

ADMINISTRATIVE PANEL DECISION

Six Continents Hotels, Inc. v. tran trong trung
Case No. D2022-3491

1. The Parties

The Complainant is Six Continents Hotels, Inc., United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is tran trong trung, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <diamondcrownplaza.com> (“Disputed Domain Name”) is registered with Nhan Hoa Software Company Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2022. On September 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 22, 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 for the Disputed Domain Name.

On September 22, 2022, the Center sent an email communication to the Parties in English and Vietnamese regarding the language of the proceeding. On September 23, 2022, the Complainant requested that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Vietnamese, and the proceedings commenced on October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. The Respondent did not submit a response within the due date. Accordingly, the Center notified the Respondent’s default on October 26, 2022.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on October 31, 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.

On October 31, 2022, the Respondent sent an email to the Center in English, saying that “I have authorized Nhan Hoa domain name management unit, return the domain name to you for less hassle and hassle, please work with them to get the domain name back, I agree to transfer the domain name to other companies”.

4. Factual Background

The Complainant belongs to a group of companies collectively known as IHG Hotels & Resorts (“IHG”), operating hotels in nearly 100 countries around the world. IHG owns numerous hotel brands, including Crowne Plaza Hotels & Resorts, and also manages the world’s largest hotel loyalty program, IHG Rewards Club. According to the Complainant, the CROWNE PLAZA trademark was registered at least since 1983 and today is used in connection with 402 hotels, with 110,317 hotel rooms, worldwide.

The Complainant (or its affiliates) owns 346 registrations in numerous countries or geographic regions worldwide for trademarks that consist of or contain the term CROWNE PLAZA for hotel services, including, but not limited to United States Registration No. 1297211, registered on September 18, 1984; Viet Nam Registration Nos. 40015388000 and 40187682000 dated February 13, 1995 and July 13, 2012, respectively.

The Complainant (via IHG) is the registrant of numerous domain names that contain the CROWNE PLAZA trademark, notably the domain name <crowneplaza.com>, which was registered on March 31, 1995, and is being in use in connection with its Crowne Plaza brand of hotels since then.

The Disputed Domain Name was registered by the Respondent on March 5, 2022. As of the date of this Decision, the Disputed Domain Name resolves to an inactive website. However, the Disputed Domain Name used to resolve to a website offering for sales of apartments in a tower named “Diamond Crown Hai Phong”.

As indicated in the Complaint, the Complainant’s attorneys sent to the Respondent a cease and desist letter with regard to the Disputed Domain Name on May 31, 2022, in which they requested the Respondent to stop using the Disputed Domain Name. However, on June 3, 2022, the Respondent sent a response, stating that it refused to comply with the Complainant’s request.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First, the Complainant submits that the Complainant is the owner of trademark registrations for CROWNE PLAZA in numerous jurisdictions, including in Viet Nam, where the Respondent resides. The Complainant also submits that many earlier UDRP decisions have found that the Complainant has strong rights in and to the trademark CROWNE PLAZA.

Second, the Complainant argues that the addition of the generic Top-Level Domain (“gTLD”) “.com” should be disregarded under the first element.

Third, the Complainant asserts that the Disputed Domain Name is confusingly similar to the trademark CROWNE PLAZA owned by the Complainant since the Disputed Domain Name contains the Complainant’s CROWNE PLAZA trademark in its entirety, the absence of only the letter “e” and the addition of the word “diamond” are insufficient to avoid confusing similarity. Confusing similarity is also enhanced by the Respondent’s usage of the Disputed Domain Name in connection with a website offering hotel services, which are the same services offered by the Complainant under the CROWNE PLAZA trademark.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant asserts that the Complainant has not authorized, licensed, or permitted the Respondent to use any of its trademarks or to apply for or use terms similar thereto in the Disputed Domain Name in any manner or form.

Second, the Complainant submits that the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark rights in the Disputed Domain Name.

Third, the Complainant contends that the Disputed Domain Name is neither used in connection with a *bona fide* offering of goods or/and services nor constitutes a legitimate noncommercial fair use.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant contends that the Complainant and its trademarks enjoy a worldwide reputation, including in Viet Nam. Thus, by using the Complainant’s CROWNE PLAZA trademark on a website offering hotel services via the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to a website, by creating a likelihood of confusion with the CROWNE PLAZA trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites or of a product or service on the Respondent’s website, in violation of paragraph 4(b)(iv) of the Policy.

Second, the Complainant’s trademark registrations significantly predate the registration date of the Disputed Domain Name – by almost 38 years, including more than 27 years in Viet Nam. Accordingly, the Complainant asserts that the Respondent was certainly aware of the existence of the Complainant’s trademark and hotels at the time of the registration, given the reputation of the Complainant’s CROWNE PLAZA trademark, and even this circumstance constitutes strong evidence of bad faith.

B. Respondent

The Respondent did not reply to the Complainant’s contentions, but sent to the Center an informal email on October 31, 2022 offering to transfer the disputed domain name.

6. Discussion and Findings

A. Language of the Proceeding

The Complaint was filed in English. However, the Registrar confirmed that the language of the Registration Agreement is Vietnamese.

As the Complaint was filed in English, the Center, in its email of the language of proceeding dated September 22, 2022, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English, or (ii) the Complaint translated into Vietnamese, or (iii) a substantiated request for English to be the language of the proceeding by September 25, 2022.

On September 23, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not give any comment on this issue.

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (see, e.g., *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

- (i) the fact that the Complainant, an American entity, does not appear to be able to communicate in Vietnamese, and therefore if the Complainant was required to have the documents translated into Vietnamese, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;
- (ii) the Disputed Domain Name itself contains the English words "diamond", "crown", and "plaza"; and the Respondent sent the Center an email in English on October 31, 2022; these suggest that the Respondent has knowledge of the English language and would be able to communicate in English; and
- (iii) the Respondent did not object to English being the language of the proceeding and did not submit a Response in either English or Vietnamese.

Therefore, for easy comprehension of the Complainant (ultimately, the Party solely taking part in the proceeding) of the Panel's decision without any necessity of translations, and in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "the Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

B. Consent to Transfer

In accordance with paragraph 4(a) of the Policy, in order to decide on the remedy sought by the Complainant, each of the following three elements will be examined:

- (i) the domain name registered by the Respondent 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 with respect to the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

However, considering section 4.10 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel notes that consent to transfer by the Respondent can provide a basis for an order for transfer without a need for substantive consideration of the UDRP grounds.

In this case, in review of the Respondent's email of October 31, 2022, the Panel finds that the Respondent states its agreement "to transfer the domain name to other companies". In addition, the Respondent has authorized the Registrar, *i.e.* Nhan Hoa, to "return the domain name to you [the Complainant]", and requested the Complainant to "work with them [the registrar Nhan Hoa] to get the domain name back".

In this regard, the Panel considers the email of October 31, 2022 an informal but sufficiently clear consent by the Respondent to transfer the Disputed Domain Name to the Complainant. As such, in line with section 4.10 of the [WIPO Overview 3.0](#), the Panel immediately orders the transfer of the Disputed Domain Name to avoid unnecessary delay of the case.

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 <diamondcrownplaza.com> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: November 14, 2022