

ADMINISTRATIVE PANEL DECISION

HomeAway.com, Inc. and Travelscape, LLC v. qucom_white and
HongKong12

Case No. D2024-0027

1. The Parties

The Complainants are HomeAway.com, Inc., United States of America (“United States”) and Travelscape, LLC, United States (hereinafter referred both together as the “Complainant”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondents are qucom_white, Hong Kong, China, and HongKong12, Hong Kong, China.

2. The Domain Names and Registrar

The disputed domain names <correct-techvrbo.com> and <world-besttravelocity.com> (the “Disputed Domain Names”) are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 4, 2024. On January 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On January 8, 2024, 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 (REDACTED) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 11, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file a separate complaint for a disputed domain name associated with a different underlying registrant or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on January 11, 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 Respondents of the Complaint, and the proceedings commenced on January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 15, 2024.

The Center appointed Mariia Koval as the sole panelist in this matter on February 21, 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 Complainants are HomeAway.com, Inc. and Travelscape, LLC. The Complainant HomeAway.com, founded in 2005, was a vacation rental marketplace. It operated through 50 websites in 23 languages through which it offered rentals of cabins, condos, castles, villas, barns, and farmhouses. In 2015, the Complainant HomeAway.com has been acquired by Expedia Group. In 2020, "www.homeaway.com" and "www.vrbo.com" websites were rebranded as a single "www.vrbo.com" website.

The Complainant Travelscape, LLC is the leading branded Internet hotel consolidator with discounted rate contracts at over 1,200 hotels in 240 cities worldwide. The Complainant has been also acquired by Expedia Group in 2000.

The Complainant is the owner of numerous VRBO and TRAVELOCITY trademarks registrations (collectively, the "VRBO and TRAVELOCITY Trademarks"), among which are:

- United States VRBO Trademark Registration No. 2820989, registered on March 9, 2004, in respect of services in class 36;
- United States VRBO Trademark Registration No. 5681113, registered on February 19, 2019, in respect of goods and services in classes 9 and 43;
- United States TRAVELOCITY Trademark Registration No. 2254700, registered on June 22, 1999, in respect of services in classes 35, 39 and 42;
- United States TRAVELOCITY Trademark Registration No. 2466132, registered on July 3, 2001, in respect of services in class 35, 38, 39 and 42.

The Complainant has received several awards over the years, including being the winner of world and United States Luxury Lifestyle Award in 2019 and 2018 respectively in the Villa Rental and Accommodations Services.

The services under the VRBO Trademark and website "www.vrbo.com" have been extensively promoted throughout the United States, Canada, and many other countries through online, print, and television advertising campaigns, and email communications. The Complainant's website "www.vrbo.com" is one of the Complainant's most popular rental websites and received an estimated average of over 40 to 57 million monthly visits in the past year.

The Complainant has, for years, extensively promoted its website "www.travelocity.com" throughout the world through online, print, and television advertising campaigns, and email communications. The Complainant's website "www.travelocity.com" received on average well over 2.7 million visits per month since October 2018, and over 3.7 million visits per month since January 2021, and is ranked No. 783 in terms of websites visited in the United States and the No. 9 website in the tourism and travel category.

The registration date of the Disputed Domain Name <correct-techvrbo.com> is November 29, 2023 and of the Disputed Domain Name <world-besttravelocity.com> November 14, 2023. As at the date of this Decision, the Disputed Domain Names resolve to webpages with identical “log in” forms, presumably fake ones, impersonating the Complainant.

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 contends that the Disputed Domain Names are confusingly similar to the Complainant’s VRBO and TRAVELOCITY Trademarks. The Disputed Domain Name <correct-techvrbo.com> incorporates the Complainant’s VRBO Trademark in its entirety preceded by the terms “correct”, “tech” and a hyphen. The Disputed Domain Name <world-besttravelocity.com> incorporates the Complainant’s TRAVELOCITY Trademark in its entirety preceded by the terms “world”, “best” and a hyphen.

The Complainant further contends that the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names in view of the following:

- the Complainant’s registration and extensive use of the VRBO and TRAVELOCITY Trademarks predate the Respondents’ registration and first use of the Disputed Domain Names;
- the Respondents are not commonly known by the Disputed Domain Names;
- the Respondents cannot demonstrate or establish rights or legitimate interests in the Disputed Domain Names;
- there is no relationship between the Complainant and the Respondents giving rise to any license, permission, or other right by which the Respondents could own or use any domain name incorporating the VRBO and TRAVELOCITY Trademarks;
- the Respondents are neither using the Disputed Domain Names in connection with a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Names: the Respondents have used the Disputed Domain Names solely for commercial gain, and as part of a fraudulent scheme to impersonate the Complainant in order to trick unsuspecting consumers into providing log in or other personal information for the financial or other benefit of the Respondents.

The Complainant further contends that the Respondents registered and are using the Disputed Domain Names in bad faith based on the following. The Disputed Domain Names completely incorporate the Complainant’s VRBO and TRAVELOCITY Trademarks which were registered long after the Complainant’s rights in its Trademarks were established and after the Complainant’s services under the VRBO and TRAVELOCITY Trademarks became well known.

