

ADMINISTRATIVE PANEL DECISION

Hostelworld.com Limited v. Dwyte Maximin
Case No. D2022-3344

1. The Parties

The Complainant is Hostelworld.com Limited, Ireland, represented by Tomkins & Co., Ireland.

The Respondent is Dwyte Maximin, Saint Lucia.

2. The Domain Name and Registrar

The Disputed Domain Name <bostelworld.com> (“the Disputed 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 September 8, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 9, 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 (Privacy service provided by Withheld for Privacy ehf). The Center sent an email communication to the Complainant on September 12, 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 12, 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 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2022.

The Center appointed Jacques de Werra as the sole panelist in this matter on October 13, 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 leading provider of online reservations for the budget, independent, and youth travel market, which operates the site associated with the domain name <hostelworld.com>, which was launched in 1999. Initially focusing its business on independent and official youth hostels, the site now features campsites, self-catering accommodation, Bed & Breakfasts, and budget hotels and currently lists over 36,000 properties in more than 178 countries.

The Complainant is the owner of numerous trademarks incorporating the terms “hostelworld” or “hostelworld.com” including International Trade Mark Registration No. 899896 for HOSTELWORLD.COM that was registered on August 23, 2008, in Classes 39 and 43 and which designates Australia, European Union, the United Kingdom, and the United States of America; and, United States of America Registration No. 4305641 for HOSTELWORLD that was registered on March 19, 2012 (together “the Trademark”).

The Disputed Domain Name was registered on June 11, 2022. At the time the Complaint was filed, the Complaint asserts the Disputed Domain Name redirected to the Complainant’s official website.

5. Parties’ Contentions

A. Complainant

The Complainant first submits that the holding of the Trademark Registration *prima facie* satisfies the threshold requirement of having service mark rights for the purposes of standing to file a UDRP case. The Complainant further submits that the Disputed Domain Name is visually, phonetically, and conceptually confusingly similar to the Complainant’s Trademark in which it has established rights. A domain name which consists of a common, obvious, or intentional misspelling of a trade mark or service mark is considered to be confusingly similar to the relevant trade mark or service mark. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark.

In this case, the Disputed Domain Name differs from the Complainant’s Trademark only by one letter (HOSTELWORLD vs “bostelworld”), whereby the letters “h” and “b” are adjacent keyboard letters. The Complainant submits that the Disputed Domain Name contains an obvious and intentional misspelling of the Complainant’s Trademark and is a prime example of deliberate and opportunistic typosquatting. Internet users could easily mistype the Complainant’s HOSTELWORLD trade mark as “bostelworld”, thereby generating web traffic for the Respondent. Typosquatting domain names are, by their very nature, designed and calculated to confuse.

The Complainant submits that the Respondent has no rights or legitimate interests in the Disputed Domain Name. At the time of the filing of this Complaint, and pursuant to an investigation conducted by the Complainant’s legal representatives, there is no evidence suggesting that the Respondent has any rights in the Disputed Domain Name. The Respondent has not received authorisation from the Complainant to use the Complainant’s Trademark, the Respondent is not commonly known by the Disputed Domain Name, the Respondent is not affiliated with the Complainant in any way, and the Respondent does not hold any proprietary rights (registered or common law) in or to the marks “bostelworld” and “bostelworld.com” or any other similar sign, term, phrase or symbol.

The Respondent has registered the Disputed Domain Name with an obvious typographical error by replacing the adjacent keyboard letters “h” and “b” with one another. Internet users would commonly mistype “hostelworld” as “bostelworld”, thereby unduly generating website traffic for the Respondent.

At the time of the submission of the Complaint, the Disputed Domain Name resolves to the Complainant’s primary website at “www.hostelworld.com”. The Complainant has no knowledge of the registration of the Disputed Domain Name by any party within its organisation and it has not authorised the registration of the Disputed Domain Name by any party. Although the Disputed Domain Name resolves to the Complainant’s website, the Complainant currently has no direction or control over the use of the Disputed Domain Name.

