

ADMINISTRATIVE PANEL DECISION

Nordic Entertainment Group AB v. 蒋黎 (leed johnny) and 钱梦聃
(Qian Meng Dan)
Case No. D2022-0083

1. The Parties

Complainant is Nordic Entertainment Group AB, Sweden, represented by Zacco Sweden AB, Sweden.

Respondents are 蒋黎 (leed johnny) and 钱梦聃 (Qian Meng Dan), China.

2. The Domain Names and Registrar

The disputed domain names <helpviaplay.com> and <wwwviaplay.com> (the “Domain Names”) are registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2022. On January 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On January 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on January 14, 2022 providing the registrants and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on January 18, 2022.

On January 14, 2022, the Center transmitted an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant submitted a request that English be the language of the proceeding on January 17, 2022. Respondents did not comment on the language of the proceeding.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on January 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2022. Respondents did not submit any Response. Accordingly, the Center notified Respondents’ default on February 17, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on February 28, 2022. 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

Complainant, Nordic Entertainment Group AB (“NENT”, formerly a part of Modern Times Group MTG AB (“MTG”) founded in 1987), is a Swedish company group founded in 2018, following a split/de-merger of MTG into two separate companies - MTG and NENT. Complainant is an entertainment and media company, operating numerous entities spread across multiple jurisdictions, including its wholly-owned subsidiary Nordic Entertainment Group Sweden AB – holder of the majority of Complainant’s trademarks and domain names.

Complainant operates numerous commercial brands, including: Viaplay, a video on demand streaming service offering film, series and sports content on subscription basis; Viafree, a cost-free streaming service for recently aired TV episodes and exclusive online content; and V Sports, Series & Film, a family of channels offering premium TV content across the entire Nordic region. Complainant also owns and operates Viaplay Studios AB – its in-house production entity. Complainant has over 3.6 million paying Viaplay subscribers, and employs over 1,700 people worldwide.

Complainant has registered rights in the VIAPLAY trademarks in numerous jurisdictions, including Sweden trademark registration No. 396460, registered on June 27, 2008; and International trademark registration No. 1539481, registered on April 1, 2020, designating many jurisdictions, including China.

Complainant also owns a large number of domain names that incorporate its VIAPLAY mark, such as <viaplay.com>.

The disputed domain names <helpviaplay.com> and <wwwviaplay.com> were registered on September 22, 2021, and resolve to websites with pay-per-click (“PPC”) links.

5. Parties’ Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical and confusingly similar to Complainant’s trademarks; (ii) Respondents have no rights or legitimate interests in the Domain Names; and (iii) Respondents registered and are using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark rights in the registrations for VIAPLAY and owns domain names incorporating the VIAPLAY trademarks. Complainant contends that Respondents registered and are using the Domain Names to confuse Internet users looking for *bona fide* and well-known VIAPLAY products and services.

Complainant notes that it has no affiliation with Respondents, nor authorized Respondents to register or use domain names, which includes Complainant’s trademarks, and that Respondents have no rights or legitimate interests in the registration and use of the Domain Names. Rather, Complainant contends that Respondents have acted in bad faith in acquiring the Domain Names and setting up the corresponding websites, when Respondents clearly knew of Complainant’s rights.

Complainant asserts that it sent two letters to Respondents, on December 22, 2021, relating to each of the corresponding Domain Names through the Registrar’s online contact form, in an attempt to resolve this matter. Respondents did not respond to these letters.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Consolidation of Multiple Respondents

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) was intended to enable a single person or entity to put a complainant to the unnecessary time, expense and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

Complainant asserts that: each of the Domain Names incorporates the VIAPLAY trademark in its entirety; the two Domain Names are connected to similar websites, both consisting of parked PPC links; the Domain Names were both registered on the same day, with the same registrar, by registrants located in China; the Domain Names are both confusingly similar to Complainant's sub-domains, <help.viaplay.com> and <viaplay.com>, respectively.

Complainant also asserts and provided evidence that Respondent “蒋黎 (Leed Johnny)” has a history of using multiple alias to register domain names in bad faith. See *Chevron Intellectual Property LLC v. Zhichao Yang / leed johnny*, NAF Case No. FA1909410, and *Iowa Health System d/b/a UnityPoint Health v. Jiang Li / 蒋黎 / johnny leed / leed johnny / 深圳金源电器贸易有限公司*, NAF Case No. FA1930871, where the panels granted consolidation in both cases. Complainant also asserts and provided evidence that Respondent “钱梦聘 (Qian Meng Dan)” has the same history of using multiple alias to register domain names in bad faith, citing *Guild Education, Inc. v. 钱梦聘 (Qianmengdan, Qian Meng Dan) and 巫蓉蓉 (Wurongrong)*, WIPO Case No. [D2021-3069](#), where the panel granted consolidation of the case.

Prior to filing the current Complaint, Complainant sent two letters to Respondents through the Registrar's online contact form, on December 22, 2021, relating to each of the corresponding Domain Names, in an attempt to resolve this matter. Respondents did not respond to these letters. The Center has also notified Respondents in Chinese and English of the Complaint corresponding to the Domain Names. Respondents chose not to file any Response. Further, Respondents did not object to Complainant's request for consolidation.

