

## **ADMINISTRATIVE PANEL DECISION**

Canva Austria GmbH v. Hadar Swersky, Creative Geeks  
Case No. DAI2024-0007

### **1. The Parties**

The Complainant is Canva Austria GmbH, Austria, represented by SafeNames Ltd., United Kingdom.

The Respondent is Hadar Swersky, Creative Geeks, Cayman Islands, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <removebg.ai> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23 and 30, 2024, 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 30, 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 January 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2024.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on February 27, 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**

In 2018 the Complainant developed a digital tool called “Remove.bg” that uses artificial intelligence (“AI”) to remove backgrounds from images automatically. The remove.bg tool is exclusively operated online from the Complainant’s website <remove.bg>. The Complainant’s goal is to simplify complicated tech and enable individuals and businesses of all sizes to benefit from the recent advances in visual AI.

The Complainant is the proprietor of, i.a., the following trademark registrations:

- International trademark registration no. 1591574 for REMOVE.BG, registered on April 1, 2021, designating, i.e., the United Kingdom;
- European Union trademark registration no. 018207829 for remove.bg, registered on June 20, 2020; and
- United States of America trademark registration no. 6868239 for REMOVE.BG, registered on October 11, 2022.

The Domain Name was registered on October 4, 2022, and resolves to a website that currently and at filing of the Complaint is not being used. Previously, before filing of the Complaint, the Domain Name at different times used to resolve to PPC links and content similar to the Complainant’s official website.

#### **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 Domain Name.

Notably, the Complainant contends the following:

The Complainant’s Remove.bg tool is currently enjoyed by more than 32 million monthly users from over 200 countries and processes over 150 million images monthly. The Complainant’s official website <remove.bg> receives a significant volume of traffic – with an average of more than 60 million visits per month between October and December 2023.

The Domain Name is confusingly similar to the Complainant’s REMOVE.BG trademark.

The Respondent has no rights or legitimate interests in respect of the Domain Name. To the best of the Complainant’s knowledge, the Respondent does not have any registered trademarks for REMOVE.BG, nor any term similar to this. The Complainant cannot find any evidence showing that the Respondent retains unregistered trademark rights in any such term. Moreover, the Respondent has not been licensed by the Complainant to register domain names featuring the REMOVE.BG trademark. The Respondent has not used, nor prepared to use, the Domain Name in connection with a bona fide offering of goods or services. The Domain Name currently does not resolve to an active website. The Domain Name used to resolve to a website that purported to offer products and services identical to those of the Complainant. By registering a domain name confusingly similar to the Complainant’s trademark, the Respondent has attempted to attract Internet users to the Respondent’s website and offer services identical to the ones offered by the Complainant. Further, to the best of the Complainant’s knowledge, the Respondent is not commonly known by the term “removebg”, “remove.bg” nor any similar term.

The Domain Name was registered and is being used in bad faith. The Respondent has clearly registered the Domain Name to intentionally target the Complainant's brand. A cease and desist letter was sent to the Respondent via email on September 8, 2023. The Respondent was given the opportunity to provide evidence of any actual or contemplated good faith use but chose not to respond. Further, the Domain Name was previously used to intentionally attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's REMOVE.BG trademark. The Respondent previously used the Domain Name to direct Internet users to a website that displayed PPC hyperlinks. Further, the Respondent has used the Domain Name to pass off as the Complainant and sell identical services.

## **B. Respondent**

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

## **6. Discussion and Findings**

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- (i) that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) that the 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 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 REMOVE.BG trademark for the purposes of the Policy.

The Panel finds that the Complainant's trademark is well recognizable within the Domain Name, with only the deletion of a punctuation and the addition of the country-code Top-Level Domain ("ccTLD") ".ai" differentiating the Domain Name from the Complainant's trademark. It is well established that TLDs, typically are disregarded in the assessment of confusing similarity, see [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy.

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.

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 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 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 that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Circumstances relevant in this regard are, i.e., that a respondent, by using the disputed domain name, intentionally has attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The majority of the Complainant's rights to the REMOVE.BG trademark were obtained before the Respondent's registration of the Domain Name. As mentioned above, the Complainant's REMOVE.BG trademark is clearly recognizable within the Domain Name. The similarity between the Domain Name and the Complainant's trademark, and the fact that the Respondent choose a ccTLD (".ai") that can be currently understood as a reference to the type of product/service marketed by the Complainant, suggests that the Respondent was aware of the Complainant's trademark when it registered the Domain Name. The previous content of the website to which the Domain Name resolved, with PPC links and content similar to the Complainant's official website, clearly reflects the Respondent's awareness of and intent to target the Complainant. Thus, it is clear that the Respondent, intentionally, has tried to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's REMOVE.BG trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the products/services supposedly offered on such website. The fact that that the Domain Name currently resolves to a website that is not being used does not prevent a finding of bad faith in this case. The fact that the Respondent has failed to reply to a cease and desist letter sent by the Complainant prior to these proceedings is another indication of bad faith.

The Panel finds that the Complainant has established 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 Domain Name <removebg.ai> be transferred to the Complainant.

*/Jonas Gulliksson/*

**Jonas Gulliksson**

Sole Panelist

Date: March 12, 2024