

## **ADMINISTRATIVE PANEL DECISION**

Groupe Vanessa Bruno v. Tbdsh Rvdsh

Case No. D2023-0628

### **1. The Parties**

The Complainant is Groupe Vanessa Bruno, France, represented by SafeBrands, France.

The Respondent is Tbdsh Rvdsh, Hong Kong, China.

### **2. The Domain Name and Registrar**

The disputed domain name <boutiquevb.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2023, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2023, 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 February 17, 2023.

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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 16, 2023. 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 a company registered under the laws of France. It is a fashion designer with a particular emphasis on handbags, shopping bags and accessories.

The Complainant is the owner of various trademarks, including France trademark registration number 1638542 for the word mark VANESSA BRUNO, registered with effect from January 15, 1991, in International Classes 24 and 25.

The disputed domain name was registered on December 27, 2021.

The Complainant submits evidence by way of screenshots that the disputed domain name has resolved to a website prominently headed “vanessabruno”, which purports to offer the Complainant’s handbags and shopping bags for sale online. The disputed domain name resolves to a similar website at the date of this decision.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that its trademark VANESSA BRUNO has been in existence since 1996 and has become well known in the fashion industry.

The Complainant submits that the mark VANESSA BRUNO is commonly abbreviated to “VB”. It submits evidence of a range named “Printemps VB” as featured on its own website and other references to the abbreviation “VB” in Google search results related to its products.

The Complainant submits that the disputed domain name is confusingly similar to the common abbreviation of its trademark, “VB”. It states that that abbreviation is recognizable within the disputed domain name and that the inclusion of the term “boutique” does not diminish (and in fact increases) the likelihood of confusion. The Complainant submits that the Respondent’s clear intention to impersonate the Complainant is a relevant factor in assessing confusing similarity in this case.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its VANESSA BRUNO trademark or the abbreviation “VB”, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. Instead, it contends that the Respondent is using the disputed domain name to take unfair advantage of its commercial goodwill.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It states that the Respondent was obviously aware of the Complainant’s trademarks when it registered the disputed domain name since it has used the disputed domain name for a website displaying the Complainant’s trademark and logo and purporting to sell its goods. The Complainant contends that, given the highly discounted prices of the items on offer, the relevant goods are likely to be counterfeit. The Complainant states that the Respondent’s website does not in any event accurately disclose its relationship with the Complainant.

The Complainant exhibits pages from a number of retail websites, which it states have been previously identified as scams. The Complainant submits that all of these websites include the same contact details as the Respondent's website in this case.

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**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has established that it has registered trademark rights in respect of the mark VANESSA BRUNO. The Complainant also produces evidence that its mark is referred to on occasions by the abbreviation "VB", which is clearly recognizable within the disputed domain name.

The Panel also has regard to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), which states as follows:

"In specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant's mark, the broader case context such as website content trading off the complainant's reputation, or a pattern of multiple respondent domain names targeting the complainant's mark within the same proceeding, may support a finding of confusing similarity."

The section continues:

"In this context, panels have also found that the overall facts and circumstances of a case (including relevant website content) may support a finding of confusing similarity, particularly where it appears that the respondent registered the domain name precisely because it believed that the domain name was confusingly similar to a mark held by the complainant."

In this case, the Panel finds that the Respondent's website content is a proper matter to be taken into account in assessing confusing similarity. The Panel concludes that the Respondent's website is clearly intended to imply an affiliation with the Complainant and infers that the Respondent chose the disputed domain name with the intention that the letters "vb" should call the Complainant's trademark and its abbreviation "VB" to mind.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. As further discussed below, the Panel finds that the Respondent registered and has used the disputed domain name to impersonate the Complainant or otherwise to take unfair advantage of its VANESSA BRUNO trademark as abbreviated, which cannot give rise to rights or legitimate interest in the disputed domain name. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

## **C. Registered and Used in Bad Faith**

It is clear from the evidence available to the Panel that the Respondent is using the disputed domain name for the purpose of a website which impersonates the Complainant, or at the minimum creates a strong and misleading impression that it is in some way approved or authorized by, or commercially affiliated with, the Complainant. The website prominently appropriates the Complainant's VANESSA BRUNO trademark, purports to be selling the Complainant's branded products and includes no adequate disclaimer to the effect that the Respondent has no commercial affiliation with the Complainant. The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

Since the Respondent plainly registered the disputed domain name for the purpose described above, the Panel finds both that the disputed domain name has been registered and is being used 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, <boutiquevb.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: March 30, 2023