

ADMINISTRATIVE PANEL DECISION

CouponCabin LLC v. Privacy service provided by Withheld for Privacy ehf / lilykook lilykook11
Case No. D2022-1612

1. The Parties

The Complainant is CouponCabin LLC, United States of America (“United States”), represented by Patterson + Sheridan, LLP, United States.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / lilykook lilykook11, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <couponcabin-nl.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2022. On May 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 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 May 11, 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 May 11, 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 May 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 17, 2022.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on July 1, 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 operates a business based in the United States through a website at “www.couponcabin.com” from which it provides links to online discounts and coupons and opportunities for online cash back.

The Complainant owns the following trademark registrations in the United States:

- United States Trademark No. 4,509,905 for COUPONCABIN, registered on April 8, 2014, in International Class 35;

- United States Trademark No. 3,666,660 for COUPON CABIN, registered on August 11, 2009, in International Class 35; and

- United States Trademark No. 3,666,710 for COUPONCABIN.COM, registered on August 11, 2009, in International Class 35;

(collectively referred to as the “COUPONCABIN Trademarks”).

The disputed domain name was registered on March 28, 2022, well after the Complainant secured rights to the COUPONCABIN Trademarks. The disputed domain name resolves to an online shop displaying “COUPON CABIN” on the top together with a house logo that is confusingly similar to the Complainant’s logo, and selling what it describes as “luxury products” through daily deals at attractive prices. The online shop seemingly targets customers in the Netherlands and Belgium as it is only available in Dutch and offers free shipping to customers in those countries.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that each of the three elements specified in paragraph 4(a) of the Policy are present. The three elements being: (i) the disputed domain name is identical or confusingly similar to a 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.

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that the disputed domain name is confusingly similar to the COUPONCABIN Trademarks. It claims that the disputed domain name wholly incorporates the COUPONCABIN Trademarks. The only difference between the disputed domain name and the Complainant’s Trademarks, according to the Complainant, is the addition of “-nl” after “couponcabin” which suggests it is calculated to mislead Internet users and capitalize upon their potential confusion.

Furthermore, the Complainant asserts that the browser tab of the website at the disputed domain name simply reads “couponcabin” and the website also contains a house logo which, the Complainant asserts, is similar to the Complainant’s logo, in particular the inclusion of a similarly shaped house. Moreover, the

Complainant contends, the website seemingly - and misleadingly - includes a review of the Complainant's business. Finally, the Complainant also claims that the website offers a variety of products at discounted prices, which is strikingly similar to the Complainant's goods and services and, according to the Complainant, furthers the likelihood of confusion of consumers.

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant contends that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, whether express or implied, to use the COUPONCABIN Trademarks in a domain name or in any other manner. The Complainant also confirms that it does not sponsor or endorse the Respondent's usage of the COUPONCABIN Trademarks in connection with the disputed domain name. Finally, the Complainant points to the trademark registrations above as evidence of its exclusive rights to use COUPONCABIN and COUPON CABIN in connection with a wide range of services.

(iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant asserts that there are no legitimate reasons to operate a website at the disputed domain name which infringes its trademark rights, and to disrupt the business of the Complainant. The Complainant concludes that the Respondent has therefore registered and used the disputed domain name solely for illegitimate reasons. Furthermore, the Complainant claims that the Respondent intentionally attempted to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of a product or service on the Respondent's site.

B. Respondent

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

6. Discussion and Findings

The Panel finds that it has jurisdiction to hear this dispute as the Policy has been incorporated by reference into the registration agreement between the Registrar and the Respondent.

The Panel notes that while the Respondent has been duly notified, it did not reply to the Complainant's contentions within the time period established by the Rules. Pursuant to paragraph 14 of the Rules the Panel shall nonetheless proceed to a decision on the complaint and it may draw such inferences from the Respondent's failure to respond as it considers appropriate.

Paragraph 4(a) of the Policy requires that in order for its complaint to succeed, the Complainant must prove that the following three elements are present:

- (i) the disputed domain name is identical or confusingly similar to a 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.

The above three elements will each be discussed in further detail below.

A. Identical or Confusingly Similar

The Complainant is required to establish: (1) that it owns rights in a trademark or service mark, and, if so, (2) that the disputed domain name is identical or confusingly similar to its trademarks.

Firstly, the Panel finds that the Complainant has clearly evidenced that it owns registered trademark rights to COUPON CABIN, COUPONCABIN.COM and COUPONCABIN. It should be noted that paragraph 4(a)(i) of the Policy does not set minimum requirements as to the jurisdictions of the trademarks a complainant relies on, nor as to the number, nature or scope of protection of such trademarks.

Secondly, the Panel finds that the disputed domain name is confusingly similar to the COUPONCABIN Trademarks since the disputed domain name incorporates the entirety of the trademarks COUPON CABIN and COUPONCABIN (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7 as well as *L’Oréal, Lancôme Parfums Et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#); *Rapidshare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. [D2010-1059](#); and *The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc.*, WIPO Case No. [D2000-0113](#)). The other word “nl” will likely be perceived as referring to the country code of the Netherlands and, especially because it also has been separated by a hyphen, will indeed likely be read separately from the mark “couponcabin”. In any event, as the trademarks COUPONCABIN and COUPON CABIN are recognizable and incorporated in their entirety within the disputed domain name, the addition of “nl” does not prevent the Panel’s finding of confusing similarity under the first element. It is a well-established view of UDRP panels, with which the Panel agrees, that 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 for instance: [WIPO Overview 3.0](#), section 1.8 as well as *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd.*, WIPO Case No. [D2001-0110](#); *Nintendo of America Inc. v. Fernando Sascha Gutierrez*, WIPO Case No. [D2009-0434](#); *M/s Daiwik Hotels Pvt. Ltd v. Senthil Kumaran S, Daiwik Resorts*, WIPO Case No. [D2015-1384](#); and *BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#)).

