

## **ADMINISTRATIVE PANEL DECISION**

Virgin Enterprises Limited v. James Boisson  
Case No. D2022-0896

### **1. The Parties**

The Complainant is Virgin Enterprises Limited, United Kingdom (“UK”), represented by A.A.Thornton & Co, UK.

The Respondent is James Boisson, Ghana.

### **2. The Domain Name and Registrar**

The disputed domain name <virginbusinessmoney.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 8, 2022.

The Center appointed Stefan Naumann as the sole panelist in this matter on April 19, 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 a UK company of the Virgin group of companies. The Virgin group of companies includes the companies Virgin Money and Virgin Money Australia, which are financial services providers. Although the Complainant did not provide evidence of its corporate registration, the Panel was able to confirm this with the publicly accessible database Companies House using the company names provided by the Complainant.

The evidence shows that the Complainant owns a number of word trademarks for VIRGIN and VIRGIN MONEY, including the mark VIRGIN, UK trademark registration No. 1585773 filed September 15, 1994 in class 36, and registered October 20, 1995; UK trademark registration No. 2601995 filed November 18, 2011 in Classes 9, 35, 36, 38 and 41, and registered February 24, 2012; the mark VIRGIN MONEY, European Union trademark registration No. 14032247 filed May 6, 2015 in classes 9, 35, 36, 38 and 42, and registered December 3, 2015; UK trademark registration No. 2177329 filed on September 15, 1998 in class 36, and registered May 21, 1999; New Zealand trademark registration No. 704834 filed November 21, 2003 in class 36, registered September 9, 2004; as well as Australian trademark registrations No. 1029200 filed November 10, 2004 in class 36, registered December 8, 2005, and No. 983116 filed December 23, 2003 in class 36, registered November 18, 2005.

The evidence shows that the VIRGIN brand is well established and that the Complainant uses the term "Virgin" for its website "www.virgin.com" and its domain name <virgin.com>, and for its various social media accounts. It uses the terms "Virgin Money" for a website "www.virginmoney.com.au" and for a domain name <virginmoney.com.au>.

The Complainant's evidence also shows that the VIRGIN MONEY trademark was used for Virgin Money's sponsorship of the London marathon, a UK football club, an Edinburgh firework festival, and an attempt to set a transatlantic sail crossing record.

The disputed domain name was registered on February 6, 2022. The evidence shows that the website at the disputed domain name offers or purports to offer banking services, prominently featuring sterling pounds as currency.

#### **5. Parties' Contentions**

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

The Complainant asserts that its VIRGIN and VIRGIN MONEY marks are well known, that the disputed domain name is confusingly similar to the Complainant's trademarks, that the Respondent has no permission from the Complainant to use the Complainant's trademarks or apply for a domain name with the Complainant's trademarks, that the Respondent used the Complainant's trademarks without rights or legitimate interests in order to intentionally attract Internet users, and that the Respondent registered and uses the disputed domain name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

In order to succeed in its claim, the Complainant must demonstrate that all three elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name must be identical or confusingly similar to a trademark or service mark in

which the Complainant has rights;

- (ii) the Respondent must have no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name must have been registered and used in bad faith.

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

The disputed domain name combines the VIRGIN and VIRGIN MONEY trademarks with the term “business”, and the generic Top-Level Domain (“gTLD”) “.com”. The addition of the term “business” and of the gTLD does not affect the fact that the disputed domain name incorporates and reproduces the Complainant’s VIRGIN and VIRGIN MONEY trademarks. The disputed domain name is confusingly similar to the Complainant’s trademarks since the VIRGIN and VIRGIN MONEY trademarks are clearly recognizable in the disputed domain name notwithstanding the addition of the dictionary term “business” between the terms “virgin” and “money”.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant’s trademarks for the purposes of the Policy.

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

The disputed domain name carries a clear risk of implied affiliation since consumers would expect to land on a website of the Complainant when typing in the Complainant’s VIRGIN trademark with two dictionary terms “business” and “money”, or the Complainant’s VIRGIN MONEY trademark with the dictionary term “business,” particularly since the Complainant also uses the VIRGIN MONEY trademarks for financial services. The risk of misleading consumers is compounded by a website at the disputed domain name that offers or purports to offer financial services. The company referenced on the website as provider of the services VBM UK Plc is not registered with Companies House and the owner of the disputed domain name is an individual. The Complainant persuasively argues and provides evidence that the website may have been scraped from a third-party bank website and modified to refer to a non-existent company VBM UK Plc, and that the disputed domain name thus is not used by or in relation to a *bona fide* business.

The Respondent has chosen not to reply to the Complaint.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and finds no indication in the evidence that the Respondent could claim rights or legitimate interests of his own in the term “Virginbusinessmoney”. Since the Respondent has no permission from the Complainant and chose not to respond, his use of the disputed domain name is deemed to be without rights or legitimate interests.

The Panel finds that in the present case the Respondent does not have any rights or legitimate interests with respect to the disputed domain name.

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

The evidence shows that the Respondent is using the disputed domain name to offer or purport to offer financial services. The Respondent’s use of the term “Virgin” with the terms “money” and “business” on a website designed to look like a banking website, targeted notably at UK consumers, indicates that the Respondent was and is aware of the Complainant’s trademarks, and that he registered and is using the disputed domain name in bad faith because of its connection with the Complainant to create a likelihood of confusion with the Complainant’s trademarks. Further, the Panel finds that the combination of the terms “Virgin” and “money” in the disputed domain name for a website that purports to offer financial services in fact increases or is intended to increase this risk of confusion.

The Panel is satisfied that the disputed domain name was registered and is 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 name, <virginbusinessmoney.com> be transferred to the Complainant.

*/Stefan Naumann/*

**Stefan Naumann**

Sole Panelist

Date: April 29, 2022