

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Jimo, Kowe, Icd HongKong12
Case No. D2023-3994

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom ("U.K."), represented by Lewis Silkin LLP, U.K.

The Respondents are Jimo, Kowe, Icd, China, and HongKong12, China (hereinafter "the Respondent").

2. The Domain Name and Registrar

The disputed domain names <alway-correctskyscanner.com> and <alwayskyscanner-tech.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 25, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 2023, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 27, 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 amendment to the Complaint on September 28, 2023.

The Center verified that the Complaint together with the amendment to 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 October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023.

On October 5, 2023, Complainant requested to add the disputed domain name <alwayskyscanner-tech.com> to the proceedings (the "Second Disputed Domain Name").

The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 25, 2023.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on October 31, 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.

Upon request from the Panel, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Second Disputed Domain Name.

On November 27, 2023, the Panel issued Administrative Procedural Order No. 1, whereby the Complainant was invited to provide additional consolidation arguments and the Respondent was invited to (i) to make any submissions regarding the consolidation of the proceedings, and (ii) to file a Response in respect of the Second Disputed Domain Name.

The Complainant indicated on November 30 that it would make no further submissions in regarding consolidation. The Respondent did not reply to the Administrative Procedural Order.

4. Factual Background

The Complainant is operating a worldwide travel search engines website with more than 46 million visits per month, and ranks within the top 750 of the most trafficked sites on the Internet.

The mobile app of the Complainant has been downloaded 70 million times, and the Complainant's services are available in over 30 languages and 70 currencies.

The Complainant is the owner of numerous SKYSCANNER trademark registrations, including:

- the United Kingdom Trademark registration No. 2313916, registered on April 30, 2004, for services in classes 35, 38, and 39;
- the United Kingdom Trademark registration No. 3307682, registered on July 27, 2018, for services in classes 35, 39, 42, and 43;
- International Trademark registration for no. 1030086 registered on December 1, 2009, and 1123058 registered on August 16, 2012, designating the European Union and the United States of America respectively, and covering the services in classes 35, 39, and 42.

The Complainant operates the website "www.skyscanner.com".

The disputed domain names were registered by the Respondents on September 2 and 6, 2023.

According to the evidence submitted by the Complainant, the disputed domain names resolved to login sites under the trademark SKYSCANNER, in relation to a crypto currency targeting the Complainant's English-speaking customers.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Respondents are the same person or at least are related, addressing them in the singular as, the "Respondent".

The Complainant asserts that the disputed domain names are confusingly similar, and at the same time, incorporating the Complainant's well-known trademark SKYSCANNER and that the addition of the non-distinctive terms "always", "correct" or "tech" does not affect the confusing similarity.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain names, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks. The Complainant further asserts that the Respondent is not using the disputed domain names for a *bona fide* offering of goods and services.

Finally, in addressing the question of registration and use of the disputed domain names in bad faith, the Complainant observes that the Respondent is well aware of the Complainant's trademark considering that the Respondent is using the trademark and the logo of the Complainant, and that the Respondent's websites clearly suggest that the websites belongs to or are endorsed by the Complainant. The Respondent's websites are fraudulent as they are used to entice Internet users in to making cryptocurrency deposits to the Respondent.

The fact that the websites do not provide any information on the true identity of the websites' provider clearly shows that the Respondent intentionally creates the impression that the products offered on the Respondent's websites are provided by the Complainant or at least an official dealer by misleading Internet users on the source of the websites and thereby attracting, for commercial gain, Internet users to the websites.

B. Respondents

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the remedy it has requested:

- (i) the disputed domain name is identical 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 and is being used in bad faith.

A. Addition of Domain Names

After commencement, the Complainant requested to add the Second Disputed Domain Name to this proceeding.

This Second Disputed Domain Name was registered on September 6, 2023, before the Complaint was filed.

The Complainant contends that the Respondents are the same person or at least are related. The Second Disputed Domain Name was registered four days after the disputed domain name <alway-correctskycanner.com> was registered, using the same registrar and with the same aim of defrauding Internet users by creating a misleading impression of a connection with the Complainant. The Complainant contends that the disputed domain names are clearly under common control. The Complainant submits that consolidation would be fair and equitable to the Parties, while being procedurally- efficient.

