

ADMINISTRATIVE PANEL DECISION

Sandals Resorts International 2000 Inc. v. Registration Private, Domains By Proxy, LLC / Trevor Stephens
Case No. D2022-2265

1. The Parties

The Complainant is Sandals Resorts International 2000 Inc., Panama, represented by Dechert LLP, United Kingdom.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America ("US") / Trevor Stephens, US.

2. The Domain Name and Registrar

The disputed domain name <beacheshotels.com> (the "Domain Name") 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 June 22, 2022. On June 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 24, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 June 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 18, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 21, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant offers international resort holidays under the trademark BEACHES since 1997 when it opened its first holiday resort. It now operates Beaches Resorts in Providenciales (Turks & Caicos), Negril (Jamaica) and Ocho Rios (Jamaica). Beaches Resorts has been named the World's Leading Family All-Inclusive Resort brand at the World Travel Awards for many years.

The Complainant holds trademark registrations for BEACHES in different jurisdictions, such as the European Union Trade Mark registration number 9401357 registered on March 22, 2012, and the US trademark registration number 2951577 registered on May 17, 2005.

The Domain Name was registered on March 29, 2022. The Domain Name resolves to a parking page listing the Domain Name for sale.

5. Parties' Contentions

A. Complainant

The Complainant argues its trademark is famous and provides evidence of trademark registrations. The Complainant argues that the Domain Name is confusingly similar to the Complainant's trademark; the Domain Name consists of the Complainant's trademark and the word "hotels". The added word is a synonym for "resorts", and the Complainant's trademark is associated with the term "hotels" as it describes the services offered under the Complainant's trademark.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. The Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. Due to the reputation of the Complainant, it is reasonable to assume that the Respondent was aware of the Complainant and its rights at the time the Domain Name was registered. Such trade off the reputation of a trademark is not *bona fide*.

The Complainant submits that the Respondent chose the Domain Name because it is confusingly similar to the Complainant's trademark and domain name. The Respondent knew that use of the Domain Name would create an association with the Complainant and draw traffic to the Respondent's website. The Respondent registered the Domain Name approximately 25 years after the Complainant first started using its trademark. The Complainant has substantial goodwill and reputation in its trademark. Regardless of actual knowledge, the Respondent should have known of the Complainant's rights as a basic search of the words "beaches hotels" or "beaches resorts" would reveal this. Moreover, the Domain Name is offered for sale. The Respondent's registration of the Domain Name disrupts the Complainant's business. The fact that the Domain Name only redirects to a parking page listing the Domain Name for sale, does not prevent a bad faith finding, as the Complainant's trademark has a strong reputation, and the Respondent has not offered any explanation or evidence of any actual or contemplated good faith use. The Respondent's use of a privacy or proxy service to avoid the disclosure of its name and contact details is further indications of 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 has established that it has rights in the trademark BEACHES. The test for confusing similarity involves a side-by-side comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark in its entirety, with the addition of "hotels". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level-Domains ("gTLDs"), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

As stated in [WIPO Overview 3.0](#), section 2.1, "while 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. The Respondent's limited use, redirecting to a parking page listing the Domain Name for sale, is, as explained below, evidence of bad faith.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the fame of the Complainant's trademark and the composition of the Domain Name (wholly incorporating the Complainant's mark plus a term related to the Complainant's area of commercial activity), and above all the lack of explanation from the Respondent, the Panel finds it more likely than not that the Respondent was aware of the Complainant and its trademark when the Respondent registered the Domain Name.

The Domain Name has been offered for sale, and the Respondent has not offered any explanation or evidence of any actual or contemplated good faith use. The Respondent's use of a privacy or proxy service is, under the circumstances, further evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of 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 <beacheshotels.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: August 4, 2022