

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC. v. Uchechukwu Williams
Case No. D2023-3364

1. The Parties

The Complainant is VFS Global Services PLC., United Kingdom, represented by Aditya & Associates, India.

The Respondent is Uchechukwu Williams, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <vfsireland.bio> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 4, 2023. On August 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 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 Respondents (Name and Address of the Registrant is not available as hidden by Withheld for Privacy and NAMECHEAP INC.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 August 8, 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 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 4, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on September 15, 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

It results from the Complainant's undisputed allegations that the VFS Global Group of Companies provide technological and logistic support services to various Foreign Embassies and Diplomatic Missions in India as well as other parts of the world. the Complainant serves the interests of the diplomatic missions in 145 countries. It has successfully processed over 264 million applications since its inception in 2001, and over 120.62 million biometric enrolments since 2007 and operates out of 3,361 Visa Application Centers located in Asia, Africa, Middle East, and Europe.

The Complainant owns a large global portfolio of registrations for the marks VFS and VFS Global, for example, Indian Trademark Registration VFS No. 1126304, registered on August 14, 2002, for goods in class 16.

It further results from the Complainant's documented allegations that on May 3, 2023, the Complainant received a query from private person who received an email from an address under the disputed domain name "[...]@vfsireland.bio". In this email the querist proposed an alleged working offer from an Irish hospital as a nursing assistant. In addition, he was asked to book a priority biometric appointment with "VFS Abuja" on the website under the link "<https://vfsireland.bio/nigeriapriority/>" in order to get an appointment for visa screening wherein a sum of \$75,000 was also requested.

The disputed domain name was registered on April 26, 2023. It results from the Complainants documented allegations that the disputed domain name resolves to a website with the message "temporarily unavailable". Furthermore, upon attempting to access the priority document option *i.e.*, <https://vfsireland.bio/nigeria-priority/>, a request for a password is presented.

Finally, the Complainant sent a Cease & Desist Notice to the Registrar as per the details available on the Whois database before filing the present complaint. However, no substantial reply to this letter was received from the Registrar or the Respondent.

5. Parties' Contentions

A. Complainant

Firstly, the Complainant contends that the disputed domain name is identical and/or confusingly similar to registered trademarks in which the Complainant has rights. The Complainant further avers that the additional term "ireland" is a geographic term and does not diminish the confusion. The Top-Level Domain <.bio> can be ignored for the similarity test.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant submits that its use and registration of the trademarks VFS/VFS GLOBAL predates the Respondent's registration of the disputed domain name by more than 19 years. Furthermore, the Respondent does neither own any trademark registrations reflecting "VFS/VFSGLOBAL" nor acquired any reputation and/or goodwill in "VFS/VFSGLOBAL in any country. In addition, it has never granted the Respondent any right, license, authorization or consent to use its "VFS/VFSGLOBAL" trademarks. In the Complainant's view, the message "temporarily unavailable" indicates the Respondent's malicious intent to undermine the reputation and goodwill of the Complainant for personal financial gain.

Thirdly, the Complainant contends that the Respondent registered and uses the disputed domain name in bad faith. The Respondent must have been aware of the Complainant, its services and rights and intentionally adopted the disputed domain name in order to deceive the public at large and to misguide it. Furthermore, the Complainant states that creation and use of the impugned email address by the Respondent implies association of the Respondent with that of the Complainant. The Respondent has no justification as to the adoption of the said email address under the disputed domain name which has been done in bad faith to mislead the public at large.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

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

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first of all establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Complainant has provided evidence that it is the registered owner of registrations for the trademark VFS, e.g. Indian Trademark Registration No. 1126304.

While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). This Panel shares this view and notes that the Complainant's registered trademark VFS is fully included in the disputed domain name.

According to the consensus view of UDRP panels, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8). It is the view of this Panel that the trademark VFS is clearly recognizable within the disputed domain name. Consequently, the combination of that trademark with the name of the country of Ireland does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Hence, this Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark pursuant to the Policy, paragraph 4(a)(i). Policy paragraph 4(a)(i) is satisfied.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name. In the Panel's view, based on the un rebutted allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complainant's uncontested evidence no true content is displayed on the website to which the disputed domain name resolves. In fact, it results from the Complainant's documented allegations that the disputed domain name resolves to a website with the message "temporarily unavailable". Furthermore, upon attempting to access the priority document option *i.e.*, <https://vfsireland.bio/nigeria-priority/>, a request for a password is presented. In addition, the Complainant has undisputedly contended that the disputed domain name has also been used at least one time for illegal phishing or scam activities by contacting people with an alleged working offer from an Irish hospital as a nursing assistant and asking the recipient to disclose sensitive personal documents and make a payment in order to allegedly book a priority appointment on the website under the link <https://vfsireland.bio/nigeria-priority/>. UDRP panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13.1, with further references).

