

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. 林凡 (Lin Fan)

Case No. D2022-3039

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is 林凡 (Lin Fan), China.

2. The Domain Names and Registrar

The Disputed Domain Names <skyscanner-au.com>, <skyscanner-aus.com> and <skyscanner-tourism.com> are registered with Name.com, Inc. (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 Names. On August 26, 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.

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, and the proceedings commenced on August 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 19, 2022.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on October 14, 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 metasearch engine and travel agency offering travel research and booking services. The Complainant is the owner of International Trade Mark Registrations:

No. 900393 for SKYSCANNER (registered on March 3, 2006), covering, “advertising services provided via the Internet, opinion polling, data processing, provision of business information, business information services, namely data feeds, auctioneering; all relating to travel” in Class 35, “providing access to a search engine relating to travel” in Class 38 and “travel information and arrangement services provided from an Internet website; providing information via means of a global computer network in relation to travel; travel information provided online from a computer database; travel information accessible via a mobile phone utilizing wireless application protocol technology” in Class 39; and

No. 1030086 (registered on December 1, 2009) for SKYSCANNER, covering “advertising services provided via the Internet, opinion polling, data processing, provision of business information, data feeds, auctioneering, all relating to travel” in Class 35, “travel information and arrangement services provided from an Internet website providing information via means of a global computer network; travel information provided online from a computer database; travel information accessible via a mobile phone utilizing wireless application protocol technology” in Class 39 and “operating of a search engine relating to travel” in Class 42, designating multiple jurisdictions including Armenia, Australia, Azerbaijan, Bosnia & Herzegovina, Belarus, European Union, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Turkey and the Ukraine.

The Complainant’s website at <skyscanner.net> attracts 100 million visits per month; its SKYSCANNER smart device app has been downloaded over 70 million times. The Complainant’s services are available in over thirty languages and in seventy currencies.

The Respondent registered the following domain names:

<skyscanner-aus.com>, registered on July 12, 2022;
<skyscanner-au.com>, registered on July 26, 2022; and
<skyscanner-tourism.com>, registered on July 29, 2022

hereinafter the “Disputed Domain Names”.

The Disputed Domain Names are allegedly used for business identity fraud.

5. Parties’ Contentions

A. Complainant

The Complainant uses its SKYSCANNER mark in many countries around the world; transacts an enormous volume of business under the SKYSCANNER mark; has received considerable publicity by reference to its corporate name over the years; and any use of the SKYSCANNER mark anywhere in the world is likely to be actionable.

The Disputed Domain Names copy the Complainant’s SKYSCANNER mark in its entirety adding generic words at the end of SKYSCANNER to create the Disputed Domain Names.

The Respondent does not own any registered rights in any trade marks which comprise part or all of the Disputed Domain Names. The term “Skyscanner” is not descriptive in any way, nor does it have any generic, dictionary meaning. The Complainant has not given its consent for the Respondent to use its registered trademarks in a domain name registration.

The Disputed Domain Names are used for business identity fraud by creating websites which look like the Complainant's; conducting Facebook conversations containing comments from "bot" accounts that advertise the travel arrangement services provided through the Disputed Domain Names; conducting WhatsApp conversations between the Complainant's consumers and the Respondent to sell non-existent travel services to the consumers who mistakenly believe are offered by the Complainant. These nonexistent travel services are paid via cryptocurrency. Such use cannot constitute a legitimate interest or *bona fide*, noncommercial use of the Disputed Domain Names.

The Disputed Domain Names were recently registered and upon registering the Disputed Domain Names, the Respondent began using them to target the Complainant's rights for illicit gain. Consequently, the Respondent was aware of the Complainant's rights at the time of registration.

The Disputed Domain Names are used for business identity fraud. Such use constitutes bad faith in its purest form

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the fanciful SKYSCANNER trademark throughout the world. The addition of the terms "-au", "-aus", and "-tourism" does not prevent a finding of confusing similarity as the Complainant's SKYSCANNER mark is clearly recognizable in the Disputed Domain Names. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Disputed Domain Names are confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names and has not been commonly known by the Disputed Domain Names. The fact that the Respondent obtained the Disputed Domain Names years after the Complainant had begun using its fanciful and well-known SKYSCANNER mark indicates the Respondent sought to piggyback on the Complainant for illegitimate reasons. The evidence provided by the Complainant shows that the Disputed Domain Names resolved to either an active website seemingly impersonating the Complainant by featuring the Complainant's trademark and logo (<skyscanner-au.com> & <skyscanner.aus.com>) or as a contact email (<skyscanner-tourism.com> which were used by the Respondent to trick Internet and WhatsApp users into believing that the Respondent was the Complainant).

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Names. Regardless, the use of a domain name for illegal activity can never confer rights or legitimate interests upon a respondent. [WIPO Overview 3.0](#), section 2.13.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Names, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Names were registered years after the Complainant first registered and used its SKYSCANNER mark. The evidence provided by the Complainant makes it clear that the Respondent undoubtedly knew of the Complainant's widely known SKYSCANNER mark, and knew that it had no rights or legitimate interests in the Disputed Domain Names.

There is no benign reason for the Respondent to have registered the Disputed Domain Names that are confusingly similar to the Complainant's mark. Further, the use by the Respondent is clearly in bad faith. The Complainant has established that the Respondent used the Disputed Domain Names in a scheme to steal funds from the Complainant's customers through the sending of false emails and WhatsApp messages utilizing the Disputed Domain Names.

Accordingly, the Panel concludes that the Complainant has satisfied 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 Names <skyscanner-au.com>, <skyscanner-aus.com> and <skyscanner-tourism.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: October 28, 2022