

ADMINISTRATIVE PANEL DECISION

SPG IP Holdings, LLC v. semih uyar
Case No. D2024-3542

1. The Parties

The Complainant is SPG IP Holdings, LLC, United States of America ("United States"), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is semih uyar, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <simonviprewards.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 2, 2024. On September 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 3, 2024, 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 for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 September 5, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 1, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on October 3, 2024. 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 SPG IP Holdings, LLC, a subsidiary of Simon Property Group, L.P. ("SPG"), an American real estate investment trust which became a public company in 1993 after being founded by brothers Melvin and Herbert Simon in the 1960's.

The Complainant is the owner of the following trademark registrations:

Trademark	Jurisdiction	Registration No.	Registration date	International class
SIMON	United States	2969024	July 19, 2005	35
SIMON	European Union	003969722	March 23, 2006	35, 36, 37
SIMON REWARD CARD	United States	3409657	April 8, 2008	9

The Complainant also applied for United States Serial No. 98572046 for SIMON VIP REWARDS, in class 35, filed on May 28, 2024, and operates the domain name <simon.com>, registered on August 21, 1997.

The Respondent is semih uyar, from Türkiye.

The disputed domain name <simonviprewards.com> was registered on May 29, 2024, and resolves to a website offering the disputed domain name for sale for USD 2,850.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

The Complainant argues that the disputed domain name is confusingly similar to the trademark SIMON.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with any commercial or fair use.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. That being the case, the Complainant finds that the disputed domain name is used to mislead its potential clients.

According to the Complainant, it has prior rights over the trademarks SIMON and SIMON VIP REWARDS and has not authorized the registration and use of the disputed domain name.

The Complainant's intellectual property rights for SIMON and SIMON VIP REWARDS trademarks predate the registration of the disputed domain name.

According to the Complainant, the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the 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. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of the trademark SIMON for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name, with the addition of the terms "vip" and "rewards". The addition of such terms do not prevent the finding of confusing similarity between the Complainant's trademark and the disputed domain name. The disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds that the Complainant has established prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services.

The nature of the disputed domain name (which is identical to the Complainant's pending trademark application) carries a high risk of implied affiliation.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds more likely than not that the Respondent was aware of the SIMON and SIMON VIP REWARDS trademarks as the Complainant's trademark registrations and application predate the registration date of the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Taking into account the composition of the disputed domain name, the lack of response by the Respondent, the timing of the registration of the disputed domain name (one day after the Complainant had filed for an identical trademark), and the fact that the disputed domain name is listed for sale, the Panel finds that the Respondent most likely registered the disputed domain name in order to exploit the Complainant's trademarks and sell the disputed domain name to the Complainant, or its competitors, in bad faith.

The Panel finds the third element of the Policy has been established.

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 <simonviprewards.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: October 17, 2024