The Respondents registered the Disputed Domain Names using bogus contact information, and have done so without authorization and for the sole purpose of impersonating the Complainant in furtherance of a fraudulent scheme to trick unsuspecting consumers into disclosing login or other personal information for the profit of the Respondents. Such use of the Disputed Domain Names is not a legitimate interest or bona fide use.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

6.1 Preliminary Issue

A. Consolidation of Multiple Respondents

The Complaint was filed in relation to nominally different Disputed Domain Names registrants. The Complainant alleges that the Disputed Domain Names are owned or controlled by the same party or group of individuals working together; they were registered through the same Registrar in November 2023 in the name of persons located in Hong Kong, China (using the similar registrant information), and use the same name servers. In addition, the Disputed Domain Names both use false and incomplete contact information and are both being used for similar looking fake log in pages for the Complainant's travel related services. The Complainant requests the consolidation of multiple Respondents pursuant to paragraph 10(e) of the Rules.

Paragraphs 10(e) and 3(c) of the Rules provide, respectively:

"A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules."

This case concerns the Complaint against two Respondents. The Complainant requests that the disputes involving the Disputed Domain Names against the two Respondents be consolidated. The preliminary issue is therefore whether the Complainant is entitled to bring a consolidated Complaint against the two Respondents, or whether it is necessary for the Complainant to bring individual Complaints.

In addressing the Complainant's request, the Panel will consider whether (i) the Disputed Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes the following. Both Disputed Domain Names have been registered with the same Registrar; in addition, the name servers and the Respondent's location are identical. Both Disputed Domain Names incorporate the Complainant's VRBO and TRAVELOCITY Trademarks. The Disputed Domain Names resolve to similar webpages with almost identical fake "log in" forms. The Panel thus concludes that on the balance of probabilities it is likely that the Disputed Domain Names are under the common control. None of the Respondents reacted to the Complainant's request for consolidation.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Disputed Domain Names registrants (referred to below as "the Respondent"), also in view of the fact that it is equitable and procedurally efficient to allow consolidation, in a single proceeding.

6.2 Substantive Issues

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 name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Complainant's VRBO Trademark is reproduced within the Disputed Domain Name <correct-techvrbo.com> with addition of the terms "correct", "tech", a hyphen and the generic Top-Level domain ("gTLD") ".com". Also, the entirety of the Complainant's TRAVELOCITY Trademark is reproduced within the Disputed Domain Name <world-besttravelocity.com> with addition of the terms "world", "best", a hyphen and the gTLD ".com". Accordingly, the Disputed Domain Names are confusingly similar to the Complainant's VRBO and TRAVELOCITY Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "correct", "tech", "world" and "best", 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 VRBO and TRAVELOCITY Trademarks for the purposes of the Policy. Furthermore, the use of the hyphen in the Disputed Domain Names is irrelevant in a finding of confusing similarity. [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 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 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.

There is no evidence that the Complainant has licensed or otherwise permitted the Respondent to use its VRBO and TRAVELOCITY Trademarks or to register the Disputed Domain Names which are confusingly similar to the VRBO and TRAVELOCITY Trademarks.

The Panel is of the opinion that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Names. Both Disputed Domain Names resolve to webpages with almost identical “log in” forms, presumably fake ones, displaying the Complainant’s VRBO and TRAVELOCITY Trademarks to impersonate the Complainant to deceive consumers into divulging log in credentials or other personal information, benefiting the Respondent financially or otherwise allegedly in an attempt of a potential fraudulent scheme. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, 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. Therefore, the Panel cannot consider such use of the Disputed Domain Names as bona fide offering of goods or services, or a legitimate noncommercial or fair use.

With respect to the circumstances of this case, the Panel considers that it is obvious that the Respondent registered the Disputed Domain Names with good awareness of the Complainant and with the sole intention of commercial gain by creating a likelihood of confusion with the Complainant’s VRBO and TRAVELOCITY Trademarks.

The Respondent did not file any response to the Complaint and did not participate in this proceeding, as such, the Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Names.

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.

In the present case, the Panel notes that the Respondent has registered and is using the Disputed Domain Names in bad faith in view of the following.

The Disputed Domain Names were registered long after the Complainant registered its VRBO and TRAVELOCITY Trademarks. The Disputed Domain Names incorporate the Complainant’s VRBO and TRAVELOCITY Trademarks in whole and resolve to the webpages containing fake “log in” forms and impersonating the Complainant, most likely doing so for the purpose of soliciting financial and personal information. Internet users will mistakenly believe the Disputed Domain Names are connected to, associated with, or endorsed or sponsored by the Complainant. Panels have held that the use of a domain name for illegal activity, in this case impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel is also of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Names, which are confusingly similar to the Complainant’s VRBO and TRAVELOCITY Trademarks, intended to disrupt the Complainant’s business and confuse Internet users seeking for or expecting the Complainant. In view of the absence of any evidence to the contrary and that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Names in bad faith.

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 <correct-techvrbo.com> and <world-besttravelocity.com> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: March 6, 2024