



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1701000
Complainant:	Flight Centre Travel Group Limited
Respondent:	Aeson Marketing, Aeson Media
Disputed Domain Name(s):	<flightcentre.space>

1. The Parties and Contested Domain Name

1.1 The Complainant is Flight Centre Travel Group Limited, of Lvl 2, 545 Queen Street Brisbane QLD 4000 Australia (the “Complainant”) and represented by Mr Paddy Tam of CSC Digital Brand Services Group AB of Saltmagtargatan 7, 113 59 Stockholm.

1.2 The Respondent is Aeson Marketing, Aeson Media of 4700 Kingsway, Burnaby, BC, V5H4N2, Canada (the “Respondent”) and unrepresented.

1.3 The domain name at issue is <flightcentre.space> (the “Disputed Domain Name”), registered by the Respondent with NameCheap, Inc of 11400 West Olympic Boulevard, Suite 200 Los Angeles CA 90064 United States (the “Registrar”).

2. Procedural History

2.1 The Complaint was filed with the Hong Kong Office Asian Domain Name Dispute Resolution Centre (ADNDRC) (the “Centre”) on July 11, 2017 and the Centre acknowledged the Complaint on the same date.

2.2 Upon receipt of a request for verification of the details of the registrant of the Disputed Domain Name from the Centre, by email of July 11, 2017, the Registrar NameCheap Inc. confirmed that the Respondent is listed as the registrant and confirmed the registrant’s contact details. On July 14, 2017 the Centre notified the Complainant of deficiencies in the Complaint as regards the actual Respondent to be rectified on or by July 19, 2017. On July 17, 2017 the Centre acknowledged receipt of the rectified Complaint and verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

2.3 The Centre on July 18, 2017 formally notified the Respondent of the Complaint and advised the Respondent of the prescribed time frame of 20 days within which to file and

serve a response on or by August 07, 2017. The Respondent failed to file a response to the Complaint by the prescribed due date. The Centre by email of August 08, 2017 notified the Complainant of the Respondent's default and the intention to appoint a Panelist thereafter.

2.4 The Centre appointed Mr. Ike Ehiribe as Sole Panelist on August 15, 2017. Upon receipt of his Declaration of Impartiality and Independence, the Centre on August 17, 2017 transmitted the Complaint and annexures to the Panelist for a decision to be rendered on or before August 29, 2017. Due to the Panelist's difficulties with down loading of files, the time within which to render a decision was further extended by a week to September 05, 2017.

3. Factual background

For the Complainant

3.1 The Complainant is the registered owner of the well-known trademark "FLIGHT CENTRE" registered in major cities around the world including in Australia, Canada, Hong Kong; and in the European Union and the United States. According to the Certificates of Trade Mark registrations attached to the complaint, the Complainant is one of the world's largest travel agency groups and registered its well-known trademark in classes 16, 39 and 43. Since its establishment in the early 1980s, it is said, the Complainant has become an \$18 billion business consisting of more than 40 brands. The Complainant is said to employ more than 19,000 people globally and has a total of 2800 businesses. The Complainant is said to have also won major leisure, corporate and wholesale travel awards at the 2012 AFTA National, Travel, and Industry Awards.

For the Respondent.

3.2 The Respondent is an entity known as Aeson Marketing, Aeson Media with an address stated to be at No. 4700 Kingsway, Burnaby, British Columbia, Canada. According to the WhoIs record attached to this proceeding the Respondent created the Disputed Domain Name <flightcentre.space> on April 27, 2017.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant asserts that the Disputed Domain Name <flightcentre.space> is identical or confusingly similar to the Complainant's "FLIGHT CENTRE" trademark in which it has well established rights: (i) the main body of the Disputed Domain Name <flightcentre.space>, is confusingly similar to the registered trademark and "FLIGHT CENTRE" trade name of the Complainant; (ii) the identification part of the main body of the Disputed Domain Name i.e. "flightcentre" wholly incorporates the trademark and trade name of the Complainant and will certainly cause confusion in the minds of the public and Internet visitors and disrupt the Complainant's business; (iii) when comparing

the Disputed Domain Name to the Complainant's trademarks, the relevant comparison is between the second level portion of the Disputed Domain Name and the Complainant's trademark following *Rollerblade Inc. v. McCrady*, WIPO Decision D2000-0429 where it was held that the top-level domain, such as ".net" or ".com", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar;(iv) the Disputed Domain Name is a purposeful misspelling of the Complainant's trademark as the Respondent has removed the letter "a" from AUTO and replaced it with the letter "s". (v) that the deliberate misspelling of a trademark registered as a domain name, which is intended to confuse internet users, must be confusingly similar by design following *RX AMERICA L.L.C. v. Tony Rodolakis*, WIPO Decision No. D 2005-1190 and *Yahoo Inc. v. PPA Media Services /Ryan Foo*, FA 1526653 (NAF 4 Dec 2013) holding that Typo-squatting behaviour causes a likelihood of confusion between a complainant's registered trademark and a respondent's disputed domain name based on a slight variation or misspelling of the complainant's mark.

- ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

The Complainant's case is that the Respondent has never been authorized, licensed or otherwise permitted by the Complainant to use the Complainant's trademark or trade name in any form whatsoever incorporating the FLIGHT CENTRE trademark. The Complainant refers to the WhoIs database, which identifies the registrant of the Disputed Domain Name as "Aeson Marketing, Aeson Media" which does not resemble the Disputed Domain Name in any manner. The Complainant states further that the Respondent is not commonly known by the Disputed Domain Name and cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name. Secondly, it is contended by the Complainant that the Respondent is intentionally using the Disputed Domain Name to redirect Internet users to a parked website presumably to receive pay-per-click fees. Thirdly, it is also argued that as the Disputed Domain Name redirects internet users to a website that resolves to a parked page that lacks actual content, the Respondent has failed to demonstrate that it has any rights or legitimate interests in the Disputed Domain Name following *Bloomberg L.P. v. SC Media Servs. & info. SRL*, FA 0296583 (NAF September 2, 2004) holding that a disputed domain name resolving to blank web pages is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use under the Policy.

- iii. The Disputed Domain Name has been registered and is being used in bad faith.

The Complainant contends that the Respondent has definitely registered the Disputed Domain Name in bad faith. In the first instance the Complainant refers to the chronology of events with particular reference to the Complainant's extensive marketing and trading activity since 1982 before the Respondent decided to register the Disputed Domain Name in April 2017. The Complainant therefore asserts that since the Respondent only registered the Disputed Domain Name in April 2017, well after the Complainant had taken considerable steps to publicise and market its trademarks and trade name, it cannot possible be argued

by the Respondent that it was not aware of the prior existence of the Complainant's existing registered rights before deciding to create the Disputed Domain Name. Furthermore, performing searches across a number of internet search engines for the "FLIGHT CENTRE" trademark would return numerous multiple links referring to the Complainant as a well-established business following *Caesar World, Inc .v. Forum LLC*, WIPO D2005-0517 holding that in the light of the complainant's worldwide reputation and presence on the internet, the respondent should have been aware of the complainant's trademarks before registering the disputed domain name. In addition it is argued that while constructive knowledge alone may sometimes not be enough to support a finding of bad faith, numerous other Panels have held that a respondent should be considered as possessing actual notice and knowledge of a complainant's trademarks, where the complainant has registered the domain name in bad faith and made bad faith use of the disputed domain name. See *Orbitz Worldwide, LLC v. Domain Librarian*, FA 1535826 (NAF 6 Feb, 2014) where the Panel held that although the UDRP does not recognize "constructive notice" as sufficient grounds for finding bad faith, the Panel found bad faith use made out based on actual knowledge through the name used for the domain and the use made of it. Secondly, and in this regard the Complainant asserts that its trademark was submitted to the Trademark Clearinghouse and therefore the Respondent ought to have received direct notification of the Complainant's rights in this trademark as at the time of the registration of the Disputed Domain Name following *Starwood Hotels & Resorts Worldwide, Inc., Sheraton International IP, LLC, Westin Hotel Management, L.P. v. Jingjing Tang* WIPO Case No.D2014-1040. Thirdly, the Complainant submits that the Respondent at the time of initial filing of the Complaint, employed a privacy service to hide its identity, which is further evidence of bad faith registration and use following *T-Mobile USA, Inc. v. Utah Health*, FA 0697819 (NAF 7th June 2006).

B. Respondent

iv. The Respondent failed to file a response to the Complaint within the time stipulated in the rules.

5. Finding

5.1 The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

i) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- ii) The Respondent has no rights or legitimate interests in respect of the domain name; and
- iii) The Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

5.2 The Panel without any hesitation finds that the Complainant has acquired prior established rights in the “FLIGHT CENTRE” trademark, since 1982, in a considerable number of jurisdictions including in Canada where the Respondent is domiciled. The Panel also finds that the Complainant has adduced more than sufficient evidence indicating that the Complainant's trademark “FLIGHT CENTRE” has acquired worldwide reputation and recognition in the leisure and corporate travel agency business. The Panel is therefore, satisfied that the Disputed Domain Name <flightcentre.space> created by the Respondent on April 27, 2017 is confusingly similar to the Complainant's trademark. Undoubtedly, the Panel finds that the Disputed Domain Name wholly incorporates the Complainant's “FLIGHT CENTRE” trademark as the dominant and most distinctive part of the Disputed Domain Name are the words “FLIGHT” and “CENTRE”. The Panel finds that the mere addition of the generic term “. space” to the two words, even if written together to appear as one word, does absolutely nothing to prevent a finding of confusing similarity. In arriving at this conclusion the Panel relies on the following previous cases which reiterate the insignificance of gTLD suffixes and generic terms when conducting a confusing similarity enquiry. Namely, *Promgirl LLC v. Weddingwhoo.com, Beijing Touchtel Tech. Co. Ltd*, HK-1500757; *Promgirl LLC v. Jack Zhang*, HK-1500814; *Alibaba Group Holding Limited v. (Liu Xiao Bo); Lingping*, HK- 1400677; *Alibaba Group Holding Limited v. Pan Zhongyi*, HK-1500718; *GWS Technology (Shenzen) Co. Ltd. v. Jin Fan*, HK-1600884 and *Rollerblade, Inc. v. McCrady, supra*.

