

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Ebuka Nwanaka
Case No. D2024-0665

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom ("UK"), represented by AA Thornton IP LLP, UK.

The Respondent is Ebuka Nwanaka, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <virginmoneynetwork.com> is registered with Wix.com Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 2024, 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 (REDACTED FOR PRIVACY (DT)) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 22, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed a Complaint on February 27, 2024.

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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2024. The Respondent did not submit any response. However, an email communication was received on February 28, 2024, suggesting settlement options. On March 6, 2024, the Complainant notified the Center not to wish to explore settlement options. Accordingly, the Center notified the Commencement of Panel Appointment Process on March 25, 2024.

The Center appointed Tao Sun as the sole panelist in this matter on April 3, 2024. 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 part of the Virgin Group and is the owner of the VIRGIN brand and associated trademarks. VIRGIN branded businesses span a diverse range of sectors covering financial services, health and wellness, music and entertainment, people and planet, telecommunications and media, travel and leisure, and space. There are currently more than 40 VIRGIN branded businesses which have over 50 million customers worldwide and employ more than 60,000 people across five business sectors and five continents.

Virgin Money is also part of the Virgin Group of companies and provides financial services. Virgin Money was formed in 2002 and now provides banking services to around 6.6 million customers, operates around 74 branded stores and five customer lounges on high streets across the UK. Virgin Money has also operated internationally in Australia since 2003. Virgin Money business has won many awards in the field of banking services from 2017 to 2023.

The Complainant submits certain trademark registrations including the following:

- (i) European Union ("EU") Registration No. 1141309 VIRGIN in classes, 9, 35, 36, 38, and 41, registered on May 21, 2012;
- (ii) UK Registration No. UK00001586946 for VIRGIN Signature Logo in class 36, filed on September 15, 1994, and the date of entry in register is February 23, 1996;
- (iii) UK Registration No. UK00914032247 VIRGIN MONEY in classes 9, 35, 36, 38, and 42, filed on May 6, 2015, and the date of entry in register is December 3, 2015.

The Complainant has operated a website at "www.virgin.com" since 2000 to promote the activities of the VIRGIN Group and its businesses, ventures and foundations, which contains links to the specific web pages for most of the companies in the VIRGIN Group.

Virgin Money operate its business through the website "www.uk.virginmoney.com"> in UK and "www.virginmoney.com.au" in Australia.

The disputed domain name was registered on January 21, 2024. It resolves to a website offering financial services including stock trading, investment services and credit cards. According to the screenshot submitted by the Complainant, the Complainant's VIRGIN MONEY trademark is used throughout the website, including prominently in the header of each webpage. The Virgin Signature Logo is also widely used on the website; the "Contact" page contains an address, which appears to be the address of both Virgin Management Limited and the Complainant; in the footer of each webpage, there is a copyright statement of "© 2024 by the Virgin Group."

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- (i) The disputed domain name is comprised of the terms “virgin”, “money” and “network” and therefore incorporates the Complainant’s registered marks VIRGIN and VIRGIN MONEY in their entirety and therefore confusingly similar with the Complainant’s registered trademarks;
- (ii) The disputed domain name is resolved to a website offering financial services. Neither the Complainant nor the Virgin Money business authorized the Respondent to register the disputed domain name or operate the “www.virginmoneynetwork.com” website to provide financial services. The use of terms identical and highly similar to the Complainant’s registered marks as part of the disputed domain name and throughout the “www.virginmoneynetwork.com” website would confuse Internet users to connect the Respondent to the Complainant or Virgin Money business. There is no evidence suggesting that the disputed domain name will be used on bona fide genuine business. As such, the Respondent does not have a legitimate interest or right in the disputed domain name;
- (iii) The disputed domain name has been registered and is being used in bad faith. The Respondent should be aware of the Complainant considering (1) the recognition and reputation of the Complainant’s registered trademarks for financial services; (2) the uses of terms identical or similar to the Complainant’s registered trademarks; (3) the uses of the registered address of the Complainant and Virgin Management Limited. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the “www.virginmoneynetwork.com” website by creating a likelihood of confusion with the Complainant’s registered trademarks.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. The only communication received was the Respondent’s email of February 28, 2024, suggesting settlement options.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term “network” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise, instead the Respondent merely suggested settlement options.

The Complainant asserts that the Respondent has not been authorized by the Complainant to register and/or use the disputed domain name. The uses of the marks confusingly similar to the Complainant’s registered marks, the use of the Complainant’s registered address, and the copyright statement referring to Virgin Group suggest that the uses of the disputed domain name are aimed at confusing the consumers and therefore would not support a finding of rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.5.3).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Panels have consistently found that mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4). In this case, since the VIRGIN and VIRGIN MONEY marks are distinctive and famous, the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain name in bad faith.

Moreover, the Respondent resolved the disputed domain name to a website to offer financial services including stock trading, investment services and credit cards. In light of the above findings, and based on the case file, the Panel finds that the Respondent was aware of the Complainant and intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

The Respondent’s failure to file a formal Response also supports a finding of bad faith.

The Panel finds that the Complainant has established the third 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 name <virginmoneynetwork.com> be transferred to the Complainant.

/Tao Sun/

Tao Sun

Sole Panelist

Date: April 17, 2024