

## **ADMINISTRATIVE PANEL DECISION**

Hostelworld.com Limited v. Domains By Proxy, LLC / Zahid Sharif  
Case No. DIO2022-0025

### **1. The Parties**

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

The Respondent is Domains By Proxy, LLC, United States of America / Zahid Sharif, Thailand.

### **2. The Domain Name and Registrar**

The disputed domain name <hostelworld.io> 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 20, 2022. On June 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 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 June 23, 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 June 27, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. On July 18, 2022, the Complainant forwarded an email communication sent by the Respondent to the Center. The Respondent did not submit a formal response. Accordingly, the Center notified the commencement of panel appointment process on July 22, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on July 29, 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 hostel-focused online booking platform providing online services, including travel agent services, hostel and accommodation booking services, online marketing and advertising of hostel and accommodation services, hostel and accommodation administrative services, and hostel accommodation information services. The Complainant's services are available in 23 languages and list over 36,000 properties in more than 178 countries. The Complainant operates an affiliate program and has business relationships with over 2,800 affiliates / distribution partners, in 88 countries. The Complainant's gross sales for the period 2015-2019 were at EUR 220,700,000.

The Complainant owns a number of trademark registrations featuring HOSTELWORLD, including for instance International registration No. 1265596, registered on May 20, 2015.

The Complainant owns <hostelworld.com> domain name, which it uses to provide its services since 1999. The Complainant is also present at such social media as Twitter, Facebook, YouTube and Instagram.

The disputed domain name was registered on January 12, 2022, and resolved to a webpage offering it for sale at the price of USD19,999. At the time of the decision, the disputed domain name does not resolve to any active webpage.

#### **5. Parties' Contentions**

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

The disputed domain name is identical to the Complainant's trademark. The disputed domain name comprises the Complainant's trademark in its entirety. The difference between the disputed domain name and the Complainant's trademark is the addition of the country code Top-Level Domain ("ccTLD") suffix ".io". However, it is well-established principle that ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only.

The Respondent has no rights or legitimate interests in the disputed domain name. There is no evidence of use of the disputed domain name by the Respondent nor evidence of preparations made to use the mark or indeed any sign whatsoever of use of this disputed domain name by the Respondent. The Respondent has never requested and has never received authorization to use the Complainant's trademark, they are not commonly known by the disputed domain name, and the Respondent does not hold any proprietary rights in or to any registered trademark for "hostelworld.io" or for any other similar name, term, phrase or symbol. The Respondent has registered the disputed domain name which is identical with the Complainant's registered trademarks for the sole purpose of selling it.

The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name identical to the well-known Complainant's trademark for the sole purpose of selling it. The Complainant's trademark is so uniquely associated with the Complainant that it is not plausible that the Respondent registered the disputed domain name without knowledge of the Complainant's brand. In using the Complainant's trademark, the Respondent is intentionally attempting to gain an unfair economic advantage by selling the disputed domain name which is identical to the Complainant's trademarks. It is very unlikely that the Respondent, at the time it registered the domain name, was unaware of the Complainant's trademark and business.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions. In its informal communication to the Complainant, the Respondent stated as follows:

“This is Zahid, I don’t really know much about these notices or complains that you mentioned (hostelworld.io) is your intellectual property. I didn’t violate any Trademark policy I didn’t create anything on this, and I’m not going to create anything to this (hostelworld.io) domain, because I purchased it GoDaddy to sell only. There is a very simple thing to do instead of these notices or disputes, you can make me an offer and I will sell this domain to you. I will sell this to anyone who offer me a good price, and this is the only reason I purchased it. (I’m not creating anything on this domain that violate any Copyright or Trademark polices for any respected business.)”

## 6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out his case and it is apparent, both from the terms of the Policy and the decisions of previous .IO Policy panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the disputed domain name.

Thus, for the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

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

### A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the “[WIPO Overview 3.0](#)”) the applicable gTLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.<sup>1</sup> Thus, the Panel disregards ccTLD “.io” for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant’s trademark with no additions.

Considering the above the Panel finds the disputed domain name is identical to the Complainant’s trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case, that the Respondent has no rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

There is no evidence that the Respondent is commonly known by the disputed domain name, which could

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<sup>1</sup> Given the similarities between the .IO Policy and Rules and the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and Rules, the Panel finds UDRP precedent to be relevant to this case.

demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent has no right or legitimate interests in the disputed domain name resolving to an inactive website at the time of the decision (see, e.g., *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#)).

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Noting the high risk of implied affiliation between the disputed domain name being an identical match to the widely known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain name could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

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

According to section 3.1.4 of the [WIPO Overview 3.0](#) the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark internationally. Thus, the Panel finds that the disputed domain name identical to the Complainant's trademark was registered in bad faith.

According to section 3.1 of the [WIPO Overview 3.0](#) bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. To facilitate assessment of whether this has occurred, and bearing in mind that the burden of proof rests with the complainant, paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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; or

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

(iv) by using the domain name, the respondent has intentionally attempted 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 the respondent's website or location.

In this regard, the Panel finds that at least the first of the above scenarios apply to the present case also confirmed by the Respondent in its informal communication, which evidences the bad faith.

According to section 3.3 of the [WIPO Overview 3.0](#) from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith use under the doctrine of passive holding. In this regard the Panel takes into account (i) the high degree of distinctiveness and reputation of the Complainant's trademark; (ii) the failure of the Respondent to or to provide any evidence of actual or contemplated good-faith use; (iii) the Respondent's concealing its identity while registering the disputed domain name; and (iv) the implausibility of any good faith use to which the disputed domain name may be put.

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under 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 disputed domain name, <hostelworld.io>, be transferred to the Complainant.

*/Taras Kyslyy/*

**Taras Kyslyy**

Sole Panelist

Date: August 12, 2022