

ADMINISTRATIVE PANEL DECISION

Veolia Environnement SA v. Privacy Service Provided by Withheld for Privacy ehf / Henry James, Henry
Case No. D2022-0650

1. The Parties

Complainant is Veolia Environnement SA, France, represented by IP Twins, France.

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Henry James, Henry, United States of America ("USA").

2. The Domain Name and Registrar

The disputed domain name <veolianorthamerican.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 24, 2022. On February 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on March 8, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 9, 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 Respondent of the Complaint, and the proceedings commenced on March 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 20, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on April 29, 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 is the holding company of Veolia group, a 160 year-old company group that represents a total of EUR 26.010 billion in revenue. Veolia group acts in three core businesses: (i) water, (ii) waste, and (iii) energy, acting in the branch of basic sanitation.

Complainant renders services to cities and industries all over the world with water and energy providing and management, with over 179,000 employees which are directly influent to the sustainability performance of customers in the public and private sectors.

Complainant owns trademark registrations for the sign VEOLIA, as can be seen on the examples below:

Registration No.	Trademark	Jurisdictions	International Classes	Date of Registration
814678	VEOLIA	International	1, 6, 9, 11, 17, 19, 32, 35, 36, 37, 39, 40, 41 and 42	September 11, 2003
919580	VEOLIA	International	9, 11, 16, 35, 36, 37, 38, 39, 40, 41 and 42	March 10, 2006
3000764	VEOLIA	USA	1, 9, 11, 35, 36, 37, 40, 41 and 42	September 27, 2005
5603792	VEOLIA	USA	1, 7, 37, 39 and 42	November 13, 2018

Furthermore, Complainant has registered the domain names <veolia.com> (registered on December 30, 2002) and <veolianorthamerica.com> (registered on March 26, 2003).

The disputed domain name <veolianorthamerican.com> was registered on November 17, 2021, and resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to its registered trademark VEOLIA, since it fully incorporates Complainant's referred trademark VEOLIA with the addition of the expression "north american".

Complainant presents a list of UDRP decisions in which the trademark VEOLIA was recognized as well-known and long-established trademark – such as *Veolia Environnement S.A. v. Hartford Vehicle*, WIPO Case No. [D2021-3821](#), in which the Panel concluded that VEOLIA is "a well-known and long established trademark".

Complainant states that the disputed domain name was detected by the cybersecurity department of Complainant on November 19, 2021, because a phishing attack was launched via the disputed domain name.

Complainant affirms that Respondent creates a likelihood of confusion, considering specially that the disputed domain name uses the trademark VEOLIA in its entirety with the addition of the words “north american” – which purports to an area where Complainant provides its services –, as consumers may believe that this domain name is linked to Complainant.

Complainant also notes that the disputed domain name is inherently associated with Complainant and its activities, since Complainant owns the domain name <veolianorthamerica.com>, which differs to the disputed domain name only by the absence of the letter “n” at the end of the word “american”.

Therefore, according to Complainant, the disputed domain name presents a high risk of confusion to consumers, who will likely believe it is linked with Complainant’s trademark VEOLIA, fulfilling paragraph 4(a)(i) of the Policy and paragraph 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant’s trademark VEOLIA as a domain name nor is Respondent associated with Complainant.

Complainant also notes that Respondent did not respond to the cease-and-desist letter sent through e-mail, supposedly indicating that Respondent does not have rights or legitimate interests in connection with the disputed domain name, since it would have defended its rights before Complainant’s letter.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules has been fulfilled.

Moreover, Complainant argues that the fact that Respondent used an internationally well-known trademark would prove that the disputed domain name was registered in bad faith, as recognized by previous UDRP panels.

Finally, Complainant indicates that Respondent aimed to take advantage of the well-known trademark VEOLIA; and that the disputed domain name purports to a website which is inactive, which would fit the use of the website into the passive holding doctrine. Those factors would indicate that the disputed domain name is also being used in bad faith.

Thus, the requirements for the identification of a bad faith registration and use of the domain name would have been fulfilled, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

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

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that owns prior registered and unregistered rights for the trademark VEOLIA, and that the disputed domain name <veolianorthamerican.com> is constituted by the trademark VEOLIA in its entirety with the addition of the words "north american".

