Panel Decision for dispute CAC-ADREU-006500

Case number	CAC-ADREU-006500
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Domain names	crownplaza.eu

Case administrator

	Lada Válková (Case admin)

Complainant

Organization	IHG Hotels Limited

Respondent

Name	Andrea Dini

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Panel is not aware of any other legal proceedings.

FACTUAL BACKGROUND

The Complainant, is a group of hotels and hospitality services, which includes Six Continents Hotels, Inc. (SCH) and IHG Hotels Limited, Mr. Douglas M Isenberg, Esq. (IHG).

SCH has granted to IHG an "exclusive, irrevocable, perpetual, royalty-free license" to the CROWNE PLAZA trademark. IHG is the world's largest hotel group by number of rooms and its affiliated companies manage, lease or franchise, through various subsidiaries, more than 4,600 hotels and 674,000 guest rooms accommodating more than 157 million guest nights annually in nearly 100 countries and territories worldwide. A number of recognised hotels are part of IHG, including Crowne Plaza Hotels & Resorts, InternContinental Hotels & Resorts, Holiday Inn Hotels and Resorts, Holiday Inn Express and many others; IHG also manages the world's largest hotel royalty program -- the Priority Club Rewards.

In Europe, IHG Hotels Limited is the principal licensor for all the IHG brands which the Complainant evidenced by the license agreement concluded with the SCH being the owner of the respective trademarks.

The Complainant operates and offers its online business through the <crowneplaza.com> domain name, having registered it since March 1995. The Complainant has engaged in numerous other domain name disputes under the Uniform Domain Name Dispute Resolution Policy (UDRP), promulgated and administered by the Internet Corporation for Assigned Names and Numbers (ICANN).

The Respondent in this administrative proceeding is Andrea Dini and, according to the WHOIS information, is based in Great Britain.

A. COMPLAINANT

The Complainant's Crowne Plaza hotel brand was founded in 1983 and is used today in connection with 390 hotel rooms offering more than 100,000 rooms. The Complainant's Crowne Plaza hotels can be found in many cities of countries in the European Union, including London, Berlin, Paris, Madrid and Rome.

The Complainant and its affiliates are the owners of approximately 280 valid trademark registrations in approximately 157 countries or geographic regions around the world that incorporate -- in part or in their entirety, the mark "CROWNE PLAZA". Within the European Union, the Complainant owns a Community trademark for the name 'CROWNE PLAZA", under the registration number 001017946, for use in connection with "[h]otels services, motel services, provision of accommodation, hotel reservation services, bar services, cafe services, restaurant and catering services, provision of food and drink for hotel guests". Separate from the Community trademark, the

Complainant also owns trademarks in the UK (Reg. No. 2042568) and in Germany (Reg. No.39762265).

The Complainant contends that the disputed domain name <crownplaza.eu> is confusingly similar. According to the Complainant, the omission of the letter 'e', is not sufficient to distinguish the domain name from the Complainant's legal and legitimate rights on the CROWNE PLAZA trademark.

The Complainant further purports that the Respondent has no rights or legitimate interests in the domain name. According to the Complainant, the Respondent operates a parking site, which offers links to the websites of other hotels and hotel services, including Hilton, Expedia Booking.com and Marriott. The Complainant asserts that, through this parking page, the Respondent is making commercial use of the domain name <crownplaza.eu>, which leads subsequently to consumer confusion.

Last but not least, the Complainant believes that, given the lack of legitimate rights, the Respondent has registered or is using the domain name in bad faith. The Complainant further supports the Respondent's bad faith by suggesting that the Respondent offered to sell the disputed domain name to the Complainant for the sum of $ 1,890. Finally, the Complainant is of the opinion that the Respondent registered the domain name <crownplaza.eu> with the intention of attracting Internet users to his website for commercial gain.

B. RESPONDENT

The Respondent has failed to submit a response to the Complaint; the Respondent is, therefore, in default.

DISCUSSION AND FINDINGS

To succeed under Article 21 (1) of the Regulation, the Complainant must demonstrate that the Disputed Domain Name:

(a) is identical or confusingly similar to a name in respect of which the Complainant has a recognised right; and

(b) has been registered by its holder without rights or legitimate interests; or

(c) has registered or is being used in bad faith.

During the course of the decision-making process, it has come to the attention of the panel that the Complainant had not provided sufficient evidence regarding the relationship between Six Continents Hotels, Inc. and IHG Hotels Limited. Taking advantage of the affordability of non-standard communication, on October 16, 2013, the panel requested from the Complainant such evidence. In response the Complainant submitted a license agreement evidencing that the IHG has the right to use the “Crowne plaza” trademarks.

A. The Domain Name is Identical or Confusingly Similar

The Complainant has provided indisputable evidence that they own numerous trademark registrations for the 'CROWNE PLAZA" mark in various jurisdictions around the world, including a Community mark as well as marks in major European cities (e.g. Paris, Berlin and London).

The disputed domain name <crownplaza.eu> differs from the Complainant's registered trademark in one way: the letter 'e' has been omitted from the word "Crown'. Although such misspellings should not automatically trigger arguments in favour of cybersquatting (especially when the word is of a generic nature), the combination of this omission with the fact that the word 'plaza' is further attached to the generic term ("crown") as well as the other facts in the case, give rise to suspicion regarding the registration and subsequent use of the disputed domain name and their impact on the legitimate rights of the Complainant. IHG Hotels Limited, owns, what some jurisdictions would consider famous or well-known, marks around the world, including "CROWNE PLAZA", a hotel chain that is visited and offers hospitality services to many people worldwide.