The Complainant draws the Panel’s attention to a prior panel decision in *nVent Services GmbH v. Withheld for Privacy Purposes Privacy service provided by Withheld for Privacy ehf / Steven Curtis, Engineering Services nVent, and Steven Branton, Auto Sales*, WIPO Case No. [D2021-2392](#). In this decision, the disputed domain names redirected Internet users to the complainant’s website. The complainant alleged that the redirection of the disputed domain names to its website demonstrated fraudulent intent by the Respondent. The panel found in that case that the use made of the domain name by the respondent was illegitimate and could not be regarded as a *bona fide* offering of goods or services, or legitimate noncommercial or fair use. The Complainant respectfully submits that this panel decision has direct bearing on the present matter. The redirection of the Disputed Domain Name to the Complainant’s website without the Complainant’s authorization demonstrates the Respondent’s fraudulent intent. Such use of the Disputed Domain Name cannot be considered legitimate use and is not a *bona fide* offering of goods or services, or legitimate noncommercial or fair use.

The Complainant further submits on the basis of the business figures achieved since the launch of its activities in 1999 that the Trademark has obtained well-known status and that the mark HOSTELWORLD is an inherently distinctive sign that is unique to the Complainant which is an invented term with no ordinary meaning or common usage, and is therefore not a generic term that is reasonably required for use by the general public. In light of the highly distinctive character of the mark, there is no good faith reason for the Respondent to register the Disputed Domain Name which is confusingly similar to the Complainant’s Trademark.

In light of the internationally well-known and famous status of the Complainant’s Trademark, the Complainant submits that the Respondent undoubtedly knew about the Complainant’s Trademark and rights at the time of registering the Disputed Domain Name, and despite such knowledge, proceeded to register it. The Complainant submits that the registration of the Trademark effectively provided constructive notice to the Respondent of the Complainant’s prior rights at the time the Disputed Domain Name was created. Prior panel decisions have held that bad faith registrations can be found where the Respondent knew or should have known of the Complainant’s marks and nevertheless registered a domain name in which they had no rights or legitimate interests.

Given that the registration of the Disputed Domain Name constitutes typosquatting of the Complainant’s well-known HOSTELWORLD marks, the Complainant submits that not only did the Respondent know about the Complainant’s Trademark, the Respondent made a deliberate and opportunistic attempt to create a likelihood of confusion with the Complainant’s well-known Trademark. The Respondent’s actions at the time of registration of the Disputed Domain Name indicate undeniable bad faith on the part of the Respondent.

The Disputed Domain Name currently resolves to the Complainant’s website without the Complainant’s knowledge or authorisation. It was held in the prior Panel decision of *nVent Services GmbH v. Withheld for Privacy Purposes Privacy service provided by Withheld for Privacy ehf / Steven Curtis, Engineering Services nVent, and Steven Branton, Auto Sales*, WIPO Case No. [D2021-2392](#), that the redirection of the domain name to the Complainant’s website indicated that the Respondent has registered and was using the domain name in bad faith.

The Complainant currently has no control over the Disputed Domain Name, which is being used to direct Internet users to its website. While the motivation of the Respondent to direct the Disputed Domain Name to the Complainant's website is unclear, the Complainant respectfully submits that there is no good faith justification for an unauthorised third party to redirect a confusingly similar domain name to its website. The redirection of the Disputed Domain Name to the Complainant's website without authorisation from the Complainant, no matter what the motivation of the Respondent, is in and of itself certainly consistent with a finding that the domain name is being used in bad faith. Internet users may be deceived into believing that there is a material link between the Disputed Domain Name and the Complainant's website and associated services, when this is not the case. As such, the Complainant's Trademark is being prejudiced by the Respondent, which unfairly disrupts the business of the Complainant.

Furthermore, the Complainant submits that the concealing by the Respondent of its identity through the use of a privacy registration service is a further indication of registration and use of the Disputed Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the complainant must prove each of the following three elements in order to succeed in a UDRP proceeding. Thus, for the complainant to succeed, it must prove all of the three elements under the Policy:

- (i) the Respondent's Disputed 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 Disputed Domain Name; and
- (iii) the Respondent's Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant must establish that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Panel first notes that the Complainant is the owner of the Trademark. It also notes that the Trademark has reached a high degree of global distinctiveness and recognition, as evidenced by the documents filed by the Complainant, which has not been disputed by the Respondent.

