

ADMINISTRATIVE PANEL DECISION

VKR Holding A/S v. Super Privacy Service LTD c/o Dynadot / 肖伟冬
Case No. D2022-0004

1. The Parties

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / 肖伟冬, China.

2. The Domain Name and Registrar

The disputed domain name <veluxchina.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2022. On January 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 12, 2022.

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 Respondent of the Complaint, and the proceedings commenced on January 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 18, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on February 28, 2022. 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 Complainant is VKR Holding A/S, a company located in Denmark. The Complainant is the parent company of the VKR Group. VELUX Group is part of the VKR Group and is its largest and best-known company, active in more than 40 countries around the world. The Complainant, through its subsidiaries, offers roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products.

The Complainant owns several trademark registrations for the VELUX trademark, covering a wide range of products and services in various jurisdictions. Evidence of these registrations were duly produced in the Complaint, including United States registration no. 1091446, VELUX, registered on May 16, 1978, and Chinese registration no. 211706, VELUX, registered on August 15, 1984.

The disputed domain name was registered on June 29, 2021, and resolves to a website containing adult content.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks registered and used worldwide.

The expression chosen by the Respondent to compose the disputed domain name together with "velux" is "china". The addition of this term to the Complainant's trademark creates an explicit reference to the Complainant's affiliate based in China, Velux China Co Ltd.

The Complainant owns several registrations worldwide for the trademark VELUX.

The Respondent is not sponsored by or affiliated with the Complainant in any way. Nor has the Complainant given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests.

The Complainant states that the Registrant was identified as "肖伟冬", which does not resemble the disputed domain name in any manner. Thus, where no evidence, including the Whois record for the disputed domain name, suggests that the Respondent is commonly known by the disputed domain name, then the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of 4(c)(ii) of the Policy.

Furthermore, at the time of filing the Complaint, the Respondent was using a privacy service, which past UDRP panels have also found to equate to a lack of legitimate interest.

Respondent is using the disputed domain name to direct Internet users to a website that features adult content. Numerous past UDRP panels have held that use of a disputed domain name that is confusingly similar to a complainant's trademarks to link to a website featuring pornographic or adult content evidences a lack of legitimate rights or interests.

At the time of registration of the disputed domain name, the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks and that registration of domain names containing well-known trademarks constitutes bad faith per se. In addition to the numerous trademarks filed in connection with the Complainant's business prior to the Respondent's registration of the disputed domain name, the Complainant has over 80 years of history and its VELUX brand continues to be the market leader in the manufacturing of skylights and roof windows, which demonstrates the Complainant's fame.

The website of the disputed domain name features sexually-explicit, pornographic content, which provides evidence of the Respondent's bad faith registration and use of this domain. Past UDRP panels have consistently held that a respondent's use of a confusingly similar domain name to direct unsuspecting Internet users to adult content, as here, is evidence of bad faith registration and use of that domain name.

The Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past UDRP panels have held serves as further evidence of bad faith registration and use.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of such domain name; and

(iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established its trademark rights in VELUX as evidenced by the trademark registrations submitted with the Complaint, as mentioned above.

The Panel is also prepared to find that the disputed domain name is confusingly similar to the Complainant's trademark VELUX. The Panel has had little difficulty in finding that the disputed domain name is confusingly similar to the trademark VELUX, as the Complainant's trademark VELUX is clearly recognizable in the disputed domain name.

The addition of the term "china" and the generic Top-Level Domain ("gTLD") ".com" does not change this finding. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.8 and 1.11.

Therefore, the Panel finds that the Complainant has satisfied the first requirement of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademarks. The Complainant has prior rights in the trademarks which precede the Respondent's registration of the disputed domain name by several decades. The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby shifted the burden of production to the Respondent to rebut this presumption.

The Respondent has failed to show that it has acquired any trademark rights in respect of the disputed domain name or that the disputed domain name is used in connection with a *bona fide* offering of goods or services.

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the disputed domain name in bad faith has been considered by the Panel. These allegations have not been contested by the Respondent because of its default.

The Complainant's trademarks are famous, and have evidently been known to the Respondent when registering the disputed domain name. Said disputed domain name, incorporating the Complainant's distinctive coined trademarks, is highly unlikely to have been registered if it were not for the Complainant's trademarks. On the contrary, the choice of the additional term "china", a region where the Complainant operates and has registered the VELUX trademark, suggests knowledge of and an intent to suggest an affiliation with the Complainant. It is clear to the Panel that the Respondent has in all probability registered the disputed domain name with the purpose of taking advantage of the Complainant's mark.

The Respondent is using the disputed domain name to direct Internet users to a website that features adult content. The Respondent's use of the disputed domain name to divert consumers to a pornographic website is evidence of bad faith in these circumstances.

The failure of the Respondent to answer the Complainant's Complaint and take any part in these proceedings also suggests in combination with other factors bad faith on the part of the Respondent.

Therefore, taking all the circumstances into account and for all the above reasons, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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 name <veluxchina.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: March 14, 2022