

## ADMINISTRATIVE PANEL DECISION

HomeAway.com, Inc. v. 林雪

Case No. D2025-1785

### 1. The Parties

The Complainant is HomeAway.com, Inc., United States of America (“United States”), represented by Akerman LLP, United States.

The Respondent is 林雪, Hong Kong, China.

### 2. The Domain Name and Registrar

The disputed domain name <best-vrbo.com> is registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2025. On May 5, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 7 and May 14, 2025, the Registrar transmitted by email to the Center its verification responses 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 May 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 6, 2025.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on June 13, 2025. 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, as part of the Expedia Group, a global online marketplace for the vacation rental industry, with sites currently representing over two and a half million online bookable listings of vacation rental homes and apartments in over 190 countries.

The Complainant is the owner of several trademarks for VRBO (the “VRBO Trademark”), including:

- United States Trademark Registration VRBO No. 2820989, registered on March 9, 2004;
- United States Trademark Registration VRBO No. 5681113, registered on February 19, 2019; and
- European Union Trademark Registration VRBO No. 015778848, registered on March 3, 2017.

The Complainant is also the owner of several domain names including the VRBO Trademark, such as the domain name <vrbo.com>, registered on July 30, 1996.

The disputed domain name was registered on February 21, 2025. At the time of the Decision and, as shown by the Complainant, when the Complaint was filed, the disputed domain name did not resolve to any active webpage. Rather, the webpage was flagged as a “Dangerous Site” by Google, meaning the site could be involved in phishing, malware distribution, or other malicious activities.

#### **5. Parties’ Contentions**

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

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

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the VRBO Trademark as it fully incorporates the VRBO Trademark. The addition of the term “BEST” at the front of the disputed domain name does not distinguish the disputed domain name from the VRBO Trademark, as “vrbo” is clearly identifiable and the primary and dominant element of the disputed domain name. Given the Complainant’s longstanding use of the VRBO Trademark, it is not feasible to believe that the Respondent was unaware of the VRBO Trademark, particularly in view of the Respondent’s use of the disputed domain name for a likely nefarious scheme. Given the long use over two decades and the renown of the VRBO Trademark, relevant consumers who encounter the Respondent’s disputed domain name, or receive email using the disputed domain name are likely to be misdirected and diverted to the Respondent’s website, causing such Internet users to believe mistakenly that the disputed domain name and the corresponding website are related to, authorized by, or affiliated with the Complainant and its services, thereby creating a likelihood of confusion. The disputed domain name is therefore confusingly similar to the VRBO Trademark.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Since the Complainant’s adoption and extensive use of the VRBO Trademark predates the Respondent’s registration and first use of the disputed domain name, the burden is on the Respondent to establish rights or legitimate interests in the disputed domain name. Where, however, as here, a complainant’s mark is fully incorporated into a respondent’s domain name there can be no rights or legitimate interests to use the domain name by such respondent. The disputed domain name is not, nor could it be contended to be, a legitimate name or nickname of the Respondent, nor is it in any other way identified with or related to any rights or legitimate interests of the Respondent. As can be readily seen from the Whois information, the Respondent is not commonly known by the disputed domain name. The Respondent cannot demonstrate or establish rights or legitimate interests in the disputed domain name. There is no relationship between the Complainant and the Respondent giving rise to any license, permission, or other right by which the Respondent could own or use

any domain name incorporating the exact VRBO Trademark. The Complainant does not sponsor or endorse the Respondent's activities in any respect and has not provided its consent to the Respondent's use and exploitation of the VRBO Trademark in the disputed domain name. The Respondent is neither using the disputed domain name in connection with a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has used the disputed domain name, without permission or authorization from the Complainant, to capitalize on the VRBO Trademark solely for the benefit of the Respondent. The Respondent has used, and is using, the disputed domain name as part of a likely fraudulent scheme to attract and redirect consumers to a website that has been found to be used for phishing. Such use of the disputed domain name as part of a likely fraudulent scheme is not a legitimate interest or bona fide use. Indeed, there is no legitimate reason for the Respondent to register a domain name that highlights the VRBO Trademark with the adjective "best", which is likely to be interpreted as a high quality offering by or through the VRBO service. Upon seeing the disputed domain name, consumers are likely to believe that the disputed domain name is affiliated with or connected to the Complainant's well-known VRBO vacation rental service, and thus be misled into accessing the Respondent's website. Such use of the disputed domain name to suggest an implied affiliation with the VRBO vacation rental service is not legitimate. Based on the foregoing, the Complainant reasonably believes that the Respondent does not have a legitimate noncommercial or fair use purpose for registering and using the disputed domain name and has not done so for a bona fide offering of goods and services. Simply put, the Respondent cannot demonstrate any rights or legitimate interests in the disputed domain name.

