

## **ADMINISTRATIVE PANEL DECISION**

Homeaway.com Inc. v. Registration Private, DomainsByProxy.com /  
Hildegard Gruener  
Case No. D2022-2237

### **1. The Parties**

The Complainant is Homeaway.com Inc., United States of America (“United States”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondent is Registration Private, DomainsByProxy.com, United States / Hildegard Gruener, Austria.

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

The disputed domain names <find-homeaway.com>, <homeaway-com.com>, <homeaway-holiday-house-rental.com>, <homeaway-rental.com>, <homeaway-vacation.com>, <home-away-vrbo.com>, <homeaway-vrbo.com>, <myhomeaway.info>, <vrbo-com.com>, and <vrbo-vacation-rental.com> (the “Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2022. On June 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 22, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 23, 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 June 23, 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 June 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 21, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on July 27, 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

The Complainant is a global online marketplace for the vacation rental industry, with sites currently representing over two million online listings of vacation rental homes and apartments in over 190 countries. The Complainant started operating under the HOMEAWAY brand from its website at <homeaway.com> in approximately 2006. In 2020, the Complainant's primary brand changed to VRBO, its primary website changed to <vrbo.com> and the Complainant began redirecting <homeaway.com> to <vrbo.com>. VRBO has been used by the Complainant and its predecessors in title since approximately 1995. The Complainant's primary website at <vrbo.com> receives a monthly average of over eight million visits.

The Complainant owns trade mark registrations for its HOMEAWAY and VRBO marks in numerous territories. Most relevant for this matter, given the Respondent's location in the European Union, are European Union Trade Mark ("EUTM") registration no. 006609051 HOMEAWAY in classes 35, 38, and 43, which registered on November 11, 2008; and EUTM registration no. 015778848 VRBO in classes 9, 36 and 43, which registered on March 3, 2017.

The Domain Names were registered on the following dates:

Domain Name	Registration Date
<vrbo-com.com>	October 11, 2021
<vrbo-vacation-rental.com>	October 11, 2021
<homeaway-com.com>	June 14, 2019
<homeaway-vrbo.com>	January 6, 2022
<homeaway-vacation.com>	October 6, 2021
<find-homeaway.com>	March 17, 2022
<homeaway-holiday-house-rental.com>	August 10, 2020
<myhomeaway.info>	March 20, 2022
<homeaway-rental.com>	January 2, 2022
<home-away-vrbo.com>	January 6, 2022

At the time of the Complaint, the Domain Names all resolved to vacation rental websites entitled "VRBO" or "HOMEAWAY", featuring reproductions of the Complainant's VRBO and HOMEAWAY logos. At each website, users are confronted with pop-up windows that redirect the user to pay-per-click ("PPC") advertising websites containing advertisements that compete with the Complainant in the holiday rental space.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the Domain Names are confusingly similar to its VRBO and HOMEAWAY marks, that the Respondent has no rights or legitimate interests in the Domain Names, and the Domain Names were registered and have been used in bad faith given that their websites impersonate the

Complainant and are intended to drive traffic to a PPC website for the Respondent's commercial gain.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

Where the trade mark is recognisable in the domain name, the addition of other terms does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant's VRBO and/or HOMEAWAY marks are readily apparent in the Domain Names. The Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

The Complainant has adduced sufficient evidence to establish that its VRBO and HOMEAWAY marks were well-known long prior to registration of the Domain Names. The Domain Names are confusingly similar to the Complainant's marks and are unauthorised by the Complainant.

The Complainant has presented credible, uncontroverted evidence that the Domain Names have been used to pass off the websites to which they have resolved as being associated with or endorsed by the Complainant. UDRP panels have categorically held that use of a domain name for illegal activity (e.g., passing off) can never confer rights or legitimate interests ([WIPO Overview 3.0](#) at section 2.13.1).

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

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

The Panel accepts that the Domain Names were registered and have been used in bad faith in order to take unfair advantage of the Complainant's trade marks with a view to benefitting the Respondent commercially through confusion with the Complaint, falling squarely within the ambit of paragraph 4(b)(iv) of the Policy.

Firstly, the Respondent reproduced the Complainant's identical logos on its websites, clearly showing familiarity with the Complainant and an intention to create an association with it. Secondly, it is inconceivable that the Respondent could have registered domain names featuring two separate, very different, well-known marks belonging to the same complainant without being aware of that complainant. Thirdly, several Domain Names consist of words descriptive of the Complainant's business. Fourthly, the Respondent has been the unsuccessful respondent in numerous UDRP cases and is a serial cybersquatter.

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).

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 Names, <find-homeaway.com>, <homeaway-com.com>, <homeaway-holiday-house-rental.com>, <homeaway-rental.com>, <homeaway-vacation.com>, <home-away-vrbo.com>, <homeaway-vrbo.com>, <myhomeaway.info>, <vrbo-com.com>, and <vrbo-vacation-rental.com> be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: August 8, 2022