considerable amounts of money (i.e., in 2018 EUR 732.5 million).

(ii) TRIVAGO trademark appears in its entirety in the disputed domain name. The disputed domain name differs from TRIVAGO trademark only by the addition of "eu", merely indicating a geographical specification. Term "trivago" has no dictionary meaning, and the oldest Complainant's TRIVAGO trademark has been registered and in use for 18 years. The disputed domain name is to be considered to be identical to the Complainant's TRIVAGO trademark.

(iii) the Complainant is in no way affiliated with the Respondent, and has not licensed or permitted the Respondent to use its TRIVAGO trademark in any fashion. No trademark registration for "trivago" in favor of the Respondent can be retrieved from the trademark databases. The Respondent is not making a bona fide or legitimate non-commercial or fair use of the disputed domain name. The Respondent has no rights or legitimate interests in respect of the disputed domain name.

(iv) there is neither a bona fide offering of goods and services, nor any commonly known association between the Respondent and the disputed domain name, or a legitimate or fair use of the disputed domain name. The disputed domain name is not properly used at all, and so far, there is no actual content visible on the contested website, only the message "The content of the page cannot be displayed". The Complainant believes that the disputed domain name is being used for some kind of phishing scheme or fraud, which constitutes registration and use in bad faith. Based on the popularity of the Complainant's TRIVAGO trademark, it is highly unlikely that the Respondent was not aware of it. There is no credible explanation for the Respondent's choice of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules, and other applicable legal authority pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

- (i) the disputed domain name is confusingly similar to a trademark in which the Complainant has rights;
- (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.

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Complainant is the holder of a number of TRIVAGO trademarks registered before the competent authorities worldwide.

The Panel finds the entirety of the trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here "eu" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ".com" is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Respondent is not authorized by the Complainant to use TRIVAGO trademark, and there is no indication that the Respondent is commonly known under the disputed domain name. There is no apparent relation from the record between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its TRIVAGO trademark, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complaint, and accordingly failed to rebut the Complainant's showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The nature of the disputed domain name, comprising the Complainant's trademark and an additional related term "eu", indicates an awareness of the Complainant and its TRIVAGO trademark and creates a risk of implied affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests in this case. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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 disputed domain name resolves to an inactive webpage, containing only the message "The content of the page cannot be displayed."

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's TRIVAGO trademark, and the composition of the disputed domain name (addition of term "eu" to the Complainant's TRIVAGO trademark) and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on evidence provided by the Complainant this Panel concludes that the Complainant's TRIVAGO trademarks are distinctive, well-known and that it is highly unlikely that the Respondent was unaware of the Complainant and its trademarks when he registered the disputed domain name.

Incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)). Moreover, in earlier UDPR decisions panels have found that the respondents who fail to search and/or screen registrations against available databases would be responsible for any resulting abusive registrations under the concept of wilful blindness. [WIPO Overview 3.0](#)., section 3.2.3.

In this Panel's view, by registering the disputed domain name that contains the Complainant's TRIVAGO trademark, the Respondent is attempting to take advantage of the Complainant's reputation, and well-known trademarks, and concludes that the disputed domain name has been registered and is being used in bad faith.

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 <trivagoeu.com> be transferred to the Complainant.

/Mladen Vukmir/

**Mladen Vukmir**

Sole Panelist

Date: February 19, 2024