As observed in section 4.12.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"):

"Except in limited cases where there is clear evidence of respondent gaming/attempts to frustrate the proceedings (e.g., by the respondent's registration of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings (which are expected to take place with due expedition). Moreover, a panel declining such request would not prevent the filing of a separate complaint where such additional domain names may be addressed.

In those cases where panels would grant such a request, the complainant would need to hold relevant trademark rights and the proposed additional domain names would need to be *prima facie* registered by the same or related respondent. Moreover, in the event a panel would grant such a request, it may also order partial or full re-notification of the proceeding (which may impact case timelines)."

Pursuant to Administrative Procedural Order No. 1, the Respondent was provided an opportunity to dispute the contention that the two the disputed domain names were under their common control, and if so to file a Response in respect of the additional disputed domain name. However, no reply was received from the Respondent.

In the light of all of the above, the Panel concludes that the disputed domain names are under common control.

The Panel therefore directs that the Second Disputed Domain Name be added to the proceeding and will consider the two disputed domain names in the remainder of this Decision as the "disputed domain names".

B. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. A trademark registration provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner.

As indicated above, the Complainant holds several trademark registrations for the trademark SKYSCANNER. The disputed domain names integrate the Complainant's SKYSCANNER trademark in its entirety. The disputed domain names include the addition of the term "always" (also with a typo version as "alway") as well as the terms "correct" and "tech".

These additions do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark. See [WIPO Overview 3.0](#) at section 1.8.

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test under the Policy.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

C. Rights or Legitimate Interests

The onus is on the Complainant to make out at least a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts the Complainant's submissions that the Respondent is not known by the disputed domain names, has not used, or made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain names, and has no consent from the Complainant to use its trademark.

The Respondent has not filed a Response.

Moreover, the disputed domain names consist of the SKYSCANNER trademark plus additional terms. This composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#). Such implied affiliation is clearly the intent of the Respondent given the corresponding impersonating use to which the disputed domain names

have been put, namely login portals depicting the Complainant's trademark and through which the Respondent presumably engages in phishing, which can never confer rights or legitimate interests upon a respondent (section 2.13 of the [WIPO Overview 3.0](#)).

The Complainant has made out its *prima facie* case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeeds in relation to the second element of the Policy.

D. Registered and Used in Bad Faith

At the time of registration of the disputed domain names, the Complainant's trademark SKYSCANNER was a very well-known trademark for some time throughout the world with more than 46 million monthly visits on the Complainant website "www.skyscanner.com". Additionally, the Complainant's well-known trademark rights for SKYSCANNER have been recognized in several UDRP decisions. See, for example, *Skyscanner Limited v. 杨智超 (yang zhi chao)*, WIPO Case No. [D2023-3983](#) ("Given the unrebutted well-established use and fame of the Complainant's SKYSCANNER trade mark..."), and *Skyscanner Limited v. Shuhag Chowdhury*, WIPO Case No. [D2022-1463](#) ("The Panel finds further that the Respondent must have been aware of the Complainant's SKYSCANNER trademark when registering the disputed domain name, based on the distinctive nature and established reputation of that mark..."). As the Complainant submits, it is inconceivable that the Respondent would not have known of the Complainant's mark.

The Panel finds that the Respondent is using the disputed domain name to intentionally attempt to attract for commercial gain Internet users to its website, by creating a likelihood of confusion with the Complainant's famous trademark. As a matter of fact, considering:

- the use of the Complainant's famous trademark within the disputed domain names;
- the use of the Complainant's trademark and logo in the websites associated with the disputed domain names;

it is clear that the Respondent has targeted the Complainant and its famous trademark to benefit its own commercial activities.

The Respondent's registration of the disputed domain name incorporating the Complainant's mark that is resolving to a website with the aim of acquiring the users' sensitive information, and also fraudulently attracting Internet users into potentially depositing crypto currency with the Respondent constitutes a clear bad faith use and registration. Therefore, the only reason for the registration of the disputed domain name by the Respondent must have been with bad faith intent to use it to exploit, for commercial gain, the Complainants' reputation. The Respondent has used the disputed domain name for precisely that purpose.

Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy.

8. 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, <alway-correctskyscanner.com> and <alwayskyscanner-tech.com>, be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: December 10, 2023