

## ADMINISTRATIVE PANEL DECISION

Veolia Environnement SA v. Whois Privacy Protection Foundation /  
Name Redacted  
Case No. D2022-0785

### 1. The Parties

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

The Respondent is Whois Privacy Protection Foundation, Netherlands / Name Redacted.<sup>1</sup>

### 2. The Domain Names and Registrar

The domain names <us-veolia.com> (the “first disputed domain name”) and <veolia-us.com> (the “second disputed domain name”) are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2022. On March 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 March 8, 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

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain names. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 1, 2022.

The Center appointed Antony Gold as the sole panelist in this matter on April 12, 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 is the parent company of a multinational group of companies, with its headquarters in France, which provides services in the areas of water supply (including water production and wastewater treatment), waste recovery and energy. The Veolia group of companies has over 179,000 employees worldwide and, in 2020, its annual revenues were in excess of EUR 26 billion. The Complainant has operations across five continents. In North America it serves over 18.5 million people.

The Complainant provides its services under the mark VEOLIA and it has trade mark registrations for VEOLIA in many countries, including, by way of example, European Union Trade Mark, registration number 0910325, in classes 9, 11, 16, 35 to 42 inclusive and 44, registered on March 10, 2006. The Complainant also owns a number of domain names incorporating its VEOLIA mark, including <veolia.com>, which resolves to a website providing information about its services.

The first disputed domain name was registered on November 29, 2021, and the second disputed domain name was registered on December 15, 2021. On December 7, 2021, the Respondent sent an email, seemingly from an employee of the Complainant, to a third party using the address of the first disputed domain name which purported to provide an offer of employment on behalf of the Complainant. On December 13, 2021, a cease and desist email was sent by the Complainant to the hosting company for the first disputed domain name, Hostinger International Limited (“Hostinger”), which resulted in the account for the first disputed domain name being suspended. On February 23, 2022, having been made aware that the second disputed domain name was also being used in connection with job interviews conducted via the online messaging service Telegram, ostensibly by the entity of the Complainant operating in the United States of America (“United States”), a further cease and desist email was sent by the Complainant to Hostinger in relation to both disputed domain names. Neither of the disputed domain names resolves to an active website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant refers to its trade mark registrations for VEOLIA, full details of one of these marks having been set out above, and says that the disputed domain names are identical or confusingly similar to its marks. Both the disputed domain names contain its mark and the addition of the term “us” in the disputed domain names, whether placed before or after its VEOLIA trade mark, does not prevent a finding of confusing similarity.

The Complainant says also that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant’s VEOLIA trade marks preceded the registration of the disputed domain names by some years and the Respondent cannot reasonably pretend that it was intending to develop a legitimate activity through them. Moreover, it is unlikely that the Respondent is commonly known

by the name “Veolia” nor is it in any way affiliated with the Complainant, nor is it authorized or licensed to use its marks. In the absence of any license or permission from the Complainant to use its mark, no actual or contemplated *bona fide* or legitimate use of the disputed domain names could reasonably be claimed; see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#). The failure of the Respondent to reply to the Complainant’s cease and desist letters is a further indicator of the Respondent’s lack of rights or legitimate interests.

Lastly, the Complainant says that the disputed domain names were registered and are being used in bad faith. It is implausible that the Respondent was unaware of the Complainant, as and when the disputed domain names were registered, as the Complainant is well-known throughout the world. In fact, the Respondent’s reproduction of the entirety of the Complainant’s VEOLIA trade mark in the disputed domain names shows that that the Respondent was aware of the Complainant’s mark as at the date of their registration. Where a domain name is so obviously connected with a well-known trade mark, its very use by someone with no connection to that mark suggests opportunistic bad faith.

The disputed domain names have been used in order to capitalize on, or otherwise take advantage of, the Complainant’s trade mark rights. Whilst the disputed domain names are inactive, under the doctrine of passive holding, they can nonetheless be considered to be used in bad faith; see, for example, *Virgin Enterprises Limited v. Cesar Alvarez*, WIPO Case No. [D2016-2140](#).

## **B. Respondent**

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

## **6. Discussion and Findings**

Dealing, first, with the Respondent’s failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has provided details of its trade mark registrations for VEOLIA, an example having been provided above. It has thereby established its rights in this mark.

The generic Top-Level Domain (“gTLD”), in each disputed domain name, that is the “.com” component, is typically disregarded for the purposes of the comparison made under the first element, as it is a technical requirement of registration. Each of the disputed domain names features the Complainant’s VEOLIA trade mark and adds the letters “us”, placed either before or after the Complainant’s mark and separated from it by a hyphen.

