

## ADMINISTRATIVE PANEL DECISION

Trivago N.V. v. 小天 小 / \u5c0fu5929 \u5c0f  
Case No. D2023-0108

### 1. The Parties

The Complainant is Trivago N.V., Germany, internally represented.

The Respondent is 小天 小 / \u5c0fu5929 \u5c0f, China.

### 2. The Domain Names and Registrars

The disputed domain names <trivago-asia.com>, <trivago-asia.shop>, and <trivago.shop> are registered with GoDaddy.com, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023 regarding the disputed domain names <trivago-asia.shop> and <trivago.shop>. On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names <trivago-asia.shop> and <trivago.shop>. On January 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <trivago-asia.shop> and <trivago.shop> which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2023 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 January 17, 2023.

On January 18, 2023, the Complainant requested to add the disputed domain name <trivago-asia.com> to the proceeding. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <trivago-asia.com>. On January 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <trivago-asia.com> which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 24, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed another amended Complaint on January 26, 2023.

The Center verified that the Complaint together with the amended Complaints 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 January 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 20, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on February 23, 2023. 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 operates an international active hotel comparison and booking business under the brand TRIVAGO since 2006. The Complainant provides its services over the Internet through its main website at “www.trivago.com” as well as other related websites worldwide. The Complainant is listed on the NASDAQ.

The Complainant (through its predecessor) owns various trademark registrations for the brand TRIVAGO, including International Trademark Registration No. 910828, TRIVAGO (word), registered on August 18, 2006, in classes 35, 38, 39, and 42, which designates China among other jurisdictions.

Prior decisions under the Policy have recognized the international well-known character of the TRIVAGO mark. See, among others, *Trivago N.V. v. Hildegard Gruener*, WIPO Case No. [D2019-3095](#); and *Trivago N.V. v. Hildegard Gruener*, WIPO Case No. [D2021-4012](#).

The Complainant further owns numerous domain names related to its TRIVAGO mark, including <trivago.com> (registered on February 18, 2004), which resolves to the main website where the Complainant provides its services.

The disputed domain names were registered as follows: <trivago-asia.com> (the “First Disputed Domain Name”) and <trivago-asia.shop> (“Second Disputed Domain Name”) were registered on December 23, 2022; and <trivago.shop> (“Third Disputed Domain Name”) was registered on December 19, 2022.

At the time of drafting this decision, the disputed domain names are apparently inactive resolving to Internet browser error messages. However, according to the evidence provided by the Complainant, the Second and the Third Disputed Domain Names previously resolved to an identical landing page displaying the TRIVAGO mark at its heading, with the same logo registered and used by the Complainant, and a user’s login or registration option, which requested the user’s “handphone number” and “password”. The First Disputed Domain Name resolved to a similar landing page displaying the TRIVAGO mark at its heading, in standard characters with no logo, and a user login or signup option, which requested the same information (user’s “handphone number” and “password”). These pages did not include any information about their owner or that of the disputed domain names, and their lack of relationship with the Complainant.

#### **5. Parties’ Contentions**

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

Key contentions of the Complaint may be summarized as follows:

The TRIVAGO mark is reproduced in its entirety in all of the disputed domain names with the addition in the First and Second Disputed Domain Names of the term “Asia” separated by a hyphen, and the respective generic Top-Level Domains (“gTLD”) “.shop” or “.com”. These additional elements do not prevent the confusing similarity, as the TRIVAGO mark is recognizable in within the disputed domain names.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. There is no evidence that the Respondent owns any trademark in the term “Trivago”, the Parties are not affiliated, and the Respondent is not authorized to use the Complainant’s trademarks. The term “Trivago” has no dictionary meaning, it was first registered by the Complainant’s predecessor in 2006, and its trademark was in use for 16 years before the disputed domain names were registered. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, and is not using them in connection with a *bona fide* offering of goods or services. The disputed domain names resolve to pages with only a user login option that did not provide any information about the services purportedly offered.

The disputed domain names were registered and are being used in bad faith. Based on the worldwide reputation of the Complainant’s mark it is highly unlikely that the Respondent was not aware of it. The Complainant operates under the TRIVAGO mark since 2006, starting in Germany and building a worldwide operating platform throughout the years, and currently operates in 190 countries with 53 websites worldwide. The Complainant further conducts worldwide advertising campaigns including television commercials, and invests considerable amount of money in marketing worldwide. It is not conceivable any plausible situation where the Respondent was unaware of the Complainant and its trademark, and there is no possible legitimate use of the disputed domain names that can be made by the Respondent. The Respondent takes unfair advantage of the Complainant’s high reputation by falsely suggesting that it is affiliated to the Complainant, and it is trying to divert Internet users to make payments based on this confusion. The Complainant’s user support received various complaints from users who have completed the registration process on the Respondent’s pages. These users had been contacted after their registration and had received a link to the Respondent’s websites as a job offer, asking them to create an account and to top up that account via crypto currency in order to get a commission.

