

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Gerald Lecter, ivadolfinance
Case No. D2024-0997

1. The Parties

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

The Respondent is Gerald Lecter, ivadolfinance, United States of America (the "U.S.").

2. The Domain Name and Registrar

The disputed domain name <virgincourierline.online> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 6, 2024. On March 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 an amendment to the Complaint on March 11, 2024.

The Center verified that the Complaint together with the amendment to the 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 March 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on April 15, 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. The VIRGIN brand was originally established by its founder and chairman, Sir Richard Branson, when he started a business selling popular music records by mail order under the VIRGIN name. Since then, operations have grown significantly and now 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.

The Complainant owns a number of trademark registrations for its VIRGIN brand in numerous jurisdictions including for instance the U.S. registration No. 1413664, registered on October 14, 1986.

The Complainant has built up a considerable online presence and is the registered proprietor of over 5000 domain names consisting of or incorporating the VIRGIN mark. 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. The VIRGIN businesses operate pages on various social media platforms where the VIRGIN marks also feature prominently. Collectively these social media platforms receive over 37 million views each year.

The disputed domain name was registered on February 12, 2024 and resolved to a website which purported to offer freight and courier services. At the time of the decision in the present case the disputed domain name does not resolve to any active website.

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 the disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name is comprised of the terms “virgin”, “courier” and “line” and therefore incorporates the Complainant's trademark in its entirety. The addition of the term “courier” is a descriptive reference to the service of transporting goods or documents, and so refers to the services for which the Complainant's trademark has a reputation. The term “line”, in the context of the disputed domain name, will be understood as referring to the route the courier service is offered on. The terms “courier” and “line” are not sufficient to avoid confusion on the part of the Internet users as it will suggest that the disputed domain name provides access to information about, or an online location to book, the Complainant's well-known cargo services which are offered under the Complainant's trademark. The disputed domain name is registered in the top level domain “.online” which will be understood by consumers as referring to the place on the Internet where the Complainant's services can be booked or where more information about the Complainant's services can be found.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name resolved to a website, which purported to offer freight and courier services. The Respondent is not authorized by the Complainant to use the Complainant's trademark. Given the highly distinctive nature of the Complainant's trademark in relation to the relevant services, there is no

justifiable reason why the Respondent should have chosen the name Virgin Courier Line. A number of images included on the website are taken from stock image libraries and the template for the website itself appears to be a stock template. There is a number of other websites which are apparently unrelated to the disputed domain name, but which include identical images and/or text. The circumstances and content of the website at the disputed domain name were not typical of a website that provides a genuine legitimate business to customers. In particular, the social media links do not link to social media accounts for the company, rather they simply refresh the page the user is on at the time; the links at the bottom of each page, e.g., directing the user to pages for different services being offered did not resolve to active webpages, rather clicking the links merely refreshes the page; the website at the disputed domain name was full of spelling and grammar errors, for example at the bottom of each page, "contact us" is spelled "contatc us". There is no evidence that the disputed domain name is being used in relation to a bona fide genuine business offering. The use of the Complainant's trademark as part of the disputed domain name and on the associated website, in connection with promotion of a purported courier service, which is a service for which the Complainant's trademark has a reputation, will confuse Internet users searching for, and possibly divert prospective customers away from, the Complainant's genuine air cargo services. Customers of the Complainant who need to visit the Complainant's websites may end up at the website associated with the disputed domain name and consequently be unable to locate the information they need. There was a contact us form on the website at the disputed domain name. Internet users might complete this form and provide their personal and sensitive data, which could then be used for fraudulent purposes.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It is highly unlikely that the Respondent was unaware of the Complainant given the high recognition and reputation of the Complainant's trademark at the time of registering the disputed domain name. The Respondent has therefore intentionally registered the disputed domain name using the Complainant's trademark in connection with a purported business offering of a type that the Complainant offers, and has a reputation for, under those marks. This has been done to attract visitors to the website at the disputed domain name and will create a likelihood of confusion for Internet users, and deceive them into believing that the disputed domain name is connected to, authorized or endorsed by, the Complainant. The "contact us" form on the website at the disputed domain name might be used by Internet users and customers who believe they are visiting a website connected to the Complainant and it is likely this page was included in the website for phishing purposes. In the event they provided sensitive or personal data, this could be used for fraudulent purposes and possible commercial gain for the Respondent. The disputed domain name is using the Complainant's trademark to create a perception of trust and reliability around the associated website. The nature of use at the website associated with the disputed domain name was not good faith use, was disruptive to the Complainant's business and potentially tarnished the reputation in the Complainant's trademark. It is highly likely that the disputed domain name is not being used in connection with a genuine business.

B. Respondent

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

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 (service mark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced 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 terms here, “courier” and “line”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 applicable generic Top-Level Domain (“gTLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards TLD “.online” for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent’s use of the confusingly similar disputed domain name on a website offering services overlapping with the Complainant’s is neither a bona fide offering of goods or services, nor a legitimate non-commercial or fair use pursuant to the Policy (see, e.g., *Option One Mortgage Corporation v. Option One Lending*, WIPO Case No. [D2004-1052](#)).

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.

In the present case, the Panel notes that the Respondent used the disputed domain name incorporating the Complainant's trademark to place a website offering services overlapping with the Complainant's. The Panel finds that the nature of the disputed domain name and its use confirms the Respondent knew or should have known of the Complainant's prior trademark rights, which confirms the bad faith.

The mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark both in the United Kingdom and internationally. Thus, the Panel finds that the disputed domain name confusingly similar to the Complainant's trademark was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: "by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] website or location or of a product or service on [Respondent's] website or location". By previous use of the disputed domain name to host a website offering services overlapping with the Complainant's, the Respondent created a likelihood of confusion with the Complainant's trademark and potentially obtained revenue from this practice. Under such circumstances the Panel finds that the disputed domain name was being used in bad faith. [WIPO Overview 3.0](#), section 3.3.

Although at the time of this decision the disputed domain name resolves to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

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 <virgincourierline.online> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: April 25, 2024