

## **ADMINISTRATIVE PANEL DECISION**

TravelCLICK, Inc. v. John Cook, TravelClick  
Case No. D2023-5313

### **1. The Parties**

The Complainant is TravelCLICK, Inc., United States of America ("United States"), represented by Ubilibet, Spain.

The Respondent is John Cook, TravelClick, Canada.

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

The disputed domain name <travelclickcanada.com> is registered with Hostinger Operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 21, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 26, 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 January 5, 2024.

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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 1, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on February 7, 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 technology solutions and services provider for the travel industry. It was acquired by the Amadeus IT Group, S.A. in 2018.

The Complainant owns many trade mark registrations for its TRAVELCLICK mark in numerous jurisdictions, including Canadian Trade Mark Registration No. 1500620-00 TRAVELCLICK in classes 35, 39, and 43, with a registration date of March 23, 2012.

The disputed domain name was registered on October 14, 2023, and currently does not resolve to any website. The disputed domain name was previously pointed to one of the Complainant's own websites (utilized for trial activities with clients).

#### **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 name. Notably, the Complainant contends that the disputed domain name was registered and used in bad faith given its redirection to a website owned by the Complainant, with the aim of benefitting the Respondent commercially resulting from confusion with the Complainant.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 domain name (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 name. 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 name such as those enumerated in the Policy or otherwise.

The Respondent’s organization name per the Whois record for the disputed domain name is “TravelClick”, and paragraph 4(c)(ii) of the Policy is thus potentially relevant. However, for the reasons discussed in relation to bad faith below, it is likely that the Respondent adopted this name and registered the disputed domain name in order to benefit from confusion with the Complainant, which cannot give rise to rights or legitimate interests. The Policy would be self-defeating if bad faith adoption of a name could simultaneously confer rights or legitimate interests. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and “Madonna.com”*, WIPO Case No. [D2000-0847](#).

The Panel finds the second element of the Policy has been established.

### **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.

Here, given the evidence in the record and based on its general powers articulated inter alia in paragraphs 10 and 12 of the Rules, the Panel’s review of publicly available records indicates that the Complainant’s TRAVELCLICK mark is well-known within its industry. UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark (as in this case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1.

The composition of the disputed domain name, consisting of the Complainant’s well-known mark plus a geographic term corresponding to an important territory for the Complainant – Canada, not to mention the fact that it was pointed to a website used by the Complainant, suggests targeting of the Complainant. [WIPO Overview 3.0](#) at section 3.2.1. Furthermore, Internet searches for the disputed domain name minus the top-level domain, “travelclickcanada”, reveal results overwhelmingly relating to the Complainant.

The Complainant claims that the disputed domain name previously resolved to a website owned and controlled by the Complainant. Although there is no evidence to this effect in the record, the Panel has independently viewed historical screenshots of the disputed domain name, which corroborate the Complainant’s claim in this regard. Panels have found that a respondent redirecting a domain name to a complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant. [WIPO Overview 3.0](#) at section 3.1.4.

The Panel draws an adverse inference from the Respondent’s failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#) at section 4.3.

In the circumstances, it is clear that the Respondent has sought to benefit from confusion with the Complainant, falling squarely within paragraph 4(b)(iv) of the Policy.

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 name <travelclickcanada.com> be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: February 21, 2024