Complainant has also proven that the trademark VEOLIA is internationally well-known, as can be seen by the list of UDRP decisions (see *Veolia Environnement S.A. v. Raj Singh*, WIPO Case No. [D2010-2048](#); *Veolia Environnement SA v. WhoisGuard Protected / Greg Tapper*, WIPO Case No. [D2020-0531](#); and *Veolia Environnement S.A. v. Hartford Vehicle*, WIPO Case No. [D2021-3821](#)).

The addition of the words "north american" do not prevent a finding of confusing similarity with Complainant's trademark VEOLIA. The trademark is fully integrated in the disputed domain name, and the words "north american" refer to an area in which Complainant provide its services.

Thus, the Panel finds that the disputed domain name <veolianorthamerican.com> is confusingly similar to Complainant's trademarks, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") as follows: "[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's unrebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name <veolianorthamerican.com>.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* that could demonstrate legitimate interests, which the Panel finds to be duly proven by the fact that Respondent did not reply to Complainant's cease-and-desist letter to defend any eventual rights upon the disputed domain name and that the disputed domain name <veolianorthamerican.com> resolves to a website which is currently inactive.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant's trademark VEOLIA, plus the addition of the words "north american". The Panel finds that it is duly demonstrated that Respondent was aware of Complainant's rights to the trademark VEOLIA at the time of the registration – as Complainant enjoys a worldwide reputation with the use of the referred trademarks and has been recognized as a well-known trademark.

With that in sight, Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users and consumers in search of authentic VEOLIA services.

Moreover, Panel finds that the words "north american" that accompany the trademark VEOLIA in the disputed domain name consist of a reference to one of Complainant's main areas of operation, making the disputed domain name confusingly similar to Complainant's registered trademarks and domain name <veolianorthamerica.com>, which indicates that the use of the trademark VEOLIA in a domain name that is unauthorized by Complainant is an act of bad faith.

Further, the Panel finds that the detection of the disputed domain name by the cybersecurity department of Complainant, because of a phishing attack was launched via the disputed domain name further indicates bad faith.

As concluded by the panel in *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#), the use of the disputed domain name with the purpose of practicing phishing activity indicates that it would have been registered and used in bad faith:

"The findings above would be sufficient for the Panel to find bad faith use and registration, but the Panel further concludes that the use of an email address associated with the disputed domain name, to send a phishing email for the purposes of dishonest activity is in itself evidence that the disputed domain name was registered and is being used in bad faith. This is consistent with UDRP decisions of earlier panels; see for example, *Haas Food Equipment GmbH v. Usman ABD, Usmandel*, WIPO Case No. [D2015-0285](#), in which the fact that the disputed domain name was being used to perpetrate a fraud against the complainant was found by the panel to constitute evidence of registration and use in bad faith."

In addition, the Panel notes that the website does not resolve to an active website and in the present circumstances allows a finding of bad faith registration and use under the passive holding doctrine. As discussed in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), there are five circumstances that indicate if the passive holding of a domain name could be regarded as bad faith:

- "(i) the Complainant's trademark has a strong reputation and is widely known,
- (ii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name,
- (iii) the Respondent has taken active steps to conceal its identity, by operating under a name that is not a registered business name,
- (iv) the Respondent has actively provided, and failed to correct, false contact details, in breach of its registration agreement, and
- (v) taking into account all of the above, it is not possible to conceive of any plausible actual or

contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law."

Considering all of the items listed above, this Panel finds that items (i), (ii) and (v) are present to this case, since (i) Complainant enjoys a well-known reputation under the trademark VEOLIA; (ii) Respondent has not responded to Complainant's contentions, failing to provide evidence of the use in good faith of the disputed domain name; and (v) there is no plausible use of the disputed domain name that would not represent bad faith, especially considering that it is composed by Complainant's trademark VEOLIA with the addition of the words "north american", which represent an area in which Complainant provides its services. Thus, the circumstances of the present case strongly indicate that the disputed domain name is being used in bad faith.

In light of the above, the Panel finds that the disputed domain name <veolianorthamerican.com> has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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 <veolianorthamerican.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: May 13, 2022