

## **ADMINISTRATIVE PANEL DECISION**

Canva Pty Ltd. v. Perfect Privacy LLC / Milen Radumilo  
Case No. D2022-0351

### **1. The Parties**

Complainant is Canva Pty Ltd., Australia, represented by SafeNames Ltd., United Kingdom.

Respondent is Perfect Privacy LLC, Australia / Milen Radumilo, Romania.

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

The disputed domain name <canvaalabs.com> (the “Domain Name”) is registered with Pipeline Domains, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2022. On February 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 3, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 4, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 4, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 9, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on March 16, 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

Complainant is an Australian company providing an online graphic design platform.

Complainant is the owner of the following trademark registrations, among others, alleged to be relevant to this matter containing the CANVA trademark (the “CANVA Mark”):

Trademark	Country	Registration No.	Registration Date	Class Covered
CANVA	United States	4316655	April 9, 2013	42
CANVA	Australia	1483138	September 9, 2013	9
CANVA	Madrid Protocol International Registration	1204604	October 1, 2013	9

On September 22, 2021, Respondent registered the Domain Name with the Registrar. The Domain Name resolves to a parked website displaying pay-per-click links.

#### 5. Parties’ Contentions

##### A. Complainant

As background, Complainant alleges that it was founded in 2012 and since then has been offering an online graphic design platform under the CANVA Mark that provides users with thousands of images and templates to choose from for creating graphic designs. Complainant has 977 employees spread across offices in Sydney, Manila, and Beijing. Complainant uses its main website located at “www.canva.com” to offer its services. In addition to its website, Complainant launched a mobile application through which users can access Complainant’s graphic design platform.

Complainant contends that the CANVA Mark is well-known worldwide. Within its first year of operations Complainant states that it had 750,000 users. As of 2019, “Canva” was valued at USD 3.2 billion, and its users had expanded to 20 million users across 190 countries. Complainant further contends that the CANVA brand has achieved a global reach as evidenced by third-party web traffic statistics which show that Complainant’s website consistently receives over 200 million visits per month. Lastly, Complainant contends that its total number of social media platform followers further establishes the global reach of the CANVA brand.

With respect to the first element of the Policy, Complainant contends that the Domain Name is confusingly similar to Complainant’s registered CANVA Mark, which has been determined by several panels to be a well-known trademark. Complainant argues that the only difference between the relevant portion of the Domain Name and the CANVA Mark is Respondent’s intentional misspelling of the CANVA Mark, via the inclusion of the additional letter “a” at the end of CANVA, and Respondent’s inclusion of the additional word “labs”; however, Complaint argues that the misspelling and the additional word are not sufficient to eliminate confusing similarity between the Domain Name and the CANVA Mark.

With respect to the second element of the Policy, Complainant argues that Respondent has no rights nor legitimate interests in the Domain Name because (i) Respondent does not have any trademark rights in CANVA or CANVAA LABS, (ii) Complainant has not granted Respondent with a license to use the CANVA Mark, (iii) Respondent is not commonly known by the name “canva”, “canvaa”, or “canvaa labs” or any other colorful imitation thereof, (iv) prior to the dispute, Respondent’s use, or demonstrable preparations to use, the Domain Name was/is not in connection with a *bona fide* offering of goods or services, and (v)

Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

With respect to the third element of the Policy, Complainant argues that Respondent's bad faith registration and use of the Domain Name is evidenced by the combination of the following factors: (i) Complainant's CANVA Mark has established a substantial amount of goodwill and reputation that predates Respondent's registration of the Domain Name by nine (9) years, (ii) Respondent knew of, or should have known of, Complainant's prior existing exclusive rights in the CANVA Mark, (iii) Respondent received and failed to respond to Complainant's pre-complaint cease and desist letter, (iv) Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Domain Name by creating a likelihood of confusion with the CANVA Mark, and (v) Respondent has registered the Domain Name primarily for the purpose of selling the Domain Name for valuable consideration in excess of Respondent's documented out-of-pocket expenses.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Even though Respondent has defaulted, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. On this point, Complainant has provided evidence that it is the owner of several trademark registrations for the CANVA Mark.

While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See [WIPO Overview 3.0](#), section 1.7. Here, the CANVA Mark is clearly identifiable in the Domain Name.

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

element. See [WIPO Overview 3.0](#), section 1.9. The Domain Name consists of a classic typosquatting misspelling of the CANVA Mark, namely, “canvaa”.

Lastly, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.8. Here, the addition of the term “labs” does not prevent a finding of confusing similarity under the first element.

For all of the reasons set forth above, the Panel finds that the Domain Name is confusingly similar to Complainant’s CANVA Mark in which Complainant has valid trademark rights. Therefore, Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Under the Policy paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant need only make a *prima facie* showing on this element, at which point the burden shifts to Respondent to present evidence that it has some rights or legitimate interests in the Domain Name. If Respondent has failed to do so, then Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Complainant asserts that (i) Respondent does not have any trademark rights in CANVA or CANVAA LABS, (ii) Complainant has not granted Respondent with a license to use the CANVA Mark, (iii) Respondent is not commonly known by the name “canva”, “canvaa”, or “canvaa labs” or any other colorful imitation thereof, (iv) prior to the dispute, Respondent’s use, or demonstrable preparations to use, the Domain Name was/is not in connection with a *bona fide* offering of goods or services, and (v) Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

Although properly notified by the Center, Respondent failed to submit any response on these points. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the Domain Name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complainant, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the disputed domain name. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#). Accordingly, as discussed in detail below, the Panel finds that Complainant has met its burden and Respondent will not be able to show rights or legitimate interests under any of the three conditions under paragraph 4(c) of the Policy.