As a typographical symbol, the hyphen is of negligible significance for the purposes of the comparison under the first element and the additional term “us” does not prevent the disputed domain names from being found confusingly similar to the Complainant’s marks. As explained at section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)): “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

The Complainant’s VEOLIA mark is clearly recognizable within both disputed domain names and the Panel therefore finds that they are confusingly similar to a trade mark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides, without limitation, examples of circumstances whereby a respondent might demonstrate that it has rights or legitimate interests in a domain name. In summary, these are if a respondent has used or prepared to use the domain name in connection with a *bona fide* offering of goods and services, if a respondent has been commonly known by the domain name, or if a respondent has made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark in issue.

The Complainant has established that the disputed domain names have been used as part of a phishing scam in which third parties are both interviewed via an online messaging service and then made offers of employment pursuant to which the interview candidates are deceived into providing personal data to the Respondent. Such fraudulent activity self-evidently does not comprise *bona fide* use of the disputed domain names. In this respect see, for example, *Les Laboratoires Servier v. Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2017-1843](#)

The second circumstance set out at paragraph 4(c) of the Policy is also inapplicable as there is no evidence to indicate that the Respondent has been commonly known by either of the disputed domain names. Nor is the third circumstance applicable; the current non-use of the disputed domain names does not amount to a legitimate noncommercial or fair use of them.

The Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names and the burden of production accordingly shifts to the Respondent to show that it does. In the absence of any reply from the Respondent, it has failed to satisfy its burden. The Panel therefore finds that the Respondent has no rights or legitimate interests with respect to the disputed domain names.

## **C. Registered and Used in Bad Faith**

The use of the disputed domain names in order to engage in phishing activity, in which the Respondent represented itself as the Complainant, very shortly after they were registered, establishes that the Respondent was aware of the Complainant as at the date of registration of the disputed domain names and that the Respondent’s intention was to target the Complainant’s marks for fraudulent purposes; see *The Cooper Companies, Inc. v. Ray Carter*, WIPO Case No. [D2021-0948](#). Additionally, as explained at section 3.1.4 of the [WIPO Overview 3.0](#); “Panels have consistently found that the mere registration of a domain name that is identical or 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”. The Panel accordingly finds the registration of the disputed domain names to have been in bad faith.

Whilst the disputed domain names do not at any stage appear to have resolved to active websites, use of a domain name for purposes other than to host a website may constitute bad faith, see section 3.4 of the [WIPO Overview 3.0](#). Having regard to the fact that each of the disputed domain names incorporates the entirety of the Complainant’s VEOLIA mark and the additional letters in each of them, namely, “us” is a

widely-used acronym for the United States, emails sent by the Respondent using the address of the disputed domain names are apt to mislead Internet users into believing that they have been sent by the Complainant. Moreover, use of domain names for the purpose of impersonating a complainant's employees as part of a fraudulent phishing scheme amounts to bad faith use; see for example, *Sarepta Therapeutics, Inc. v. Domain Privacy Service FBO Registrant, The Endurance International Group, Inc. / Name Redacted*, WIPO Case No. [D2020-3239](#) in which the respondent similarly made false offers of employment in order to solicit personal and confidential information from job applicants following fake interviews.

Such conduct is closely analogous to the circumstance of bad faith registration and use set out at paragraph 4(b)(iv) of the Policy which provides that evidence of bad faith registration and use will be found where a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website.

The fact that the disputed domain names do not presently appear to be in use does not prevent a finding of bad faith under the doctrine of passive holding; see section 3.3 of the [WIPO Overview 3.0](#). The factors that are typically considered when applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealment of its identity or its use of false contact details and (iv) the implausibility of any good faith use to which the domain name may be put. See also *Ladbrokes Betting & Gaming Limited v. mehdi bouksila*, WIPO Case No. [D2021-3381](#).

Applying the factors set out above to the current circumstances: (i) the Complainant has established that its VEOLIA trade mark is widely used in many countries; (ii) the Respondent has not replied to the Complaint and the earlier use of the disputed domain names has been for fraudulent purposes; (iii) the Respondent has provided false registration details; and (iv) there is no plausible good faith use to which either of the disputed domain names could be put by the Respondent. Accordingly, the circumstances support a finding of bad faith use of the disputed domain names under the doctrine of passive holding.

The Panel therefore finds that the disputed domain names have been registered and are being used in bad faith.

## 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 names, <us-veolia.com> and veolia-us.com>, be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: April 26, 2022