

## **ADMINISTRATIVE PANEL DECISION**

InterContinental Hotels Group PLC, Six Continents Limited v. soikrena rotia,  
The ocean Club  
Case No. D2023-0017

### **1. The Parties**

The Complainants are InterContinental Hotels Group PLC, Six Continents Limited, United States of America (“US”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, US.

The Respondent is soikrena rotia, The ocean Club, United Kingdom (“UK”).

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

The disputed domain name <sixsenseshotels.org> 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 3, 2023. On January 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on January 5, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on January 5, 2023.

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 January 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2023.

The Center appointed Mladen Vukmir as the sole panelist in this matter on February 10, 2023. 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 Panel has determined the following non-contested facts:

- (i) The Complainants are InterContinental Hotels Group PLC (“IHG PLC”) and Six Continents Limited (“Six Continents”). IHG PLC is one of several companies collectively known as InterContinental Hotels Group (“IHG”), one of the world’s largest hotel groups with 6,061 hotels with 888,147 rooms all over the world. Six Continents is wholly owned by IHG PLC;
- (ii) The Complainants own a portfolio of well-recognized and respected hotel brands including Six Senses Hotels, Resorts & Spas; InterContinental Hotels & Resorts; Holiday Inn Hotels; Holiday Inn Express Hotels; Holiday Inn Club Vacations; Crowne Plaza Hotels & Resorts; Staybridge Suites; Candlewood Suites; Hotel Indigo; Regent Hotels & Resorts; Kimpton Hotels & Restaurants; Hualuxe; Even Hotels; avid Hotels; and voco Hotels; and also manages one of the world’s largest hotel loyalty programs, IHG One Rewards;
- (iii) The Complainants (via Six Continents Hotels, Inc.) are the registrants of numerous domain names that contain or are similar to the SIX SENSES trademark, including <sixsenses.com>, registered on April 12, 2000;
- (iv) The Complainant Six Continents is the holder of more than 300 trademarks that consist of or contain words SIX SENSES in many countries of the world, including in particular the following:

Trademark	Trademark Office/scope of protection	Reg. no. / Status	Date of registration	Class(es)
SIX SENSES	US	4,551,528 / registered	June 17, 2014	39
SIX SENSES	US	6,115,673 / registered	August 4, 2020	36, 43, 44
SIX SENSES & Design	US	6,115,674 / registered	August 4, 2020	36, 43, 44
SIX SENSES	UK	UK00916440885 / registered	June 20, 2017	44
SIX SENSES	UK	UK00902812113 / registered	December 17, 2004	5, 16, 20, 21, 25, 35, 39, 41, 43, 44
SIX SENSES	WIPO / International	936600 / registered	August 23, 2007	25, 35, 39, 41, 43, 44
SIX SENSES	WIPO / International	1359674 / registered	March 31, 2017	36, 39, 41, 43, 44
SIX SENSES	EUIPO/EU	002812113 / registered	December 17, 2004	5, 16, 20, 21, 25, 35, 39, 41, 43, 44

- (v) The Respondent is the registrant of the disputed domain name as of December 20, 2022;
- (vi) The disputed domain name has been used for sending phishing emails impersonating the Complainant in an apparent attempt to engage the customers in a fraudulent business transactions. The Respondent was using the disputed domain name in connection with a pay-per-click (“PPC”) or monetized parking page that includes links for services related to SIX SENSES trademarks.

## 5. Parties’ Contentions

### A. Complainants

The Complainants essentially, assert the following:

