

ADMINISTRATIVE PANEL DECISION

Hostelworld.com Limited v. Zhang Wei
Case No. D2022-3343

1. The Parties

The Complainant is Hostelworld.com Limited, Ireland, represented by Tomkins & Co., Ireland.

The Respondent is Zhang Wei, China.

2. The Domain Name and Registrar

The disputed domain name <hostelworld.com> is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 14, 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 amended Complaint in English on September 20, 2022.

On September 14, 2022, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On September 15, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on September 21, 2022. In accordance

with the Rules, paragraph 5, the due date for Response was October 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 12, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on October 24, 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, Hostelworld.com Limited, is a leading global provider of online hostel booking services and related travel and tourism services. Launched in 1999, its website "www.hostelworld.com" is now available in 23 languages and lists over 36,000 properties in more than 178 countries.

The Complainant has an extensive global portfolio of HOSTELWORLD and HOSTELWORLD.COM trade marks, including the following:

- International Trade Mark Registration No. 1265596 for HOSTELWORLD (figurative mark), registered on May 20, 2015, in Classes 35, 39, 41, and 43, designating Australia, China, Japan, Republic of Korea, and United States of America;
- China Trade Mark Registration No. 8996448 for HOSTELWORLD.COM (word mark), registered on April 7, 2014, in Class 39; and
- China Trade Mark Registration No. 8996449 for HOSTELWORLD.COM (word mark), registered on June 28, 2016, in Class 35.

The disputed domain name was registered on June 1, 2022.

The Complainant asserts that at the time of filing of the Complaint, the disputed domain name resolved to a parked page that includes links under the "related searches" section to "Hotel Reservations Booking", "Hotel Sevilla", and "Billige Hotels". At the time of this decision, the disputed domain name continues to resolve to the same page.

5. Parties' Contentions

A. Complainant

The Complainant asserts prior rights in the HOSTELWORLD and HOSTELWORLD.COM trade marks and that it is a leading operator in its field of business.

The Complainant further asserts that the disputed domain name is identical or confusingly similar to the Complainant's HOSTELWORLD trade marks.

The Complainant asserts that it has not authorized the Respondent to use the HOSTELWORLD mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that, considering the evidence, it is implausible that the Respondent registered the disputed domain name in good faith, and that any use of the disputed domain name must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is in Chinese.

However, the Complainant filed the Complaint in English, and requested the Panel to consider using English as the language of the proceeding, asserting mainly that:

- the disputed domain name was registered in Latin characters and in English, and the disputed domain name resolves to a parked page appearing in the English language, which demonstrates the Respondent's knowledge, understanding, and familiarity with the English language;
- the Respondent has been involved in many UDRP proceedings, and in some of those proceedings, the language of the registration agreement was in English; and
- the Complainant is not familiar with the Chinese language and would have to incur substantial expenses if the Complainant were to submit the Complaint in the language of the Registration Agreement, and the proceeding would inevitably be unduly delayed.

In addition, the Panel notes that the Respondent was notified in both Chinese and English of the language of the proceeding and of the Notification of the Complaint and did not object to the Complainant's request that English be the language of the proceeding or submit any response in either Chinese or English.

Accordingly, the Panel has determined that the language of the proceeding shall be English, and the Panel has issued this decision in English.

B. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the HOSTELWORLD and HOSTELWORLD.COM trade marks in many territories around the world.

The disputed domain name incorporates the Complainant's trade marks HOSTELWORLD and HOSTELWORLD.COM in its entirety with the addition of the letter "l".

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers that the disputed domain name is an obvious misspelling of the Complainant's trade marks as it adds one more alphabet "l" but is otherwise identical or confusingly similar to the Complainant's trade marks.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the HOSTELWORLD and HOSTELWORLD.COM trade marks and in

demonstrating that the disputed domain name is identical or confusingly similar to its marks.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the complainant is required to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case is made out, the respondent carries the burden of producing evidence in support of its rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant can be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has satisfactorily established a *prima facie* case.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

At the time of drafting of this Decision, the disputed domain name resolved to a parked page that includes links under the "related searches" section to "Hotel Reservations Booking", "Hotel Sevilla", and "Billige Hotels".

As such, no evidence has been provided that would help to demonstrate that the Respondent used or has demonstrated preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services prior to notice of this action. No evidence has likewise been submitted to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the HOSTELWORLD and HOSTELWORLD.COM trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

In addition, the disputed domain name consists of an obvious typo-squatting variation of the Complainant's official website at the domain name <hostelworld.com>. The Respondent has also provided no evidence to justify his choice of the term "hostelworld" in the disputed domain name. In light of the foregoing, it would be unreasonable to conclude that the Respondent - at the time of the registration of the disputed domain name - was unaware of the Complainant's trade marks.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights, and is using the disputed domain name to intentionally attract, for commercial gain, Internet users to his website or other online locations, by creating a likelihood of confusion with the Complainant's trade marks.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <hostelworld.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: November 7, 2022