A comparison between the Disputed Domain Name and the Trademark shows that the Disputed Domain Name is clearly confusingly similar to the Complainant's Trademark, the only difference consisting in the replacement of the initial letter "h" by the letter "b" in the Disputed Domain Name. The Panel notes in this respect that "[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.19. This is clearly the case here.

As a result, based on the rights of the Complainant in the Trademark and on the confusing similarity between the Trademark and the Disputed Domain Name, the Panel finds that the conditions of paragraph 4(a)(i) of the Policy are met.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights to or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although a complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, previous UDRP panels have consistently ruled that paragraph 4(c) of the Policy shifts the burden to the respondent to come forward with evidence of a right or legitimate interest in the domain name, once the complainant has made a *prima facie* showing. See *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

In this case, the Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks any rights or legitimate interests in the Dispute Domain Name. The Panel acknowledges that the Complainant never authorized, licensed or permitted the Respondent to use the Trademark in any manner and that the Respondent is not commonly known by the Disputed Domain Name.

The Complainant has drawn the Panel's attention to the panel decision rendered in the case *nVent Services GmbH v. Withheld for Privacy Purposes Privacy service provided by Withheld for Privacy ehf / Steven Curtis, Engineering Services nVent, and Steven Branton, Auto Sales*, WIPO Case No. [D2021-2392](#). In that case, the Respondent had redirected the website associated with the domain name to the complainant's website. The Complainant claims that the panel in that case had found find that the use made of that domain name by the respondent was illegitimate and could not be regarded as a *bona fide* offering of goods or services, or legitimate noncommercial or fair use. However, in that case, the domain name was also used in a fraudulent email scheme targeting the Complainant's customers. No fraudulent use has been established in the case that has to be decided here. In any event, the other elements demonstrated by the Complainant are sufficient to consider that the Complainant has established that the Respondent has no rights or legitimate interests in the Disputed Domain Name. For instance, the mere typosquatting nature of the Disputed Domain Name illustrates the Respondent's illicit attempt to target the Complainant and the inadvertent misspelling of the Trademark by unsuspecting Internet users.

The Panel is consequently satisfied that the Complainant has established that the second requirement of paragraph 4(a) of the Policy is met.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name;
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct;

(iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent intentionally is using the domain name in an attempt to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant is seeking to profit from and exploit the trademark of another. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

In this case, the Panel finds on the basis of the allegations of the Complainant (to which the Respondent has not reacted) that the Respondent registered and uses the Disputed Domain Name in bad faith for the following reasons:

The Panel first holds that the Respondent must be found to have registered the Disputed Domain Name in bad faith because the Trademark is distinctively identifying the Complainant and the Complainant's activities so that the choice of the Disputed Domain Name cannot be reasonably explained otherwise than as a reference to the Trademark, whereby the letters composing the Disputed Domain Name (which do not have any meaning in the word "bostelworld") cannot be reasonably explained otherwise than as a misspelled reference to the Trademark.

The Respondent's bad faith in the registration and use of the Disputed Domain Name is confirmed by the fact that the Disputed Domain Name constitutes an intentional misspelling of the Trademark and that the Disputed Domain Name is used to redirect to the Complainant's website. This leads the Panel to infer that the Respondent may have been willing to engage in fraudulent activities by creating a confusion with the official domain name and official activities of the Complainant, whereby the Respondent who has not participated in the proceedings has not given any plausible reason explaining this. See by analogy [WIPO Overview 3.0](#), section 3.4 (stating that "panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. [...] (In some such cases, the respondent may host a copycat version of the complainant's website.)"). Similarly, the Respondent's redirection of the Disputed Domain Name to the Complainant's website can itself serve as an indication of bad faith insofar as the Respondent retains control over the redirection thus creating a real or implied ongoing threat to the Complainant. [WIPO Overview 3.0](#), section 3.1.4.

On this basis, the Panel finds that the Respondent registered and uses the Disputed Domain Name in bad faith pursuant to paragraph 4(b) of the Policy, so that the conditions of paragraph 4(a)(iii) of the Policy are met.

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 <bostelworld.com> be transferred to the Complainant.

/Jacques de Werra/

Jacques de Werra

Sole Panelist

Date: November 7, 2022