Respondent cannot satisfy paragraph 4(c)(ii) of the Policy. There is no evidence in the record that Respondent is commonly known by the name “canva”, “canvaa”, “canvaa labs” or any other colorful imitation thereof that could potentially establish a legitimate interest or right in the Domain Name. In fact, to the contrary, the Whois information indicates that Respondent’s name is Milen Radumilo. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (“the Panel notes that the respondent’s name is ‘Bestinfo’ and that it can therefore not be ‘commonly known by the Domain Name.’”). Complainant further asserts that it has never licensed or in any way authorized Respondent to register or use the CANVA Mark in any manner.

The Panel further finds that Respondent is not making *bona fide* use of the Domain Name under paragraph 4(c), because the Domain Name resolves to a parked page featuring pay-per-click (“PPC”) advertisement for goods and services unrelated to Complainant. See *Toyota Motor Sales, U.S.A. Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2019-2612](#) (“[r]espondent’s pay-per-click ads, whether targeting [c]omplainant, [c]omplainant’s competitors, or unrelated services...are not

legitimate usages.”). The Panel recognizes that parking webpages may be permissible in some circumstances, as discussed in section 2.9 of [WIPO Overview 3.0](#); however, none of those factors are present here. There is no evidence that the Domain Name consists of dictionary or common words or phrases that support the PPC links genuinely related to the generic meaning of the domain name at issue. Instead, the Domain Name, which contains the inherently distinctive, non-dictionary CANVA Mark, appears to have been registered with the intent that confused Internet users searching for Complainant will be directed to Respondent’s parked webpage for commercial gain. Such activity does not provide a legitimate interest in the Domain Name under the Policy. See *M.F.H. Fejlesztő Korlátolt Felelősségű v. Satoshi Shimoshita*, WIPO Case No. D2014-1726. Respondent’s intention in registering the Domain Name solely for commercial gain based on confusion with Complainant’s CANVA Mark is further evidenced by Respondent’s general offerings to sell the Domain Name.

Lastly, Respondent’s use of the Domain Name is not “noncommercial or fair use” under paragraph 4(c)(iii) of the Policy, given that Respondent is seeking commercial gain from its use of the Domain Name by establishing a parked page with PPC advertisements and Respondent’s offering of the Domain Name for sale. Therefore, the Domain Name is being used for commercial purposes and paragraph 4(c)(iii) is not applicable. See *Overstock.com, Inc. v. Metro Media*, WIPO Case No. [DME2009-0001](#) (respondent’s use of the disputed domain name to establish a parking page was “plainly not noncommercial”).

In sum, Complainant has made a *prima facie* showing of Respondent’s lack of rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent’s default as it considers appropriate. For all these reasons, the Panel is entitled to accept that the second element of the Policy is established by Complainant, and Respondent has no rights or legitimate interests in respect of the Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

In this proceeding Complainant contends that the following factors establish Respondent’s bad faith registration and use of the Domain Name: (i) Complainant’s CANVA Mark has established a substantial amount of goodwill and reputation that predates Respondent’s registration of the Domain Name by nine (9) years, (ii) Respondent knew of, or should have known of, Complainant’s prior existing exclusive rights in the CANVA Mark, (iii) Respondent received and failed to respond to Complainant’s pre-complaint cease and desist letter, (iv) Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Domain Name by creating a likelihood of confusion with the CANVA Mark, and (v) Respondent has registered the Domain Name primarily for the purpose of selling the Domain Name for valuable consideration presumably in excess of Respondent’s documented out-of-pocket expenses.

Based on Respondent’s failure to rebut any of Complainant’s contentions in the subject proceeding, the Panel finds, based on the evidence Complainant has put forth, it is more likely than not that Respondent knew of Complainant’s CANVA Mark and specifically targeted the CANVA Mark when registering the Domain Name and did so with the intention of creating confusion between the Domain Name and the CANVA Mark solely for Respondent’s own financial gain.

UDRP panels have previously held that a respondent’s registration and use of a domain name to display advertisements for third-party goods and services that are unrelated to those of the complainant is evidence of registration and use of the domain name in bad faith. See *Toyota Motor Sales, U.S.A. Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2019-2612](#) (the panel finding bad faith where the disputed domain name resolved to a PPC website featuring links to services unrelated to the complainant’s). Here, Complainant has submitted evidence that Respondent has used the Domain Name in order to direct Internet users to third party websites for products and services unrelated to Complainant. This

is misleading and bad faith use of the Domain Name.

Panels have also previously found that making general offers to sell the disputed domain is evidence of bad faith. See *Virgin Enterprises Limited v. Balticsea LLC / Contact Privacy Inc. Customer 0134432592*, WIPO Case No. [D2016-2148](#) (finding that a general offering to sell the domain name is evidence of registration of the domain name in bad faith). Here, Complainant has submitted evidence of Respondent's general offers to sell the Domain Name.

Lastly, Respondent's failure to respond to Complainant's pre-complaint cease and desist letter and failure to respond to the Complaint are further elements that support the inference of Respondent's bad faith registration and use of the Domain Name. See *Aktiebolaget Electrolux v. zhou lang*, WIPO Case No. [D2013-1584](#) ("It is well established and accepted that failure to respond to cease and desist letters without legitimate reason may be evidence of bad faith registration and use.").

For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith under paragraph 4(a)(iii) 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 <canvaalabs.com> be transferred to Complainant.

*/John C McElwaine/*

**John C McElwaine**

Sole Panelist

Date: March 30, 2022