

## ADMINISTRATIVE PANEL DECISION

Trivago N.V. v. sd, sd sd  
Case No. D2023-4942

### 1. The Parties

The Complainant is Trivago N.V., Germany, internally represented.

The Respondent is sd, sd sd, China.

### 2. The Domain Names and Registrar

The disputed domain names <trivago-bio.com>, <trivago-io.com>, <trivagolive.com>, <trivago-ogg.com>, and <trivago-pro.com> (the “Disputed Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 23, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On November 30, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (Domain Protection Services, Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 5, 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 the first amended Complaint on December 8, 2023, and the second amended on December 13, 2023, respectively.

The Center verified that the Complaint together with the amended Complaints 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 December 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on January 15, 2024. 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 a NASDAQ Stock Market listed company incorporated in the Netherlands (Kingdom of the) with its principal place of business in Germany that operates a business providing an online hotel search platform. The Complainant holds registrations for the trademark TRIVAGO and variations of it in numerous jurisdictions, including, for example, International registration No. 910828, registered on August 18, 2006.

The Complainant owns numerous domain names that comprise of, or contain, the trademark TRIVAGO, including the domain name <trivago.com>, which was registered on February 18, 2004.

The Respondent registered four of the Disputed Domain Names, namely: <trivago-bio.com>, <trivago-io.com>, <trivago-ogg.com>, and <trivago-pro.com> on September 27, 2023, and the Disputed Domain Name <trivagolive.com> was registered on October 9, 2023. Each of the Disputed Domain Names resolves to an identical webpage bearing the Complainant's logo and the words "Welcome to Trivago" and "Sign up", displays a "Login" button and that contains fields to submit a "phone number or username", and a "password".

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Names.

Notably, the Complainant cites its trademark registrations in numerous countries for the mark TRIVAGO and variations of it, as *prima facie* evidence of ownership.

The Complainant submits, in essence, that the mark TRIVAGO is well known and that its rights in that mark predate the Respondent's registration of the Disputed Domain Names. It submits that the Disputed Domain Names are confusingly similar to its trademark, because the Disputed Domain Names are comprised of the TRIVAGO trademark and that the addition of the suffixes "-bio", "-io", "-ogg", "-pro" and "live" are not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because "the Complainant is in no way affiliated with the Respondent, and has not licensed or permitted the Respondent to use its trademarks in any fashion". The Complainant alleges that the Disputed Domain Names "are used for criminal purposes. After successful registration the users have then been contacted by the Respondent by sending them a link to the disputed websites as a job offer, asking them to create an account and to top up that account via crypto currency in order to get a commission" and that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Names were, and currently are, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant's trademark, and advances the argument that the use of the Disputed Domain Names "for some kind of phishing scheme or fraud" is use in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

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

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark TRIVAGO in numerous countries.

Turning to whether the Disputed Domain Names are identical or confusingly similar to the TRIVAGO trademark, the Panel observes that each Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark TRIVAGO; (b) followed by the suffixes "-bio", "-io", "live", "-ogg", and "-pro", respectively; (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Names, specifically: "trivago-bio", "trivago-io", "trivagolive", "trivago-ogg", and "trivago-pro", respectively.

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Names. Accordingly, the Disputed Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms "-bio", "-io", "live", "-ogg", and "-pro", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 Disputed Domain Names (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Names such as those enumerated in the Policy or otherwise.

The Panel notes the evidence that each of the Disputed Domain Names resolves to a potential phishing webpage, which supports the Complainant’s submission on that point and finds that this does not represent a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant’s mark or capacity to otherwise mislead Internet users.

The Panel also notes that the evidence shows the relevant webpage that each Disputed Domain Name resolves to, bears the Complainant’s logo and the words “Welcome to Trivago” and “Sign up”, displays a “Login” button and that contains fields to submit a “phone number or username”, and a “password”. Such use suggests that the Respondent intends to impersonate the Complainant in a phishing campaign or some kind of crypto related scam as asserted by the Complainant, which has not been rebutted by the Respondent.

Panels have held that the use of a domain name for illegal activity such as phishing, impersonation, passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established for all of the Disputed Domain Names.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Names in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Names, the well-known nature of the Complainant’s trademark, and the use of the Complainant’s logo on the websites at the Disputed Domain Names, the Panel is satisfied that the Respondent knew of and targeted the Complainant’s trademark TRIVAGO when it registered the Disputed Domain Names (see *Trivago N.V. v. Hildegard Gruener*, WIPO Case No. [D2021-4012](#) (“The Complainant’s well-known trademark”); *Trivago N.V. v. Pat Honey Salt, Honey Salt Ltd*, WIPO Case No. [D2021-0692](#) (“the distinctive and well-known TRIVAGO trademark”); *Trivago N.V. v. Omar Abdo*, WIPO Case No. [D2019-2523](#) (“the trademark TRIVAGO is well known”)).

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Names other than to trade off the reputation and goodwill of the Complainant's well-known trademark.

[WIPO Overview 3.0](#), section 3.1.4.

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) may indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name some 17 years after the Complainant established registered trademark rights in the TRIVAGO mark.

On the issue of use, the Complainant's evidence is that each of the Disputed Domain Names resolves to a potential phishing website.

Panels have held that the use of a domain name for illegal activity here, alleged phishing, impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Complainant has supplied evidence that shows the relevant webpages contains fields to submit personal information, and each is adorned with the Complainant's logo. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Names constitutes bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 Names <trivago-bio.com>, <trivago-io.com>, <trivagolive.com>, <trivago-ogg.com>, and <trivago-pro.com> be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: January 24, 2024