The Complainant has cited previous decisions under the Policy that it considers supportive of its position, and requests the transfer of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

### **A. Preliminary Issue: Complaint Consolidated against Multiple Registrants**

The Panel considers that the disputed domain names are subject to a common control, and the consolidation is fair and equitable to the Parties. In this respect, the Panel notes that, according to the evidence provided by the Complainant, two of the disputed domain names (the First and Second Disputed Domain Names) were registered on the same day while the Third Disputed Domain Name was registered with only four days difference. Further, the Second and the Third Disputed Domain Names had identical content while the First Disputed Domain Name had a very similar content. The Panel also notes that the information provided in the WhoIs for the disputed domain names according to the Registrar verification, is almost identical, in

particular sharing the same email address. See section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)).

## **B. Identical or Confusingly Similar**

The Complainant indisputably has rights in the registered trademark TRIVAGO, both by virtue of its trademark registrations and as a result of its continuous use and reputation of this mark.

All of the disputed domain names reproduce the TRIVAGO mark with the addition in the First and Second Disputed Domain Names of the term “Asia” separated by a hyphen, and the gTLD “.com” or “.shop”. The TRIVAGO mark is recognizable in the disputed domain names. The addition of the other term in the First and Second Disputed Domain Names does not prevent a finding of confusing similarity. Further, the gTLD “.com” or “.shop” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the First and Second Disputed Domain Names are confusingly similar to the Complainant’s trademark, and the Third Disputed Domain Name is identical to the Complainant’s trademark. The first element of the Policy under paragraph 4(a)(i) has been satisfied.

## **C. Rights or Legitimate Interests**

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the Respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the Respondent the burden of coming forward with evidence of rights or legitimate interests in the disputed domain names, once the Complainant has made a *prima facie* showing indicating the absence of such rights or legitimate interests.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

The Complainant’s assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain names, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case. However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation or evidence of rights or legitimate interests in the disputed domain names.

The Panel considers that there is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the disputed domain names. Nothing in the record suggests that the Respondent is commonly known by the disputed domain names, or that the Complainant has authorized, licensed, or otherwise permitted the Respondent to use the TRIVAGO mark. The Parties have no business relationship, and the Panel finds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

The Panel considers that, as the disputed domain names generate an affiliation with the Complainant and its trademark, the use of the disputed domain names cannot be considered fair use under the Policy. The fact that the Third Disputed Domain Name is identical to the TRIVAGO mark, and the First and Second Disputed Domain Names incorporate this trademark adding the geographical term “Asia” separated by a hyphen, generates an implied affiliation, suggesting that the disputed domain names are owned by the Complainant or one of its related or affiliated companies. In this respect, the Panel notes that the Complainant operates numerous websites for different jurisdictions as part of its business, so the disputed domain names may be considered by Internet users as new domain names part of the Complainant’s business for websites related to Asia.

The Panel further considers that according to the evidence provided by the Complainant, the affiliation with the Complainant and its trademark has been enhanced by the use of the disputed domain names, which cannot be considered a *bona fide* offering or any other legitimate use under the Policy. The disputed domain names resolved to pages with user login/registration options that requested sensible information, prominently displaying the TRIVAGO mark, and did not include any information about their owner or that of the disputed domain names, and their lack of relationship with the Complainant and its trademark. These login/register websites have further been used to contact the users in order to request them a further creation of an account on the Respondent's sites, and to top up that account via crypto currency in order to get a commission. This operating scheme meets all factors to consider that the disputed domain names were used for a phishing scam or any other type of fraud, which can never confer rights or legitimate interests on a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

It is further remarkable that the Respondent has chosen not to reply to the Complaint, and, apparently, its reaction to the Complaint has been to stop using the disputed domain names.

The Panel, therefore, concludes that under the cumulative facts and circumstances of this case, the Complainant has established that the Respondent lacks any rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

#### **D. Registered and Used in Bad Faith**

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain names have been registered and are being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the cumulative circumstances of this case point to bad faith registration and use of the disputed domain names.

The TRIVAGO mark is well known and internationally used, including in China where the Respondent is located according to the Registrar verification, and the term "trivago" is a coined term. Furthermore, the TRIVAGO mark has been extensively used over the Internet for over 17 years, and it has developed an internationally well-known character recognized in prior decisions under the Policy.

Additionally, taking into consideration the evidence provided by the Complainant regarding the use of the disputed domain names and the complaints filed by some users that registered at the pages linked to the disputed domain names, the Panel considers that the Respondent was engaged in some type of phishing scheme or other fraud.

Therefore, on the balance of probabilities, taking into consideration the cumulative circumstances of this case, the Panel considers that the Respondent knew and targeted the TRIVAGO mark with the registration and use of the disputed domain names. The Respondent has acted in bad faith taking unfair advantage of the reputation of the TRIVAGO mark, creating a false affiliation to this mark as part of a phishing scam or other type of fraud.

The current non-use of the disputed domain names would not change the Panel's finding on the Respondent's bad faith.

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain names in bad faith under the third element 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 <trivago-asia.com>, <trivago-asia.shop>, and <trivago.shop> be transferred to the Complainant.

*/Reyes Campello Estebaranz/*

**Reyes Campello Estebaranz**

Sole Panelist

Date: March 6, 2023