Decision for dispute CAC-UDRP-100956

Case number	**CAC-UDRP-100956**
Time of filing	**2015-04-02 15:03:54**
Domain names	**aribnb.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Airbnb, Inc.**

Complainant representative

Organization	**RODENBAUGH LAW**

Respondent

Name	**Qijin Yang**

OTHER LEGAL PROCEEDINGS

None.

IDENTIFICATION OF RIGHTS

The Complainant owns various trademark registrations for the "AIRBNB" mark throughout the world, including the following federal trademark registrations in the United States: (a) Registration no. 3890025, first used in commerce on March 4, 2009, in International Class 035 (Providing online business directories featuring temporary lodging); and (b) Registration no. 3890027, first used in commerce on March 4, 2009, in International Class 43 (Arranging temporary housing accommodations; Providing online reservation services for temporary lodging; Travel agency services, namely, making reservations and bookings for transportation and lodging; Providing temporary lodging information via the Internet).

The Complainant also owns trademark registrations for the "AIRBNB" mark in other jurisdictions throughout the world, including China.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant Airbnb, Inc. (“Airbnb”) was founded in August of 2008 and is based in San Francisco, California. Airbnb is an online community marketplace for people to list, discover, and book accommodations around the world. To date Airbnb

has served more than 25 million guests in 34,000 cities and 190 countries around the world.

Airbnb has used the AIRBNB trademark continuously in commerce since at least as early as March 2009. During this time consumers have come to associate the AIRBNB trademark with Airbnb and its services.

No Business Relationship Exists Between The Parties. The Respondent does not have, and has never had, permission to use the AIRBNB trademark.

The Whois records for the <aribnb.com> domain name (the “Disputed Domain”) indicate that the Respondent created the Disputed Domain on or about November 20, 2009. The Disputed Domain has been used to redirect Internet users to the domain name <tripping.com> and its associated website. The website at <tripping.com> provides an online platform for users to search for vacation rentals and links customers to third-party websites to book accommodations.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

Pursuant to paragraph 11 of the UDRP Rules the Panel exercises its discretion to confirm Complainant’s request to admit these proceedings in English rather than in Chinese language (the latter being the language of the Registration Agreement). The Panel is satisfied that English is the most convenient and appropriate language. The webpage to which the Respondent has pointed the Disputed Domain name was a US based website in English language. Furthermore the Disputed Domain itself comprises the English phrase “bnb” (for "bed & breakfast") and a common typo variation of the English word "air". The Respondent was notified of the dispute in both English and Chinese language, has been given a fair chance to object to change of the language of the proceedings, but has not done so. Therefore, the Panel is of the opinion that the Respondent is able to understand and effectively communicate in English without suffering a real prejudice, so that the expenses of requiring translation and the delay in the proceedings can be avoided without at the same time causing injustice to the parties.

PRINCIPAL REASONS FOR THE DECISION

The Disputed Domain is confusingly similar to Complainant’s trademark. In fact, the Disputed Domain is almost identical to Complainant’s AIRBNB mark, barring the reversal of the second and third letters, and the addition of .com. More precisely, the Disputed Domain merely reverses the position of the second letter – “i” – and the third letter – “r” – in Complainant’s mark, which is a common typo variation of Complainant’s AIRBNB mark. Further, the addition of the generic top-level domain “.com” does nothing to distinguish the Disputed Domain from Complainant’s mark.

The Complainant has made a prima facie showing that the Respondent lacks a right or legitimate interest in the Disputed Domain name. The Respondent not only registered the Disputed Domain after Complainants rights in the AIRBNB mark arose, but has used the Disputed Domain for the purpose of promoting competing services in an effort to confuse consumers. Conversely, Airbnb has demonstrated longstanding, exclusive use of the AIRBNB trademark, and their rights predates any use of the Disputed Domain by the Respondent by more than eight months. The Respondent has not used the Disputed Domain in connection with a bona fide offering of goods or services, because use of the confusingly similar Disputed Domain to promote services of Complainant's competitors does not constitute a bona fide offering of goods and services. There is also no evidence that the Respondent is commonly known by the Disputed Domain, particularly as the Respondent does not provide a website or offer goods in connection with the Disputed Domain under the name "aribnb". The Respondent only redirects Internet traffic to the Complainant's competitor's <tripping.com> website, and therefore is not known by the "aribnb" name. And finally, Respondent's use of the Disputed Domain to redirect customers to a third-party site that offers competing services to those of Complainant does not constitute a legitimate or noncommercial fair use. Accordingly, the Panel accepts the arguments and evidence advanced by the Complainant that the Respondent has no rights or legitimate interests in the Disputed Domain Name within the meaning of paragraphs 4(a)(ii) and 4(c) of the Policy.

The Panel is convinced that the Respondent registered the Disputed Domain primarily to disrupt and compete with Complainant's business pursuant to Paragraph 4(b)(iii) of the Policy, because the Respondent registered and used the Disputed Domain to redirect Internet users to a website that offers services in direct competition to those of the Complainant. The Respondent also intentionally attempted to divert Airbnb customers by creating a likelihood of confusion pursuant to Paragraph 4(b)(iv) of the Policy, so that Respondent's use of the Disputed Domain name to attract internet users to the <tripping.com> website for its own commercial gain is also evidence of bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ARIBNB.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2015-05-11

Publish the Decision