

ADMINISTRATIVE PANEL DECISION

priceline.com LLC v. shilei

Case No. D2023-3038

1. The Parties

The Complainant is priceline.com LLC, United States of America (“United States”), represented by Bryan Cave Leighton Paisner LLP, United States.

The Respondent is shilei, China.

2. The Domain Name and Registrar

The disputed domain name <pricelinecustomerservice.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 14, 2023. On July 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 20, 2023 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 on July 23, 2023.

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 of the Complaint, and the proceedings commenced on July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on August 21, 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 Complainant is the registered owner of several trademarks worldwide for PRICELINE, e.g., United States Trademark Registration No. 2,272,659 PRICELINE, registered on August 24, 1999, for services in classes 39 and 42.

The disputed domain name was registered on May 19, 2023. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page displaying Pay-Per-Click (“PPC”) links.

5. Parties’ Contentions

A. Complainant

It results from the Complainant’s allegations that for 25 years, the Complainant has provided customers with online booking services for airline tickets, hotel reservations, rental car reservations, and other travel-related goods and services. Moreover, since at least as early as 1999, the Complainant has maintained an active and extensive presence on the Internet, including through its primary website “www.priceline.com”, where it provides travel agency and travel booking goods and services.

The Complainant uses the domain name <priceline.com> in order to promote its services. Customers who visit “www.priceline.com” can book hotels, flights, rental cars, cruises, and vacation packages.

The Complainant contends that its trademark PRICELINE is distinctive and well-known.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant’s earlier trademark, since the disputed domain name incorporates the Complainant’s PRICELINE mark in its entirety, adding only the term “customer service”, which does not obviate confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not in any way associated with the Complainant and has never sought nor received authorization or a license to use the Complainant’s famous and distinctive PRICELINE marks in any way or manner. The Complainant’s PRICELINE marks are well-known and the Respondent does not appear to have any legitimate trademark, service mark or other intellectual property rights in or to any of the PRICELINE marks or any similar marks. The disputed domain name wholly incorporates the Complainant’s PRICELINE marks and simply adds the term “customer service”. As such, it was registered for and is used to lure consumers to an imposter website for commercial gain. As the above demonstrates, the Respondent is not making any legitimate noncommercial use of the disputed domain name. The Respondent uses the disputed domain name for the illegal and improper purpose of: (i) illegally trading upon the Complainant’s goodwill to confuse, mislead, deceive and divert customers; and (ii) intentionally tarnishing and diluting the Complainant’s valuable and well-known trademark.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, since its PRICELINE trademarks are well known, the disputed domain name is plainly designed to trade on the reputation and goodwill of the Complainant and its famous PRICELINE marks for financial gain. The Respondent utilizes the disputed domain name to divert potential users away from the Complainant’s primary website at “www.priceline.com”, away from the Complainant’s authentic PRICELINE brand services, and toward the Respondent’s websites. The Respondent plainly knew or had reason to know of the Complainant’s long and continuous use of its PRICELINE marks at the time of registration and that it had no right, title or interest, whatsoever, in these marks or the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “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”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of various trademark registrations for PRICELINE as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7).

This Panel shares this view and notes that the Complainant's registered trademark PRICELINE is fully included in the disputed domain name, followed by the terms “customer service”. Furthermore, it is the view of this Panel that the addition of the terms “customer service” in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#), section 1.8).

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must further establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark PRICELINE or the registration of the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might have been commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name is clearly constituted with the Complainant's registered trademark PRICELINE and the terms with an inherent Internet connotation, *i.e.* "customer service". Terms with an "inherent Internet connotation" are seen as tending to suggest sponsorship or endorsement by the trademark owner. Therefore, the disputed domain name carries a risk of implied affiliation. See [WIPO Overview 3.0](#) at section 2.5.1.

Furthermore, it results from the undisputed evidence before the Panel that the disputed domain name resolves to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent *bona fide* offering of goods or services, where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#), section 2.9, with further references). This Panel shares this view. Therefore, such use can neither be considered as *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#), section 2.1). Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any relevant allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must, lastly, establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in its paragraph 4(b) may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand. The Complainant's trademarks have existed for many years. Therefore, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's trademarks when the Respondent registered the disputed domain name. Registration of the disputed domain name by

the Respondent in awareness of the PRICELINE mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith.

The Complainant also proved that the disputed domain name resolved to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users, so that the Panel is satisfied that the disputed domain name, incorporating in its entirety the Complainant's trademark followed by the terms with an inherent Internet connotation, *i.e.* "customer service", is being used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent'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 Respondent's website or location, or of a product or service on the Respondent's website or location.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see [WIPO Overview 3.0](#) at section 3.2.1):

- (i) the nature of the disputed domain name (a domain name incorporating the Complainant's mark plus the terms with an inherent Internet connotation);
- (ii) the content of the website to which the disputed domain name directs (a parking website comprising PPC links);
- (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name.

The Panel finds that the Complainant has therefore satisfied 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 <pricelinecustomerservice.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: September 4, 2023