

ADMINISTRATIVE PANEL DECISION

InterContinental Hotels Group PLC, Six Continents Limited v. Privacy Service provided by Withheld for Privacy ehf / Nicholas Jaar
Case No. D2022-1579

1. The Parties

The Complainant is InterContinental Hotels Group PLC, Six Continents Limited, United States of America, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America.

The Respondent is Privacy Service provided by Withheld for Privacy ehf, Iceland / Nicholas Jaar, United Kingdom.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 30, 2022. On May 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 3, 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 amendment to the Complaint on May 4, 2022.

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 May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 2, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on June 9, 2022. 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

InterContinental Hotels Group PLC and Six Continents Limited are joint complainants. The latter, owner of the SIX SENSES trade mark, is a wholly owned subsidiary of the former. They are jointly referred to as the “Complainant”. The Complainant forms part of the InterContinental Hotels Group, one of the world’s largest hotel groups. The Complainant, through various subsidiaries, operates Six Senses Hotels, Resorts & Spas, which, as at December 31, 2021, included 21 hotels and 1,412 guest rooms in the Americas, Europe, Middle East, Africa, Asia, and China.

The Complainant (or its affiliates) own many trade mark registrations for SIX SENSES around the world. Most relevant to this matter is United Kingdom (the Respondent’s country) registration No. UK00902812113 SIX SENSES in classes 5, 16, 20, 21, 25, 35, 39, 41, 43 and 44, which proceeded to registration on December 17, 2004.

The Domain Name was registered on April 21, 2022, and the Complainant’s evidence establishes that it a) has been used to send emails to guests or potential guests at the Complainant’s SIX SENSES hotels, fraudulently soliciting payments; and b) has resolved to a website displaying pay-per-click (“PPC”) advertisements relating to the Complainant’s services.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its SIX SENSES mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for email-based fraud impersonating the Complainant and for PPC advertisements which relate to the Complainant’s services.

B. Respondent

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

6. Discussion and Findings

A. Preliminary Issue - Consolidation - Multiple Complainants

Affiliate companies of trade mark owners, such as parents and subsidiaries, have standing to file complaints under the Policy (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.4.1). The Panel finds that the two parties jointly comprising the Complainant have a specific common grievance, and it would be equitable and procedurally efficient to allow consolidation in these circumstances ([WIPO Overview 3.0](#) at section 4.11).

B. Identical or Confusingly Similar

The Complainant’s registered mark is wholly contained within the Domain Name as its first element with only the addition of the term “hotels”. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#) at section 1.8). The

Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The Complainant's unrebutted evidence establishes that its SIX SENSES mark was registered and used extensively for nearly 18 years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

UDRP Panels have categorically held that the use of a domain name for illegal activity (*e.g.* impersonation or other types of fraud, as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9).

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent.

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

D. Registered and Used in Bad Faith

It is well accepted that use of a domain name to perpetuate fraud constitutes bad faith use ([WIPO Overview 3.0](#) at section 3.4). As for bad faith registration, the Complainant's evidence establishes that the Domain Name was used for email-based fraud targeting the Complainant as early as the day after the Domain Name was registered. This timing, combined with the composition of the Domain Name clearly referencing the Complainant's widely used mark makes it clear that the Respondent registered the Domain Name with the Complainant in mind.

The Domain Name has been used to advertise services relating to those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

The Panel draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3), and the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6).

The Complainant has satisfied 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 Domain Name, <sixsenseshotels.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: June 20, 2022