

ADMINISTRATIVE PANEL DECISION

VFS Global Service Pvt Ltd. v. Namecheap Inc., Frances P Kump
Case No. D2022-0329

1. The Parties

The Complainant is VFS Global Service Pvt Ltd., India, represented by Aditya & Associates, India.

The Respondent is Namecheap Inc., United States of America / Frances P Kump, Canada.

2. The Domain Name and Registrar

The disputed domain name <nz-vfsglobal.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2022 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 February 3, 2022.

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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 1, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on March 3, 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

The Complainant, together with its group of global companies, is a global business process outsourcing company providing technological and logistics support services for the visa application process to various diplomatic missions around the world. The Complainant serves the interests of the diplomatic missions of 64 sovereign governments in 151 countries across five continents. Importantly for this matter, as will be discussed below, the Complainant serves the Canadian and New Zealand governments, and operates within Canada and New Zealand. The Complainant has traded under the VFS mark in various forms, including VFS GLOBAL, since 2003.

The Complainant owns many trade mark registrations in many countries for marks consisting of or incorporating VFS, including VFS GLOBAL. Importantly for this matter, the Panel has independently established that the Complainant owns Canadian trade mark registration number TMA1086528 for the mark VFS GLOBAL and device in classes 9, 16, 35, 38, 39 and 42, with registration date October 29, 2020; the Respondent's territory is Canada, per the Whois record for the Domain Name.

The Domain Name was registered on July 29, 2021 and does not resolve to any website. The Complainant has adduced evidence of the Domain Name being used to send emails impersonating the Complainant for the purposes of fraudulently enticing users to respond to fake job offers and visa services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its VFS and VFS GLOBAL marks, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and used in bad faith given that the Domain Name has been used to impersonate the Complainant for the purposes of email-based fraud.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's un rebutted evidence establishes that its VFS GLOBAL mark is registered, well-known and is wholly contained within the Domain Name with only the addition of the geographic descriptor "nz" and a hyphen. Where the trade mark is recognisable within the disputed domain name, the addition of other terms (including geographic terms as in this case) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its VFS and VFS GLOBAL marks were registered and used, including in the Respondent's country, and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's marks and the Complainant has certified that the Domain Name is unauthorised by it.

UDRP Panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation or other types of fraud as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

It is well accepted that use of a domain name to perpetuate fraud constitutes bad faith use ([WIPO Overview 3.0](#) at section 3.4). The Complainant's evidence establishes that the Domain Name has been used for email-based fraud as set out above.

In accordance with the [WIPO Overview 3.0](#) at section 3.2.1, it is also reasonable to infer bad faith on the part of the Respondent at the time of registration of the Domain Name given the repute of the Complainant's marks, the proximity of the registration date of the Domain Name to the dates of the evidence showing fraudulent use, the provision of an obviously false address in the Whois record¹ ([WIPO Overview 3.0](#) at section 3.6; *Playboy Enterprises International, Inc. v. Universal Internet Technologies, Inc.*, WIPO Case No. [D2001-0811](#)), and the Respondent's failure to respond to the Complaint where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

Additionally, the Complainant trades in and renders services to the governments of New Zealand (the country suggested by the inclusion of "nz" in the Domain Name) and Canada (the Respondent's territory), which is a further indication that the Respondent, at the time of registration, was aware of the Complainant and intended to deceive users into believing that the Domain Name is associated with the Complainant's New Zealand operations (as borne out by the email-based fraud evidence).

The Complainant has satisfied 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 Domain Name, <nz-vfsglobal.com>, be transferred to the Complainant.

/Jeremy Speres/
Jeremy Speres
Sole Panelist
Date: March 17, 2022

¹ The Written Notice was not delivered to the Respondent's postal address in Canada.