

ADMINISTRATIVE PANEL DECISION

Veja Fair Trade, Sarl v. Hurst Jake, Dresner Dieter
Case No. D2023-3149

1. The Parties

The Complainant is Veja Fair Trade, Sarl, France, represented by SafeBrands, France.

The Respondent is Hurst Jake, Dresner Dieter, Germany.

2. The Domain Names and Registrar

The disputed domain name <veja-portugal.org> and <vejashoesvancouver.com> are registered with Gransy, s.r.o. d/b/a <subreg.cz> (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Not Disclosed Not Disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 27, 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 July 31, 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 August 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on September 11, 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

Since 2005, the Complainant, commonly known as Veja has developed its business in the shoe industry in France where the Complainant is headquartered. The Complainant is in particular known for its environmentally friendly sneakers and offers its products online throughout its official website at its domain name <veja-store.com> (registered in 2007) and around the world through its own stores and retailers' stores.

The Complainant owns various trade mark registrations that incorporate its VEJA word mark including European Union trade mark registration number 9075003 for the combined word and logo mark registered on November 30, 2012, and International registration number 848383 for the combined word and logo mark registered on February 1, 2005.

The disputed domain names each resolve to websites that appear to be very similar to the Complainant's official website and which purport to offer VEJA branded shoes for sale at discount prices. The disputed domain name <vejashoesvancouver.com> was registered on February 28, 2022, and the disputed domain name <veja-portugal.org> was registered on May 12, 2022. Both were registered in the name of a proxy service without disclosing the Respondent's true identity.

5. Parties' Contentions

A. Complainant

The Complainant submits that it owns various registered trade marks that incorporate its VEJA mark including those noted above. It says that all of the disputed domain names reproduce identically the sign VEJA that corresponds to the Complainant's trade mark and other protected intellectual property rights. The Complainant says that the attractive and distinctive element of the disputed domain names is the Complainant's trade mark VEJA since the other elements associated with the said trade mark are only words in English that refer to the Complainant's products and business. It also says that the addition of the names of the city of "Vancouver", in Canada, and the country "Portugal" as well as the English word that corresponds to the Complainants' specific goods, does not prevent a finding of confusing similarity, as the registered trade mark VEJA remains clearly recognisable in each of the disputed domain names. The Complainant also asserts that all of the disputed domain names are owned by or are under the effective control of a single person or entity, or a group of individuals acting in concert.

The Complainant submits that the Respondent has, to the best of its knowledge, no rights or legitimate interests in respect of each of the disputed domain names since the Respondent has no prior rights, trade marks or corporate or trading name for VEJA. The Complainant confirms that the Respondent did not obtain any authorisation from the Complainant to use the registered trade mark VEJA and that the Respondent has no economic or financial relationship with the Complainant.

The Complainant further asserts that the Respondent is using each of the disputed domain names in an unauthorised manner to resolve to websites that reproduce the Complainant's trade marks, logo, copyrighted photos and font in order to sell heavily discounted goods supposedly coming from the Complainant. The Complainant notes that access to the disputed domain name <vejashoesvancouver.com> has been blocked by the leading web engines but that the fraudulent website linked to this disputed domain name is still active. Considering the significantly discounted prices, the Complainant suggests that products are counterfeit but notes that it has no evidence whether the goods offered for sale at the websites to which each of the

disputed domain names resolve are genuine VEJA products. The Complainant notes that there is nothing at either of the websites to accurately disclose the relationship, if any, between the Respondent and the Complainant and that the most likely conclusion to be drawn by a consumer entering either website would be that it was the website of the Complainant or is associated with, or authorised by, the Complainant.

The Complainant says that considering the long-standing use and reputation of its trade mark, it appears that the Respondent has with intent for commercial gain, misled Internet users into believing that the websites linked to each of the disputed domain names are somehow connected with the Complainant and has diverted Internet users looking for the Complainant's products to the Respondent's websites at each of the disputed domain names. According to the Complainant, such use can be considered neither as a *bona fide* offering of goods or services nor as a legitimate noncommercial or fair use of each of the disputed domain names. It says further that such willful conduct clearly shows, to the contrary, that the Respondent is not interested in using either of the disputed domain names in connection with any legitimate purpose.

With regard to the Respondent's bad faith at the time of registration, the Complainant says that considering its use of the VEJA trade mark over 15 years and its reputation, the nature of the disputed domain names and the websites to which they resolve refer obviously to the Complainant's products and business, the use of the Complainant's VEJA mark and of its registered combined word and logo mark on the websites to which the disputed domain names resolve and considering the fact that the websites at each of the disputed domain names appear to feature representations of the Complainant's products, the Respondent must have been aware of the Complainant's business and trade marks at the time of registration of each of the disputed domain names.

In terms of use in bad faith, the Complainant says that the use of each of the disputed domain names to resolve to the respective websites featuring products that are presented as if they are supposedly the Complainant's but at a discounted price and using the Complainant's trade mark, logo, copyrighted photos and font and without any clarifying disclaimer will confuse Internet users as to the source, sponsorship or affiliation of the website and products on it in terms of paragraph 4(b)(iv) of the Policy which is evidence of registration and use in bad faith.

The Complainant submits that the Respondent has registered and is using each of the disputed domain names to pass off the websites to which each disputed domain name resolves as being owned or licensed by the Complainant. The Complainant says that this is fraudulent purposes and that by offering discounted prices, it appears that the Respondent is overall engaged in a pattern of unfairly disrupting the business of the Complainant. The Complainant further suggests that if consumers receive their orders, the goods sold on the fraudulent websites are likely counterfeit given that they are heavily discounted. The Complainant has noted that it has received a number of reports of actual complaints of consumer confusion, notably for the disputed domain name <vejashoesvancouver.com>. The Complainant also notes the Respondent's use of a privacy service in relation to each of the disputed domain names which it suggests is another factor supporting a conclusion of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") notes that where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency also underpins panel consideration of such a consolidation scenario.

