

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Wu Yu
Case No. DCO2022-0066

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is Wu Yu, China.

2. The Domain Name and Registrar

The disputed domain name <skyscannwr.co> (“Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 29, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 1, 2022, 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 1, 2022.

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 September 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2022.

The Center appointed José Ignacio San Martín Santamaría as the sole panelist in this matter on October 7, 2022. 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 Skyscanner Limited owns the following trademark registrations in relation to its travel related services:

- International trademark No. 900393 SKYSCANNER, registered on March 3, 2006, for services in classes 35, 38 and 39;
- International trademark No. 1030086 SKYSCANNER, registered on December 1, 2009, for services in classes 35, 39 and 42;
- International trademark No.1133058 SKYSCANNER (fig.), registered on August 16, 2012, for services in classes 35, 39 and 42;
- Indian Trademark Registration No. 1890840 SKYSCANNER, registered on December 2, 2009, for services in classes 35, 38 and 39;
- Indian Trademark Registration No. 2287020 SKYSCANNER (fig.), registered on February 22, 2012, for services in classes 35, 39 and 42;
- United Kingdom Trademark Registration No. 2313916 SKYSCANNER, registered on April 30, 2004, for services in classes 35, 38 and 39;
- Canadian Trademark Registration No. TMA786689 SKYSCANNER, registered on January 10, 2011, for services in classes 35, 38 and 39;
- New Zealand Trademark Registration No. 816550 SKYSCANNER, registered on October 7, 2010, for services in classes 35, 39 and 42.

The disputed domain name was registered on June 27, 2022. At the time of this decision, the disputed domain name resolves to a parking web page that apparently contains links to other travel websites. In addition, the page indicates that the Domain Name is for sale.

5. Parties' Contentions

A. Complainant

The Complainant is the proprietor of *inter alia*, the mentioned trademark rights. SKYSCANNER trademark enjoys considerable reputation among potential customers.

The domain Name is identical to the Complainant's SKYSCANNER trademark, save that it replaces the letter 'e' with the letter 'w', which sit alongside one another on the QWERTY keyboard.

The Respondent does not own any registered rights in any trademarks which comprise part or all of the Domain Name. The term "skyscannwr" is not descriptive in any way, nor does it have any dictionary meaning. The Complainant has not given its consent for the Respondent to use its registered trademarks in a Domain Name registration.

Initially, when accessing the Domain Name the Complainant appears to be automatically directed to a URL that contains a virus or malware. The Complainant submits that the use of malware to infect Internet users' devices cannot constitute a legitimate interest or *bona fide* use of the Domain Name. However, the Complainant has used a website that gives its users sandboxed access to websites, and notes that it resolves to a website containing pay-per-click (PPC) links that advertise the services of the Complainant's competitors.

Given that the Complainant's registered rights date back to 2002, the Complainant submits that the Respondent was aware of the reputation of the Complainant's business under its SKYSCANNER trademark at the time the Domain Names were registered, by which point the Complainant already enjoyed global fame in its trade marks. There can be no reasonable explanation for this, other than the Respondent sought to profit illegitimately by misleading consumers into believing that the Domain Name is connected to the Complainant's business.

Thus, the Complainant submits that the Respondent uses the Domain Name in bad faith by intentionally attempting to attract, for commercial gain, Internet users to its web site by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its web site.

The Complainant notes that the Domain Name is offered for sale for USD \$1999.00 on the domain name marketplace, Sedo.com. A screenshot of the offer is provided.

As a consequence, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel shall grant the remedies requested if the Complainant proves 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 is being used in bad faith.

Pursuant to paragraph 4(a) of the Policy and 15 of the Rules, for this purpose the Panel shall decide a Complaint 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.

A. Identical or Confusingly Similar

The Domain Name nearly incorporates the Complainant's earlier SKYSCANNER trademark, with the only change being the letter "e" replaced by the letter "w", which is located just to the left on the keyboards.

The Panel concludes that the Domain Name is clearly confusingly similar to the Complainant's trademark.

Precisely in relation to the domain names consisting of a misspelling of a complainant's trademark (*i.e.* typosquatting), section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states:

"A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

"Examples of such typos include (i) adjacent keyboard letters[...]."

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's trademark as provided under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Having done so, the burden of production shifts to the Respondent to come forward with appropriate evidence demonstrating rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.1). Given that the Respondent has defaulted, it has not met that burden.

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent's website cannot be considered as a *bona fide* offering of services or fair use, as the domain name apparently redirects to different competitors' websites.

In summary, the Panel finds that the paragraph 4(a)(ii) set forth in the Policy is present.

C. Registered and Used in Bad Faith

According to paragraph 4(b)(iv) of the Policy, registration or use of a domain name will be considered in bad faith when:

"by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location".

The Complainant's SKYSCANNER trademark is well-known. In view of the fact that we are dealing with a typosquatting case and that the letter "w", only difference in the Domain Name, is precisely next to the letter "e" on the keyboard, it seems clear that when registering the Domain Name the Respondent deliberately sought to have Internet users who typed the name incorrectly referred to its website.

Prior UDRP Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

The Complainant has further provided *prima facie* evidence that the disputed domain name was for sale for an amount far in excess of reasonable registration fees, suggesting that it was registered by the Respondent for financial gain based on the fame of the Complainant's earlier mark.

Finally, the use of a privacy service in almost all the data of the disputed domain name also seems to confirm the bad faith of the Respondent. While there may be circumstances that make the use of a privacy service legitimate, several decisions have considered it a circumstance that contributes to consider bad faith proven when it is combined with other types of circumstances. In *GVC Holdings plc / ElectraWorks Limited*

v. *Registration Private, Domains By Proxy, LLC / Adnan Atakan Alta*, WIPO Case No. [D2016-2563](#), the panel found that:

“Although privacy services might be legitimate in certain circumstances, it is for the Panel difficult to see in the present case why the Respondent should need to protect its identity except to make it difficult for the Complainant to protect its trademark rights. The Panel rather believes that the choice of the disputed domain names (which fully incorporate the Complainant’s trademark), the content as well as the design of the Respondent’s corresponding websites rather indicate that the Respondent deliberately opted for a privacy shield in order to prevent an efficient enforcement of legitimate trademark rights by the Complainant.”

Thus, the Panel finds that the d Domain Name was registered and is being used in bad faith by the Respondent in accordance with paragraph 4(b) of the Policy. In the light of the above, the Panel finds that the Complainant has established registration and use of the Domain Name in bad faith and concludes that paragraph 4(a)(iii) of the Policy is satisfied.

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 <skyscannwr.co> be transferred to the Complainant.

/José Ignacio San Martín Santamaría/

José Ignacio San Martín Santamaría

Sole Panelist

Date: October 18, 2022