

## ADMINISTRATIVE PANEL DECISION

Canva Pty Ltd v. Bangkit Sanjaya  
Case No. D2022-3272

### 1. The Parties

The Complainant is Canva Pty Ltd, Australia, represented by SafeNames Ltd., United Kingdom.

The Respondent is Bangkit Sanjaya, Indonesia.

### 2. The Domain Name and Registrar

The disputed domain name <indocanva.com> (the “Domain Name”) is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2022. On September 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 7 and 13, 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 September 14, 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 September 21, 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 September 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 18, 2022.

The Center appointed Olga Zalomiy as the sole panelist in this matter on October 25, 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 an online graphic design platform. The Complainant offers free and paid versions of its services from its main website, “www.canva.com”.

The Complainant holds several registered trademarks for the CANVA term, such as:

- United States of America Registration No. 4316655 for the word mark CANVA registered on April 9, 2013;
- Australian registration No. 1483138 for the word mark CANVA registered on March 29, 2012
- International registration No. 1204604 for the word mark CANVA registered on October 1, 2013.

The Respondent registered the Domain Name on December 1, 2021. The Domain Name points to a website in Indonesian that sells commercial template packages. The website, which has a look and feel similar to that of the Complainant’s website, displays an altered CANVA logo (reading “Indocanva”), in a font very similar to the font of the Complainant’s mark.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant claims that it is an online graphic design platform. The Complainant alleges that it owns trademark registrations for the well-known mark CANVA within numerous jurisdictions. The Complainant claims that the Domain Name is confusingly similar to its trademark because the CANVA trademark is recognizable within the Domain Name. The Complainant argues that because the Domain Name incorporates the CANVA trademark in its entirety, the addition of the term “indo,” which must have been selected for its connotation as a shortened version of “Indonesia,” is not sufficient to prevent a finding of confusing similarity. The Complainant requests that the generic Top-Level Domain (“gTLD”) “.com” in the Domain Name is disregarded under the confusing similarity test as a standard registration requirement.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the Domain Name for the following reasons: (i) the Respondent has not registered any trademarks for the term “canva” or “indocanva”; (ii) the Respondent has not received any license from the Complainant to use the CANVA trademark in the Domain Name; (iii) The Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services because the Respondent used the Domain Name to advertise the sale of commercial template packages in connection with the Complainant’s CANVA offerings; (iv) the Respondent is not known by the distinctive CANVA mark, nor by “indocanva”, or anything similar. The Complainant submits that the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain because the Respondent has used the CANVA-contained Domain Name to attract and misleadingly divert Internet users to its own advertisement and sale of commercial template packages that capitalize on the Complainant’s CANVA mark.

The Complainant contends that the Respondent both registered and is using the Domain Name in bad faith. The Complainant alleges that its earliest CANVA trademark predates the registration of the Domain Name by more than nine years. The Complainant argues that prior UDRP panels found its trademark well known, so the Respondent registered the Domain Name to create confusion and capitalize on the CANVA mark. The Complainant claims that it sent a cease and desist correspondence to the Respondent in February of 2022, but the Respondent did not reply to it. The Complainant claims that such failure to reply consists further evidence of bad faith. The Complainant asserts that the Respondent’s use of the Domain Name to capitalize on the Complainant’s CANVA offerings by, at the resolving site, adopting a similar look and feel to that of the

Complainant's website. The Complainant contends that the website under the Domain Name displays an altered CANVA logo (reading "Indocanva"), in a very similar font, and altered favicon adapted from that of the Complainant. The Complainant argues that the website under the Domain Name does not disclaim its lack of association with the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must prove that the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

The submitted evidence shows that the Complainant owns numerous trademark registrations for the CANVA trademark in Latin and Cyrillic characters. Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

The Domain Name consists of the Complainant's CANVA trademark, the term "indo", and the gTLD ".com". "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".<sup>1</sup> It is well-established that the applicable gTLD should be disregarded under the confusing similarity test as a standard registration requirement.<sup>2</sup>

In this case, because the Complainant's CANVA trademark is recognizable within the Domain Name, the inclusion of the term "indo" does not prevent a finding of confusing similarity between the Domain Name and the Complainant's trademark. The gTLD ".com" is disregarded from the assessment of confusing similarity. Therefore, the Domain Name is confusingly similar to the Complainant's CANVA trademark.

The Complainant has satisfied the first element of the UDRP.

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

To succeed under the second UDRP element, the Complainant must make out a *prima facie* case in respect of the lack of rights or legitimate interests of the Respondent.<sup>3</sup>

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under the UDRP, paragraph 4(c) include the following:

---

<sup>1</sup> Section 1.8, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

<sup>2</sup> Section 1.11.1, [WIPO Overview 3.0](#).

<sup>3</sup> Section 2.1, [WIPO Overview 3.0](#).

(i) before any notice of the dispute, the respondent's 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) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is 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.

The evidence on file shows that the Complainant has not licensed or permitted the Respondent to use the Complainant's CANVA trademark in domain names, or for any other purpose. There is no evidence that the Respondent has ever been commonly known by the Domain Name. There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the Domain Name because the Respondent has used the CANVA-contained Domain Name to attract and misleadingly divert Internet users to its own advertisement and sale of commercial template packages that capitalize on the Complainant's CANVA mark.

Nor is the Respondent using the Domain Name in connection with a *bona fide* offering of goods or services because the Respondent uses the Domain Name to point to a website with the similar look and feel to that of the Complainant's website that advertises the sale of commercial template packages in connection with the Complainant's CANVA offering.

The Panel finds that the Complainant has made out the *prima facie* case, and the burden of producing evidence demonstrating it has rights or legitimate interests in the Domain Name has shifted to the Respondent.<sup>4</sup> Since the Respondent failed to present any rebutting evidence, the Complainant is deemed to have satisfied the second element of the UDRP.

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

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location. See Policy, paragraph 4(b)(iv). Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: ... (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, ... (vi) absence of any conceivable good faith use." <sup>5</sup>

Based on the evidence submitted by the Complainant, the Panel concludes that the Respondent has registered and is using the Domain Name in bad faith.

It is more likely than not that the Respondent registered the Domain Name to trade on the goodwill of the Complainant's trademark because the website under the Domain Name has a look and feel similar to that of the Complainant's website and is being used in connection with the sale of commercial CANVA template packages. Therefore, the Respondent registered the Domain Name in bad faith.

---

<sup>4</sup> *Id.*

<sup>5</sup> Section 3.1.4, [WIPO Overview 3.0](#).

It is also likely that the Respondent, who has no rights or legitimate interests in the Domain Name, is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the Respondent's website or location, or of a product or service on the respondent's website or location because the Respondent is using the Domain Name to point to the website with the similar look and feel to that of the Complainant's website and that displays an altered CANVA logo (reading "Indocanva"), in a font very similar to the font of the Complainant's mark to divert Internet users to its own advertisement and sale of commercial template packages that capitalize on the Complainant's CANVA mark.

The Complainant has satisfied the third element of the UDRP.

## **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, <indocanva.com>, be transferred to the Complainant.

*/Olga Zalomiy/*

**Olga Zalomiy**

Sole Panelist

Date: November 8, 2022