In further support of the confusing similarity requirement, the Complainant has also alluded to the Respondent's deliberate act of purposefully misspelling the Complainant's trademark, as it is put, by the removal of one letter and replacing it with another in the Disputed Domain Name, a practice otherwise known as Typosquatting. The Panel has carefully examined the Disputed Domain Name <flightcentre.space> and compared same with the Complainant's trademark “FLIGHT CENTRE” but is unable to find any evidence of the deliberate act of misspelling in the sense of removing one letter and replacing it with another as described by the Complainant in the Complaint. In conclusion though, the Panel is satisfied that the Complainant has adduced sufficient evidence to establish the requirement of confusing similarity based on the entire incorporation of the Complainant's “FLIGHT CENTRE” trademark in the Disputed Domain Name.

B) Rights and Legitimate Interests

5.3 The Panel also finds that the Respondent has failed to adduce any evidence indicating that it has any rights or legitimate interests in the Disputed Domain Name. The Respondent has not produced any evidence of authorization, permission or a license from the Complainant to use the Complainant's “FLIGHT CENTRE” trademark under any circumstances or to register and use a domain name incorporating the Complainant's trademark. As submitted by the Complainant, the Panel finds that the Respondent has never been commonly known by the Disputed Domain Name, as the WhoIs extract reveals

the Respondent's name of "Aeson Marketing" and or "Aeson Media" has no semblance whatsoever to the Disputed Domain Name. Secondly, the Panel finds that the Respondent has been using the Disputed Domain Name <flightcentre.space> to redirect Internet visitors to a website that resolves to a parked page and lacks actual content. Those blank pages are attached to these proceedings and as held in *Bloomberg L.P. v. SC Media Servs. & Info. SRL, supra*, blank pages are neither a bona fide offering of goods and services nor a legitimate non-commercial or fair use of the Disputed Domain Name under the Policy. See in particular, a recent ADNDRC decision in *Shenzhen Hongfeng Century Technology Co. Ltd, HK-1700973* applying and analyzing the "Oki Data Test" to the existence of rights and legitimate interests in similar circumstances under the Policy, and in general; the often-cited WIPO decision in *Oki Data Americas Inc. v. ASD Inc.*, WIPO Case No. D2001-0903.

C) Bad Faith

5.4 On the question of bad faith registration and use, the Panel finds without any hesitation that the Respondent deliberately registered the Disputed Domain Name in bad faith and continued to engage in bad faith use. In support of this finding, the Panel has considered a number of irrefutable factors. First of all, the Panel has taken into account the chronology of events in this matter, considering that the Complainant's worldwide and extensive commercial activity dates back to 1982. The Respondent decided to register the Disputed Domain Name in April 2017; the Panel finds it inconceivable that the Respondent would not have been aware of the Complainant's extensive rights in, and worldwide reputation of the Complainant's "FLIGHT CENTRE" trademark before electing to register the Disputed Domain Name. Accordingly, the Panel finds that the Respondent knew or ought to have known of the existence of the Complainant's trademark prior to registering the Disputed Domain Name. Secondly, and as submitted by the Complainant, considering the presence of the Complainant on the internet, performing searches across a number of internet search engines would have informed the Respondent of the existence of the Complainant's trademark. See in this regard *Caesar World, Inc. v. Forum LLC, supra*. Thirdly, as argued by the Complainant the fact that the Respondent would have received direct and actual notice of the Complainant's rights in the "FLIGHT CENTRE" trademark at the point of registration of the Disputed Domain Name by the Respondent in April 2017, points to the Respondent's actual knowledge of the Complainant's rights. In support of this contention, the Complainant has submitted a Trademark Clearing House notice marked Annex10. Accordingly, the Panel finds that the Respondent could not possibly be unaware of the Complainant's prior rights as at April 2017 when the Disputed Domain Name was created. See further in this regard *Starwood Hotels & Resorts Worldwide, Inc., Sheraton International IP, LLC, Westin Hotel Management, L.P. v. Jingjing Tang, supra* holding that a respondent in receipt of a trademark clearing house notice would have had actual notice of a complainant's prior trademark rights at the time of the registration of the disputed domain name by the respondent. Fourthly, the Respondent is said to have utilized the services of a privacy service to hide its identity at the time of the initial filing of the complaint. While the use of a privacy or proxy registration service is not of itself an indication of bad faith on its own, this Panel considers such use in conjunction with the Respondent's other bad faith activity as further evidence of bad faith registration. See *T-Mobile USA, Inc. v. Utah health, supra*. Finally, and in any event the Panel has drawn adverse inferences from the Respondent's failure to respond to this complaint and the attached exhibits in support thereof.

6. Decision

6.1 For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel directs that the Disputed Domain Name <flightcentre.space> be transferred to the Complainant forthwith.

Ike Ehiribe
Panelist

Dated: September 04, 2017