- (i) IGH owns a portfolio of well-recognized and respected hotel brands including SIX SENSES HOTELS, RESORTS & SPAS;
- (ii) they hold a number of earlier trademark registrations that consist of or contain terms “six” and “senses” (SIX SENSES trademarks) that enjoy protection worldwide; the oldest SIX SENSES trademark was registered in 2004 with the Australian IP Office;
- (iii) the previous UDRP Panels have recognized that the Complainants have rights in the SIX SENSES trademarks and the Complainants refer to earlier UDRP Panel decisions in this regard;
- (iv) the disputed domain name is confusingly similar to the Complainants’ SIX SENSES trademarks, while it contains the Complainants’ SIX SENSES trademarks in its entirety plus word “hotels”, which is descriptive word and as such is irrelevant;
- (v) the Respondent has no rights or legitimate interests in the disputed domain name. The Complainants have never assigned granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the SIX SENSES trademark in any manner. The Respondent is not using the disputed domain name in connection with *bona fide* offering goods or services. The Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name;
- (vi) the Respondent is using the disputed domain name in connection with a phishing scam impersonating the Complainants in an apparent attempt to engage in fraudulent business transactions (the sender that was falsely identified as the Complainants request a hotel guest to submit payment via wire transfer to a bank account not associated with the Complainants). In addition, the Respondent is using the disputed domain name in connection with a PPC or monetized parking page that includes links for services related to the SIX SENSES trademarks, including “Booking Business Travel”, “Hotel Accommodation”, and “Resort Beach Hotel Spa”;
- (vii) the Respondent has registered and is using the disputed domain name in bad faith. Given the fame of SIX SENSES trademarks and the Complainants’ significant presence, it is implausible that the Respondent was unaware of the Complainants. Because the disputed domain name is “so obviously connected with” the Complainants, the Respondent’s action suggest “opportunistic bad faith”. By using the disputed domain name as a part of a phishing scam to impersonate the Complainants, the Respondent acted in bad faith. All the Complainants’ SIX SENSES trademarks were registered before the Respondent’s disputed domain name, including the Complainants’ oldest registration in Australia, which was registered more than 18 years before the disputed domain name.

### B. Respondent

The Respondent did not reply to the Complainants’ contentions.

## 6. Discussion and Findings

### Preliminary issue – Multiple Complainants

Affiliated companies have standing to file complaint under the Policy, as prescribed in section 1.4.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (hereinafter: “[WIPO Overview 3.0](#)”). Further, according to section 4.11.1 of the [WIPO Overview 3.0](#), in assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.

This Panel finds that the two parties jointly comprising the Complainant have a specific common grievance, and it is equitable and procedurally efficient to allow consolidation in circumstances of this case. Hereinafter the Panel will refer both of the Complainants as the “Complainant”.

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules, and other applicable legal authority pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

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

### A. Identical or Confusingly Similar

As provided in section 1.2 of the [WIPO Overview 3.0](#), it is generally accepted that ownership of a registered trademark by a complainant is sufficient to satisfy the threshold requirement of having the trademark rights for purposes of standing to file a UDRP case.

The Complainant has submitted sufficient evidence to show that it is the holder of a number of SIX SENSES trademarks registered before the competent authorities worldwide. As such, these trademarks provide to the Complainant all the exclusive rights that are granted with such trademark registrations.

It is well established that the threshold test for confusing similarity under the UDRP involves a reasoned but relatively straightforward comparison between the textual components of the relevant trademark and the disputed domain name. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the disputed domain name. 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 section 1.7 of the [WIPO Overview 3.0](#)).

After performing a side-by-side comparison of the disputed domain name and the Complainant’s SIX SENSES trademarks, it is evident to this Panel that the disputed domain name incorporates the Complainant’s SIX SENSES trademark in its entirety. The only difference between the disputed domain name and the Complainant’s SIX SENSES trademarks is the addition of the term “hotels” in the disputed domain name.

Prior UDRP Panels have found confusing similarity in a number of cases based on the circumstances involving domain names comprised of a well-known trademark and a descriptive term (section 1.8. of [WIPO Overview 3.0](#)). Where the trademark in question is recognizable within the disputed domain name, the addition of other terms (whether descriptive, etc.) does not prevent a finding of confusing similarity between the disputed domain name and trademark in question. In this particular case, and following earlier UDRP panels decisions, the added term “hotels” does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s SIX SENSES trademarks.

Regarding the generic Top-Level Domain (“gTLD”), “.org” suffix in the disputed domain name, as a standard registration requirement, should be disregarded under the confusing similarity test (section 1.11 of [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s SIX SENSES trademarks under paragraph 4(a)(i) of the Policy.

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

Paragraph 4(c) of the Policy sets out a number of circumstances which, without limitation, may be effective for the Respondent to demonstrate that it has the rights to, or legitimate interests in, the disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy. Those circumstances are:

“(i) Before any notice to [the respondent] of the dispute, [use by the respondent] of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) [Where the respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or

(iii) [Where 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.”