In any case, the Panel holds that such use cannot be qualified as a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, since such use capitalizes on the reputation and goodwill of the Complainant's trademarks and is likely to mislead Internet users (see, *e.g.*, *TELUS Corporation v. Fortefusion Fortefusion, Wordcounts*, WIPO Case No. [D2021-0787](#)).

In addition, the Respondent did not submit any evidence of *bona fide* pre-Complaint preparations to use the disputed domain name. As outlined above, the Complainant's uncontested allegations demonstrate that it has not authorized the Respondent's use of the VFS trademarks for registering the disputed domain name, which is confusingly similar.

Furthermore, the Panel notes that there is no evidence in the record showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, the Panel notes that there is no evidence in the record either showing that the Respondent might be making a noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy. In particular, the disputed domain name is being used for fraudulent, commercial activity through scam emails, so that a fair and noncommercial use thereof is excluded from the outset.

It is acknowledged that once the Panel finds a *prima facie* case has been established, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

It is the view of this Panel that the Respondent has indeed registered the disputed domain name and is using it in bad faith.

As explained above, it results from the Complainant’s documented allegations that the disputed domain name resolves to a website with the message “temporarily unavailable”. Furthermore, upon attempting to access the priority document option *i.e.*, <https://vfsireland.bio/nigeria-priority/>, a request for a password is presented. In addition, the Complainant has undisputedly contended that the disputed domain name has also been used at least one time for illegal phishing or scam activities by contacting people with an alleged working offer from an Irish hospital as a nursing assistant and asking the recipient to disclose sensitive personal documents and make a payment in order to allegedly book a priority appointment on the website under the link <https://vfsireland.bio/nigeria-priority/>. Taking into the account the broader circumstances of the case, the Panel finds it more likely than not that the Respondent intended to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark.

The Panel notes the approach taken by previous UDRP panels finding that use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. Many such cases involve a respondent’s use of a domain name to send deceptive emails, *e.g.*, to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by a complainant’s actual or prospective customers (see [WIPO Overview 3.0](#), section 3.4). As explained above under section 6.B., use of the disputed domain name for an illegal email scam under a domain name including the Complainant’s trademark VFS demonstrates that the Respondent not only knew of the Complainant, its business, and marks, but also attempted to pass itself off as the Complainant in order to obtain an undue payment and documents with sensitive personal information. For the Panel, it is therefore evident that the Respondent positively knew the Complainant’s trademarks and products. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark VFS identically when it registered the disputed domain name. Registration of a domain name which contains a third party’s trademark, in awareness of said trademark and in the absence of rights or legitimate interests is suggestive of registration in bad faith (see, *e.g.*, *TELUS Corporation v. Fortefusion Fortefusion, Wordcounts*, WIPO Case No. [D2021-0787](#); *Charlotte Tilbury TM Limited v. Domains By Proxy, LLC / Qiangdong Liu, 365rw.com.ltd*, WIPO Case No. [D2020-0408](#)).

The finding of bad faith registration and use is supported by the following further circumstances resulting from the case file:

- (i) the distinctiveness of the trademark VFS which has existed since 2002;
- (ii) the Respondent’s failure to respond to this Complaint with conceivable explanations of its behavior within these proceedings so that no legitimate use of the disputed domain names by the Respondent is actually conceivable for the Panel;
- (iii) the Respondent’s failure to reply to the Complainant’s letter sent to the Registrar before the present proceedings have been initiated;
- (iv) the fact that the Respondent originally marked his identity behind a privacy shield; and

(v) the fact that the details disclosed for the Respondent by the Registrar were incomplete, noting the mail courier's inability to deliver the Center's written communications.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant is therefore deemed to also have satisfied the third element, paragraph 4(a)(iii) 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 name, <vfsireland.bio> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: September 29, 2023