To this end, given the highly related nature between the disputed domain name and the services provided by the Complainant through its trademarks, the panel finds that the domain name <crownplaza.eu> is both confusingly similar to the CROWNE PLAZA trademark in which the Complainant has rights and confusingly similar to the Complainant's company and trading name.

B. Rights and Legitimate Interests in Relation to the Domain Name

The Complainant submits that the Respondent does not have any rights or legitimate interests in the disputed domain name because there is no evidence of bona fide use of an equivalent mark by the Respondent (ADR Rules B11(e)(1). Furthermore, it does not appear that the Complainant has authorised the use of, or licensed the use of, the disputed domain name by or to the Respondent.

The Complainant asserts that the Respondent is using the domain name as a monetized parking site, where he offers links to other competing hotel sites, including the Hilton and Marriott hotels, as well as to hotel booking services, including Bookings.com and Expedia; through this parking site, the Complainant argues, the Respondent is making commercial use of the disputed domain name.

Parking sites are not necessarily indicative of cybersquatting even if they are used for monetization purposes. Given the Internet's use as a means of innovation, creativity and commercial exploitation, parking sites have been seen as constituting business models related to advertising. Similarly, parking sites can provide useful databases, which can further assist users in finding information in the Internet. So, the problem here is not the Registrant's use of the domain name as a parking site or that he is making money through it. The problem is that the Respondent has created a parking site that is using a domain name that is confusingly similar to the Complainant's mark and, through this domain name, he links to other competing websites.

The panel cannot accept that, in this case, the Respondent wanted to set a legitimate business in providing information to Internet users. If the Respondent wished to do so, he would have chosen a domain name that does not reflect the Complainant's mark and he would have made the effort to compile a fuller list of hotels and other hospitality services.

As a result of the foregoing, the Panel concludes that the Complainant has established a prima facie case that the Respondent registered the disputed domain name without having any rights or legitimate interests in that name. As a result of the Respondent's failure to rebut any of the Complainant's submissions and based further on the discussion under bad faith below and, in the absence of any evidence to rebut the Complainant's case, the Panel infers that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant succeeds in relation to the second limb of the test under Article 21 (1) of the Regulation.

C. The Domain Name has been Registered Or is Being Used in Bad Faith.

The Complainant has provided evidence that the Respondent sought to sell the disputed domain name to the Complainant for the amount of $ 1,890. The Complainant sites the CAC Overview, which states "an offer to sell […] can be an indication of bad faith" and they further state that the Respondent's offer to sell the domain name was "for a price far in excess of a typical registration fee".

The Complainant misunderstands the philosophy behind the CAC Overview's recommendations. Excess of the amount does not only refer to registration fee but also extends to issues like the development of the website, advertising, marketing, etc. If a domain name registrant seeks to built a legitimate business by using a domain name, a sum of $ 1,890 should not normally be considered an excess. However and given that in this case the Respondent has used the domain name as a parking site, thus he has undertaken no steps to further develop it, as well as the fact that he approached the Complainant to sell them the domain name, should be considered as a indicator of bad faith.

Finally, this panel will agree with the Complainant that under paragraph B 11 (f) (4) of the ADR Rules, evidence of the registration or use of domain name in bad faith exists where "the domain name was intentionally used to attack Internet users, for commercial gain to the Respondent's website or other on-line location, by creating a likelihood of confusion with a name on which a right is recognised or established, by national and/or Community law, or it is a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or a product or service on the website or location of the Respondent". In this case, the Respondent's actions demonstrate that he wished to use the fame, reputation and/or strength of the Complainant's mark to attract users to his website and, by offering links to the sites of competitors and other hotel services, to monetize and receive substantial economic benefit. This is an activity that not only works to the detriment of the Complainant and its business but is also deceitful to Internet users and their Internet experience.

It is for all these reasons that this Panel believes that the Complainant has met its burden of proof in relation to this third element.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name CROWNPLAZA.eu be transferred to the Complainant.

PANELISTS

Name	**Dr. Konstantinos Komaitis**

DATE OF PANEL DECISION 2013-10-06

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: CROWNPLAZA.eu

II. Country of the Complainant: UK, country of the Respondent: UK

III. Date of registration of the domain name: 4 September 2012

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision: Word trademark registered in the European Union, reg. No. 001017946, filed on 16/12/1998, registered on 16/12/1998 in respect of goods and services in classes 42

V. Response submitted: No

VI. Domain name is confusingly similar to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: It is apparent that the Respondent never wished to set a legitimate business in providing information to Internet users. If the Respondent wished to do so, he would have chosen a domain name that does not reflect the Complainant's mark and he would have made the effort to compile a fuller list of hotels and other hospitality services.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: The Respondent's actions demonstrate that he wished to use the fame, reputation and/or strength of the Complainant's mark to attract users to his website and, by offering links to the sites of competitors and other hotel services, to monetize and receive substantial economic benefit. This is an activity that not only works to the detriment of the Complainant and its business but is also deceitful to Internet users and their Internet experience.

IX. Other substantial facts the Panel considers relevant: No

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: No

XII. [If transfer to Complainant] Is Complainant eligible? Yes