As noted by the previous UDRP panels on the *onus* of proof under paragraph 4(a)(ii) of the Policy, and as summarized in section 2.1 of the [WIPO Overview 3.0](#): “[...] While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

In the present case, the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, with the Respondent failing to provide any substantive response to the Complaint which would prove his rights or legitimate interests in the disputed domain name.

Namely, the Complainant has established that it is the holder of a number of SIX SENSES trademarks in various jurisdictions, as well as that it has used the same trademarks widely on the market. The Complainant submitted sufficient evidence proving extensive and long lasting use of its SIX SENSES trademarks.

The Panel concludes that there is neither any relation, disclosed to the Panel, nor otherwise apparent from the records, between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its SIX SENSES trademarks or to apply for or use any domain name incorporating the same trademarks.

Furthermore, there is no evidence that the Respondent has been commonly known by the disputed domain name. Also, there is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent has failed to provide any substantive reply to the Complaint and accordingly failed to rebut the Complainant's *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the requirements set forth in paragraph 4(a)(ii) of the Policy have been fulfilled by the Complainant's making the *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and by the Respondent's failing to produce any arguments or evidence to the contrary.

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

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

- (i) circumstances indicating that the holder has registered or has 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 the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder has 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 the holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's 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 holder's website or location or of a product or service on the holder's website or location.

The Panel accepts the Complainant's arguments that the Respondent has registered and used the disputed domain name in bad faith.

Previous UDRP panels have found that the incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)). This Panel's view is that the Complainant's SIX SENSES trademarks are well-known and distinctive, the Complainant has a worldwide reputation within the hotel industry, and it is highly unlikely that the Respondent was unaware of the Complainant and its well-known SIX SENSES trademarks when it registered the disputed domain name. The Respondent did not provide any evidence that it has rights and/or legitimate interests in a disputed domain name, nor did it present a credible evidence for registering and using the disputed domain name. Based on the evidence submitted by the Complainant, the Panel concludes that the Respondent registered the disputed domain name based on the goodwill and reputation of the Complainant's SIX SENSES trademarks. It is more likely than not that the Respondent's motive in relation to the registration and use of the disputed domain name was to take advantage from the Complainant's well-known trademark rights.

According to section 3.4. of [WIPO Overview 3.0.](#), the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, etc. Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g. to solicit payment by the complainant's actual or prospective customers. The Complainant submitted evidence proving that the Respondent is using the disputed domain name in connection with a phishing scam impersonating the Complainant with the attempt to fraudulently obtain payment (email sent from an address using the disputed domain name which falsely identifies the sender as the Complainant's "Reservation Department" requesting a hotel guest to submit payment via wire transfer to a bank account not associated with the Complainant).

The Complainant also submitted evidence proving that the Respondent is using the disputed domain name in connection with a pay-per-click or monetized parking page that contains links for services related to the SIX SENSES trademarks (*i.e.* Booking Business Travel, Hotel Accommodation etc.).

Having in mind recent UDRP decisions (see *InterContinental Hotels Group PLC, and Six Continents Limited. v. Privacy service provided by Withheld for Provacv ehf/Tony Carter, Tonga*, WIPO Case No. [D2022-1913](#); see *InterContinental Hotels Group PLC, and Six Continents Limited. v. Privacy Service provided by Withheld for Provacv ehf / Nicholas Jaar, United Kingdom*, WIPO Case No. [D2022-1579](#)) it is clear to the Panel that there has been a practice of using the Complainant's well-known SIX SENSES trademarks to create an impression of an association and/or affiliation with the Complainant for the purpose of fraudulently soliciting payment from the customers and/or gaining profit from the monetized parking page created under the domain name that contains the Complainant's SIX SENSES trademarks.

In this Panel's view, the Respondent has registered the disputed domain name to intentionally attract, for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation or endorsement of the Respondent's website.

Given the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has fulfilled the third element 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 disputed domain name, <sixsenseshotels.org> be transferred to the Complainants.

*/Mladen Vukmir/*

**Mladen Vukmir**

Sole Panelist

Date: February 24, 2023