On the third element of the Policy, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. The Respondent has registered and is using the disputed domain name in bad faith for commercial gain and to benefit from the goodwill and notoriety associated with the VRBO Trademark. Here, the Respondent's bad faith registration of the disputed domain name is established by the fact that the disputed domain name completely incorporates the VRBO Trademark, was registered long after the Complainant's rights in its VRBO Trademark were established and the Complainant registered the VRBO Trademark, and after the Complainant's services became well known. The Respondent's bad faith is also exhibited by the fact that the Respondent registered the disputed domain name long after widespread use of the VRBO Trademark and has done so without authorization and for the sole purpose of using the disputed domain name in furtherance of a likely phishing scheme to trick unsuspecting consumers into disclosing personal information for the profit of the Respondent. Such use of the disputed domain name to pass off as related to "Vrbo" as part of a fraudulent scheme is not legitimate and an act of bad faith. The Respondent's bad faith registration and use of the disputed domain name is also established by the likelihood that Internet users will mistakenly believe the disputed domain name is connected to, associated with, or endorsed or sponsored by the Complainant. After seeing the VRBO Trademark in the disputed domain name, consumers will initially be confused as to the site's association with or sponsorship by the Complainant. Lastly, the Respondent's bad faith is confirmed by the fact that the Respondent has a known pattern of bad faith registration and use of domain names based on the names and marks of others as part of phishing schemes to obtain information from unsuspecting consumers. The fact that the disputed domain name has been flagged for phishing by Google, makes it more likely than not that the Respondent has registered and used the disputed domain name as part of the Respondent's continued bad faith actions to defraud consumers for the benefit of the Respondent. Based on all of the above, it is evident that the Complainant has met the requirements of the Policy by demonstrating not only the Complainant's own legitimate interest in its VRBO Trademark, as evidenced by its trademark registrations and extensive use of the mark for over 25 years, but also that the Respondent has no lawful rights or legitimate interests in the disputed domain name. The Respondent's registration and use of the disputed domain name to impersonate the Complainant for a fraudulent scheme are thus in violation of the Complainant's prior established trademark rights. Accordingly, the Complainant believes that it is entitled to the remedy requested below.

## **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made “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”.

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.3.

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed with the Complaint, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 are 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 3.0](#), section 1.7.

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

The applicable Top-Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The disputed domain name contains the VRBO Trademark in its entirety, with the only addition of the term “best” and a hyphen. The Panel finds the mark is recognizable within the disputed domain name. The addition of a hyphen does not prevent a finding of identity or confusing similarity (see *The Channel Tunnel Group Ltd. v John Powell*, WIPO Case No. [D2000-0038](#)). The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8. The additional term “best” is a descriptive term. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the VRBO Trademark. The Panel finds on record that there are no indications that the Respondent is commonly known by the disputed domain name or otherwise has any rights or legitimate interests in the disputed domain name. Further, the disputed domain name is not used for a bona fide offering of goods or services. Rather, the Complainant has provided evidence (i) that the webpage retrievable under the disputed domain name was flagged as a “Dangerous Site” by Google, indicating that the site could be involved in phishing, malware distribution, or other malicious activities and (ii) of the Respondent’s pattern of abusive domain name registrations in the past (see, e.g., *QlikTech International AB v. 林雪*, WIPO Case No. [D2024-2673](#) and *Farfetch UK Limited v. 雪林*, WIPO Case No. [D2023-2628](#)).

Having reviewed the available record, the Panel finds the Complainant has established a 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.

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.

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.

In the present case, the disputed domain name incorporates the VRBO Trademark in its entirety and the VRBO Trademark was registered decades before the registration of the disputed domain name. Internet users may think the disputed domain name is connected to the Complainant and would resolve to a website related to the Complainant because the additional term “best” in the disputed domain name may be seen as referring to the Complainant’s best vacation rental services under the VRBO Trademark.

The Complainant has provided evidence showing that the webpage retrievable under the disputed domain name was flagged as a “Dangerous Site” by Google, indicating that the site could be involved in phishing, malware distribution, or other malicious activities. At the time of this Decision, the disputed domain name does not resolve to any active webpage which does not prevent a finding of bad faith. From the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the VRBO Trademark, the composition of the disputed domain name, containing the VRBO Trademark in its entirety, which shows the Respondent’s intention to target the VRBO Trademark, the failure of the Respondent to submit a response, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In addition, the Panel also notes that the Respondent has been the respondent in several other UDRP cases in which the panels founds that the respondent has registered and used the domain names in bad faith. See, e.g., *QlikTech International AB v. 林雪*, WIPO Case No. [D2024-2673](#), *Farfetch UK Limited v. 雪林*, WIPO Case No. [D2023-2628](#), and [WIPO Overview 3.0](#), section 3.1.2. Therefore, the Panel also finds that the Respondent has established a pattern of bad faith in registering the domain names.

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 <best-vrbo.com> be transferred to the Complainant.

*/Christian Gassauer-Fleissner/*  
**Christian Gassauer-Fleissner**  
Sole Panelist  
Date: June 30, 2025