The Complainant has requested the consolidation of the proceedings in respect of the disputed domain names, maintaining that they are under common control. It has requested the consolidation of the disputed domain names into this single case pursuant to paragraph 4(f) of the Policy and paragraphs 3(c) and 10(e) of the Rules. The Complainant asserts that all of the disputed domain names are owned by or are under the effective control of a single person or entity, or a group of individuals acting in concert.

In this case, the Panel finds that:

- (1) the disputed domain names have both been registered with the sponsoring Registrar;
- (2) the disputed domain names are owned by individuals supposedly located in Germany and the Registrants' email addresses are both composed of a random sequence of letters;
- (3) the disputed domain names resolve to very similar websites that emulate the Complainant's official website;
- (4) both websites reproduce in similar manner the Complainant's website's font and layout and also its trade marks, logos and product photos in order to offer for sale what is purported to be the Complainant's VEJA products;
- (5) both websites linked to the disputed domain names are hosted on the servers of the same hosting provider;
- (6) the disputed domain names have been registered in a similar naming pattern such that both the disputed domain names are a combination of the Complainant's trade mark VEJA and a generic term/name which refers to the Complainant's product and/or the country targeted by the Respondent; and
- (7) the disputed domain names were registered within a relatively short period, *i.e.*, between February 2022 and May 2022.

In these circumstances, the Panel finds that it is more than likely that the disputed domain names are under common control. As in addition the Respondents have failed to reply to the Complaint or to object to consolidation, the Panel finds that in the circumstances it is fair and equitable and most efficient to consolidate both cases and the Panel so orders and will now consider the Complaint in relation to the substantive elements of the Policy.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns various trade mark registrations that incorporate its VEJA mark. The VEJA mark is wholly incorporated into each of the disputed domain names and the VEJA trademark is recognizable within the disputed domain names. Each of the disputed domain names is therefore confusingly similar to the Complainant's registered trade marks and the addition of "-portugal" in the disputed domain name <veja-portugal.org> and of "shoes vancouver" in the disputed domain name <vejashoesvancouver.com> does not prevent a finding of confusing similarity. As a result, the Complaint succeeds under this element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that the Respondent has, to the best of its knowledge, no rights or legitimate interests in respect of each of the disputed domain names since the Respondent has no prior rights, trade marks or corporate or trading name for VEJA. The Complainant has also confirmed that the Respondent did not obtain any authorisation from the Complainant to use the registered trade mark VEJA and that the Respondent has no economic or financial relationship with the Complainant.

The Complainant has further asserted that the Respondent is using each of the disputed domain names in an unauthorised manner to resolve to websites that reproduce the Complainant's trade marks, logo, copyrighted photos and font in order to sell heavily discounted goods supposedly coming from the Complainant. The Complainant has also suggested that, considering the significantly discounted prices, the products offered at the websites to which each of the disputed domain names resolve are counterfeit but

acknowledges that it has no evidence as to whether the goods offered for sale at the websites to which each of the disputed domain names resolve are genuine VEJA products. The Complainant has confirmed that there is no notice or disclaimer on either of the websites to which the disputed domain names resolve that discloses a relationship, if any, between the Respondent and the Complainant. The Panel agrees with the Complainant that a consumer reaching the website to which each of the disputed domain names resolve is likely to be confused into thinking that it is a website of the Complainant, or is associated with, or authorised by, the Complainant.

The Complainant has submitted that considering the long-standing use and reputation of its trade mark, it appears that the Respondent has with intent for commercial gain, misled Internet users into believing that the websites linked to each of the disputed domain names are somehow connected with the Complainant and has diverted Internet users looking for the Complainant's products to the Respondent's websites at each of the disputed domain names. In the circumstances as outlined above and considering that it appears that the Respondent is attempting to masquerade, on the websites to which each of the disputed domain names resolve, as if it is the Complainant, or is authorised by the Complainant, to sell its VEJA products, the Panel agrees with the Complainant that such use can be considered neither as a *bona fide* offering of goods or services, nor as a legitimate noncommercial or fair use of each of the disputed domain names.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in each of the disputed domain names. The Respondent has failed to respond to, or to rebut the Complainant's case and the Panel therefore finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name <vejashoesvancouver.com> was registered on February 28, 2022, and the disputed domain name <veja-portugal.org> was registered on May 12, 2022, long after the registration of each of the Complainant's trade marks. Considering the Complainant's long use of its VEJA trade mark, the high degree of distinctiveness of that and that the websites to which each disputed domain name resolves features the Complainant's products, trade marks, registered logo marks and details of the Complainant's business, the Panel finds that the Respondent must have been aware of the Complainant's business and trade marks at the time of registration of each of the disputed domain names.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Panel has reviewed the website at each of the disputed domain names and finds that the offering of products that appear to be the Complainant's under the Complainant's word and logo marks and in a style that generally resembles the Complainant's website appears to have been designed to create the impression that each of the websites is owned by or authorised by the Complainant when this is not the case. Such use of each of the disputed domain names amounts to the Respondent intentionally attracting for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's trade marks.

The Panel therefore finds that the requirements of paragraph 4(b)(iv) of the Policy are fulfilled and that this amounts to evidence of registration and use of the disputed domain name in bad faith. The Panel's finding of bad faith is only reinforced by the Respondent's use of a privacy service in respect of each of the disputed domain names to hide its identity.

Accordingly, the Panel finds that each of the disputed domain names have been registered and used in bad faith and that the Complaint succeeds under this element of the Policy.

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 names <veja-portugal.org> and <vejashoesvancouver.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: September 25, 2023