

ADMINISTRATIVE PANEL DECISION

Hyatt Corporation, Hyatt International Corporation v. kun ren
Case No. D2022-3040

1. The Parties

The Complainants are Hyatt Corporation and Hyatt International Corporation, United States of America (“United States”), represented by DLA Piper US LLP, United States.

The Respondent is kun ren, China.

2. The Domain Name and Registrar

The disputed domain name <hyattlostpines.com> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2022. On August 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 2022, 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 August 19, 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 August 19, 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 August 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 12, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on September 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 Complainants are Hyatt Corporation and Hyatt International Corporation, United States (hereinafter the "Complainant").

The Complainant is an international hotel management company, with its principal place of business in Chicago, Illinois, United States. It provides services for HYATT-branded properties, hotels and resorts worldwide. Its portfolio of authorized, franchised or licensed hotels now extends to more than 1,150 properties in 70 countries.

The Complainant has used the trademark HYATT for more than 60 years in connection with the provision of resort services and is the owner of many trademark registrations which comprise or include this term including, by way of example:

- United States: Trademark HYATT No. 0945384 registered on October 17, 1972,
- United Kingdom: Trademark HYATT, registration No. UK00001275657, registered on October 2, 1989,
- China: Trademark HYATT No. 27795093 registered on November 7, 2018.

The Complainant also owns domain name registrations comprising or including its HYATT mark, including <hyatt.com>, which resolves to a website providing information about its services.

The disputed domain name was registered on July 15, 2022. The disputed domain name resolves to a website with gambling advertisements and pornographic content.

5. Parties' Contentions

A. Complainants

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the HYATT trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

There is no indication that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain. Instead, the Respondent deliberately chose a domain name that fully incorporates the Complainant's HYATT trademark and the full name of the HYATT REGENCY LOST PINES-branded resort and spa name. Thus, it is beyond dispute that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

According to the Complainant, the presence of bad faith in this case is based on Hyatt's worldwide reputation, the ubiquitous presence of the HYATT trademarks, and the existence and notoriety of the HYATT REGENCY LOST PINES-branded resort.

Finally, the Complainant states that displaying and linking to pornographic content at a disputed domain creates disruption and harm to the interests of a complainant trademark holder. Visitors to the disputed domain name will mistakenly believe that the disputed domain name and its explicit pornographic content is associated or affiliated with the Complainant, which causes damage to the Complainant's trademarks and interests.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Under the Policy, in order to prevail, a complainant must prove the following three elements for obtaining the transfer of a domain name:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The Complainant holds several valid HYATT trademark registrations, which precede the registration of the disputed domain name.

The disputed domain name is confusingly similar to the Complainant's trademarks since it merely reproduces the HYATT trademarks with the addition of the terms "lost pines" which is identified with the HYATT REGENCY LOST PINES-branded resort located in Cedar Creek, Texas, United States.

The disputed domain name incorporates the Complainant's HYATT trademark in its entirety. As numerous UDRP panels have held, where at least a dominant feature of the relevant trademark is recognizable in the domain name, it is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark.

The Panel finds that the disputed domain name is confusingly to the Complainant's trademarks and thus the first element of the Policy has therefore been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name,

even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or its trademarks. The Complainant has prior rights in the trademarks which precede the Respondent's registration of the disputed domain name for several decades.

The Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use as it will be explained in the next section. The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to rebut the Complainant's *prima facie* case.

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the disputed domain name in bad faith has been considered by the Panel. These allegations have not been contested by the Respondent.

As indicated above, the Complainant's rights in the HYATT trademark predate the registration of the disputed domain name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the disputed domain name, as the Complainant's HYATT trademark is well known globally and unique to the Complainant. In addition, when registering the disputed domain name the Respondent added a reference to "lost pines" which is identified with the HYATT REGENCY LOST PINES-branded resort located in Cedar Creek, Texas, United States.

With respect to use, the disputed domain name is being used by the Respondent on a website featuring gambling advertisements and pornographic content, which demonstrates the Respondent is making commercial gain from the website by attracting Internet users by creating a likelihood of confusion with the Complainant's mark. See paragraph 4(b)(iv) of the Policy. Further, the pornographic materials on the website tarnish the HYATT trademark and this has been found by previous UDRP panels to constitute evidence of registration and use of a domain name in bad faith.

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 <hyattlostpines.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: October 11, 2022