Decision for dispute CAC-UDRP-100968

Case number	CAC-UDRP-100968
Time of filing	2015-04-13 15:50:49
Domain names	ajrbnb.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Airbnb, Inc.

Complainant representative

Organization	RODENBAUGH LAW

Respondent

Organization	Domain Privacy Service FBO Registrant

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of numerous trademark registrations for AIRBNB including the United States trademark AIRBNB with registration number 3890025, first used in commerce on March 4, 2009.

FACTUAL BACKGROUND

According to the information provided Complainant is a trusted online community marketplace for people to list, discover and book accommodations around the world. According to the evidence submitted by Complainant, Complainant is the owner of numerous trademark registrations including the United States trademark AIRBNB.

The disputed domain name <ajrbnb.com> was registered on August 28, 2013. According to the information provided by Complainant the website association with the disputed domain name was being used for the purposes of phishing.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademarks.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name and Respondent is not related in any way with the business of Complainant.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of Complainant's trademark and its reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademarks.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or 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.

At the time of the commencement of this proceeding, the owner of the record of the disputed domain name was Domain Privacy Service FBO Registrant. Once notified of the Complaint, Registrar disclosed another owner for the disputed domain name Martine Lacroix. Complainant preferred not to change the Respondent’s name in the Complaint based on the arguments of CAC decision No. 100221. Accordingly, the Panel finds the CAC followed the correct procedure in accordance with the Policy and the Rules and accepts the request of Complainant that the Complaint proceeds against Domain Privacy Service FBO Registrant.

PRINCIPAL REASONS FOR THE DECISION

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark pursuant to paragraph 4 (a)(1) of the Policy. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of trademark registrations for AIRBNB. The disputed domain name incorporates the entirety of the well-known AIRBNB trademark as its distinctive element. The obvious misspelling in the disputed domain name, also referred to as typosquatting, is insufficient to avoid a finding of confusing similarity as the AIRBNB trademark remains the dominant component of the disputed domain name.

The Panel notes that Complainant’s registration of its trademarks predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired

trademark rights. Complainant has no relationship with Respondent.

Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(11) of the Policy.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the AIRBNB trademarks. Respondent knew or should have known that the disputed domain name included Complainant's well-known marks. The Panel notes that the disputed domain name was being used for phishing purposes. The Panel further notes that the disputed domain name incorporates Complainant's well-known trademarks in its entirety with a minor misspelling (also referred to as typosquatting), which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **AJRBNB.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2015-06-01

Publish the Decision