Finally, as for the applicable Top-Level Domain (“TLD”), *i.e.*, the suffix “.com”, the Panel holds that this can be disregarded under the first element confusing similarity test (*CANAL + FRANCE v. Franck Letourneau*, WIPO Case No. [DTV2010-0012](#); *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)).

On the basis of the foregoing findings, and according to paragraph 4(a)(i) of the Policy, this Panel finds and concludes that the disputed domain name is confusingly similar to the Complainant’s trademarks.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy non-exhaustively lists three circumstances that shall demonstrate a right or legitimate interest:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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.”

It is a well-established view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by a complainant is generally sufficient to satisfy the requirements under paragraph 4(a)(ii) of the Policy,

provided that a respondent does not submit any evidence to the contrary (*AGUAS DE CABREIROA, S.A.U. v. Hello Domain*, WIPO Case No. [D2014-2087](#); *Spigen Korea Co., Ltd., Spigen Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-0145](#); *HubSpot, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Steve Johnson*, WIPO Case No. [D2016-1338](#)).

The Panel notes that the Respondent has not responded to any of the Complainant's contentions, let alone submitted evidence to the contrary, and that, pursuant to paragraph 14 of the Rules, the Panel may draw such inferences from the Respondent's failure to respond as it considers appropriate. In the present case, taking into consideration the Respondent's default, this Panel finds that the Complainant has made out an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, in view of the circumstances of this case, including the following factors.

The Panel concludes that there is no evidence that the Respondent is using the disputed domain name for a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Panel agrees with the Complainant that the Respondent is using the disputed domain name to falsely suggest affiliation with the Complainant. As the Panel determined above, the disputed domain name is confusingly similar to the COUPONCABIN Trademarks as it incorporates the trademarks COUPONCABIN and COUPON CABIN in their entirety. The addition of the geographic term "nl", the country code of the Netherlands, only increases the risk of implied affiliation. In addition, as the Complainant has demonstrated, the disputed domain name resolves to a website that has some similarity in the products offered for sale on the website of the Complainant and furthermore includes the letters "COUPON CABIN" on the top that are identical to the Complainant's COUPON CABIN trademark and a house logo that is confusingly similar to the Complainant's logo. The Panel agrees with the Complainant that the combination of these elements may indeed lead consumers to be confused about the source of the website and whether the website is sponsored or otherwise endorsed by the Complainant. Based on the evidence provided, it is also plausible that the website primarily intended for commercial gain. As is clear from sections 2.2 and 2.5 of the [WIPO Overview 3.0](#)), UDRP Panels have consistently found that such use of a domain name can neither be considered fair use of the domain name nor a *bona fide* offering of goods or services.

In addition, no evidence has been provided to prove that the Respondent has a connection or affiliation with the Complainant or has received any license or consent, whether express or implied, to use the COUPONCABIN Trademarks in a domain name or in any other manner. The Panel has taken note of the Complainant's confirmation in this regard and has not seen any evidence that would suggest the contrary. In the absence of any license or permission from the Complainant to use its trademarks, no *bona fide* or legitimate use of the disputed domain name could reasonably be claimed under the circumstances of this case (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

Finally, there is no evidence that the Respondent has been commonly known by the disputed domain name.

For all the foregoing reasons, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy non-exhaustively lists four circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of the domain name in bad faith:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) 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 Panel finds that the circumstances and evidence presented by the Complainant offer sufficient proof that both the Respondent's registration and use of the disputed domain name are in bad faith.

The Panel will first discuss the Respondent's registration of the disputed domain name. The Panel believes that the Respondent knew or, at least, should have known of the Complainant's COUPONCABIN Trademarks at the time of registration because the disputed domain name incorporates these trademarks. The registration of the COUPONCABIN Trademarks predate the registration of the disputed domain name by many years and even a cursory Internet search by the Respondent at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owns these trademarks. Moreover, the Panel believes that the mark COUPONCABIN is distinctive and the Respondent has not provided a reasonable explanation for adoption of this mark in the disputed domain name. The Respondent's knowledge of the Complainant's abovementioned trademarks and therefore its registration in bad faith of the disputed domain name may already be inferred from these circumstances alone (see section 3.2.2 of the [WIPO Overview 3.0](#) and in particular: *SembCorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#)). This conclusion is further enhanced by the Respondent's use of the disputed domain name which is discussed below.

Regarding the use of the disputed domain name, the Panel agrees with the Complainant that the fact that the disputed domain name resolves to a website that has some similarity in the products offered for sale on the website of the Complainant and moreover includes the letters “COUPON CABIN” on the top that are identical to the COUPONCABIN and COUPON CABIN trademarks and a house logo that is confusingly similar to the Complainant's logo serves as further (unrebutted) evidence that the Respondent knew about the COUPONCABIN Trademarks at the time of registration and that the Respondent registered and is currently using the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the COUPONCABIN Trademarks as to the source, sponsorship, affiliation, or endorsement of this website and the products offered on it (paragraph 4(b)(iv) of the Policy).

In light of the above, this Panel finds that the disputed domain name was registered and is being used by the Respondent in bad faith under 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 disputed domain name, <couponcabin-nl.com>, be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: July 14, 2022