

ADMINISTRATIVE PANEL DECISION

Hostelworld.com Limited v. chen xiansheng, chenxiansheng
Case No. D2022-3620

1. The Parties

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

Respondent is chen xiansheng, chenxiansheng, Singapore.

2. The Domain Name and Registrar

The disputed domain name <hostelworld.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 29, 2022. On September 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Domain Administrator) and contact information in the Complaint. The Center sent an email communication to Complainant on October 3, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 4, 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 Respondent of the Complaint, and the proceedings commenced on October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent's default on October 26, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa 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.

4. Factual Background

Complainant operates a hostel booking website at the domain name <hostelworld.com>. Complainant is the proprietor of registrations in numerous jurisdictions for its HOSTELWORLD trademark, including the following:

- European Union Trademark No. 009273947 for HOSTELWORLD.COM (word mark), registered on January 7, 2011, for services in class 35;
- United States Trademark No. 4305641 for HOSTELWORLD (word mark), registered on March 19, 2013, for services in class 35;
- International Trademark No. 1265596 for HOSTELWORLD (device mark), registered on May 20, 2015, for services in classes 35, 39, 41 and 43.

The disputed domain name was registered on August 1, 2022. It resolves to a site featuring adult content and links related to gambling.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it operates the internationally recognized leader of online hostel booking services, listing over 36,000 properties in 178 countries. The website at the domain name <hostelworld.com> is available in 23 languages. Complainant has received numerous industry awards and recognitions, and has an active social media presence. Complainant registered its domain name at <hostelworld.com> on May 12, 1999. The HOSTELWORLD mark is a coined or invented term that has no ordinary meaning in English; it is inherently distinctive and has acquired further distinctiveness through continuous use since 1999. The disputed domain name comprises a deliberate misspelling of Complainant's mark, with the letter "r" replaced by the adjacent keyboard letter "t".

Under the second element, Complainant states that Respondent has not received authorization from Complainant to use Complainant's marks. Respondent is not commonly known by the disputed domain name, is not affiliated with Complainant in any way, and does not hold any proprietary rights (registered or common law) in or to the marks HOSTELWOTLD or HOSTELWOTLD.COM. The disputed domain name resolves to a website featuring gambling content, which disrupts Complainant's business and tarnishes its mark.

Under the third element, Complainant states that it has a significant international business and that its mark is internationally well known and famous. Its marks have been continuously used since 1999. Respondent undoubtedly knew about Complainant's marks and rights at the time of registering the disputed domain name, and, despite such knowledge, proceeded to register a domain name that is a deliberate misspelling of Complainant's mark. The disputed domain name resolves to a website displaying adult content and links related to gambling services. Respondent has thereby intentionally attempted to attract, for commercial gain, Internet users to its website or other online location (via links on its website), by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the HOSTELWORLD and HOSTELWORLD.COM marks through registrations in the United States, European Union and other jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In comparing Complainant's mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this trademark as the trademark is clearly recognizable within the disputed domain name, save for the substitution of the second "t" letter for "r". This is clearly a deliberate misspelling of Complainant's trademark. See [WIPO Overview 3.0](#), section 1.9.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the HOSTELWORLD or HOSTELWORLD.COM marks.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant's *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is

commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent's rights therein.

There is no evidence of legitimate noncommercial use or a *bona fide* offering of goods or services. Rather, the disputed domain name (incorporating an obvious misspelling of Complainant's HOSTELWORLD mark) resolves to a website featuring adult content and links related to gambling. Such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.2.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its HOSTELWORLD and HOSTELWORLD.COM marks predate the registration of the disputed domain name by more than 20 years. The disputed domain name is an obvious misspelling of Complainant's trademark. Accordingly, it is clear that Respondent had Complainant's trademarks in mind when registering the disputed domain name. Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity, as in this case, can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The evidence demonstrates that Respondent is using the disputed domain name for a website featuring information and links related to gambling. This content indicates that Respondent is using the disputed domain name for commercial gain. The Panel finds that Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's mark. See [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that Complainant has established the third element under paragraph 4(a) 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, <hostelwotld.com>, be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: November 14, 2022