All of the above circumstances when considered together indicate that Complainant and Complainant's trademarks are the common and sole target for the registration and use of the Domain Names by probably the same individual (operating with different aliases) or two individuals acting in a concerted manner. It is more likely than not that the Domain Names are under common control. In addition, it would be cumbersome, costly and results in delay if Complainant would be required to initiate separate proceedings for each Domain Name, noting that both Respondents had the opportunity to participate in this proceeding, and particularly to object to Complainant's reasoned allegation of consolidation of multiple named registrants in a single proceeding.

Based on the foregoing, the Panel finds that consolidation would be fair and equitable to all Parties, and therefore grants the request to consolidate the two Domain Names in a single complaint. Therefore, two Respondents are hereinafter collectively referred to as "Respondent" below.

6.2. Preliminary Procedural Issue – Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its email dated January 17, 2022, Complainant requests that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreements for the Domain Names is Chinese.

Complainant contends that the Domain Names resolve to the English language websites providing sponsored links in English, and that Respondent is targeting Complainant's trademarks, websites and businesses in Complainant's language of operation, which is English. Complainant also contends that it would be unfairly burdensome for Complainant to translate and conduct the proceeding in Chinese and would also cause unnecessary delay in the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreements for the Domain Names, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.3. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

(i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the [WIPO Overview 3.0](#) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the VIAPLAY trademarks, as noted above. Complainant has also submitted evidence, which supports that the VIAPLAY trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the VIAPLAY trademarks.

With Complainant's rights in the VIAPLAY trademark established, the remaining question under the first element of the Policy is whether the Domain Names, typically disregarding the Top-Level Domain ("TLD") in which they are registered (in this case, ".com"), are identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. D2010-0842.

Here, the Domain Names are confusingly similar to Complainant's VIAPLAY trademarks. These trademarks, which are fanciful and inherently distinctive, are recognizable in the Domain Names.

In particular, the Domain Names all include Complainant's trademark VIAPLAY in its entirety, as shown below (separate by spaces for emphasis):

- <helpviaplay.com> incorporates the VIAPLAY trademark in its entirety, with VIAPLAY preceded by the term "help". The addition of the term "help" before the VIAPLAY trademark does not prevent a finding of confusing similarity between the Domain Name <helpviaplay.com> and the VIAPLAY trademark;
- <wwwviaplay.com> incorporates the VIAPLAY trademark in its entirety, and the prefix "www" in the Domain Name <wwwviaplay.com> does not prevent a finding of consuming similarity between the Domain Name <wwwviaplay.com> and the VIAPLAY trademark.

See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and the VIAPLAY trademarks, and does not have any rights or legitimate interests in the Domain Names.

Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the VIAPLAY trademark or to seek registration of any domain name incorporating the trademark. Respondent is also not known to be associated with or commonly known by the VIAPLAY trademark.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that at the time of filing the Complaint, the Domain Names resolved to PPC websites displaying advertisements.

The [WIPO Overview 3.0](#), section 2.9 notes that: “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.” Furthermore, an abundance of other UDRP panels have recognized that no rights or legitimate interests derive from using another’s trademark to divert Internet users to websites displaying sponsored links, see, e.g., *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#), in which the panel held: “The consensus view of previous UDRP panels is that use of a domain name to post parking and landing pages or pay-per-click links may be permissible in some circumstances, but would not of itself confer rights or legitimate interests arising from a ‘*bona fide* offering of goods or services’ or from ‘legitimate noncommercial or fair use’ of the domain name.”

Thus, such use by Respondent does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Names.

Accordingly, Complainant has established its *prima facie* case that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent’s actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

The Panel finds that Complainant provided ample evidence to show that registration and use of the VIAPLAY trademarks predate the registration of the Domain Names. Complainant's reputation is also well established and known. Indeed, the record shows that Complainant's VIAPLAY trademarks and related services are widely known and recognized. Therefore, and also noting the composition of each of the Domain Names is confusingly similar to Complainant's sub-domains <viaplay.com> and <help.viaplay.com> respectively, Respondent was likely aware of the VIAPLAY trademark when it registered the Domain Names, or knew or should have known that the Domain Names were confusingly similar to Complainant's trademark. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's VIAPLAY trademark suggests Respondent's actual knowledge of Complainant's rights in the VIAPLAY trademark at the time of registration of the Domain Names and its effort to opportunistically capitalize on the reputation of the Complainant's trademark.

In addition, as noted in Section 6.3.B above, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The Panel finds that the use of the Domain Names indicates the obvious purpose of generating click-through revenues from the PPC links displayed at the websites to which the Domain Names resolve, which is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with Complainant's VIAPLAY trademark as to the source, sponsorship, affiliation or endorsement of these websites.

Lastly, in the present circumstances, including the distinctiveness and reputation of the VIAPLAY trademark, the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good-faith use of the Domain Names, and the implausibility of any good-faith use to which the Domain Names may be put, support a finding of bad faith. Accordingly, the Panel finds that Respondent has registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Names, <helpviaplay.com> and <wwwviaplay.com>, be transferred to Complainant.

/Kimberley Chen Nobles/
Kimberley Chen Nobles
Sole Panelist
Date: March 17, 2022