

ADMINISTRATIVE PANEL DECISION

Verint Systems, Inc. v. Domains By Proxy, LLC / Mastercard Jean
Case No. D2022-0933

1. The Parties

Complainant is Verint Systems, Inc., United States of America (“United States” or “U.S.”), represented by Thompson Hine LLP, United States.

Respondent is Domains By Proxy, LLC, United States / Mastercard Jean, United States.

2. The Domain Name and Registrar

The disputed domain name <verintsystems.com> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 18, 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 named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on March 21, 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 25, 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 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 20, 2022.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on April 27, 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 states that it was “established” in 2002 and “provides hardware, software, and services for customer engagement management through on-premises and cloud-based solutions, based upon customer, employee, brand, and product analytics.”

Complainant further states, and provides documentation in support thereof, that it has “obtained registered trademark rights in and to the term ‘verint’ in various jurisdictions throughout the world,” including U.S. Reg. Nos. 2,796,068 for VERINT (registered on December 16, 2003) and 2,803,581 for VERINT (registered on January 6, 2004). These registrations are referred to herein as the “VERINT Trademark”.

Complainant further states that it is the registrant of the domain names <verintsystems.com> (created on January 22, 2002) and <verint.com> (created on May 22, 2000).

The Disputed Domain Name was created on June 1, 2020. According to Complainant, and documentation provided by Complainant in support thereof, Respondent is using the Disputed Domain Name in connection with a “parking page” that includes “searches related to or similar to Complainant’s product offerings”.

5. Parties’ Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- The Disputed Domain Name is confusingly similar to the VERINT Trademark because, *inter alia*, it “differs from Complainant registered domain name solely by the addition of an ‘s’ character which may represent one or more of an inadvertent duplicate keystroke, a misspelling of ‘Verint Systems,’ or a homophone of ‘Verint Systems’”.
- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “Respondent does not operate a business under any name consisting of or incorporating either ‘Verint’, ‘Verints’, or a substantial variant of any of the foregoing terms”; “[t]he content of the website appearing under the <verintsystems.com> [Disputed] [D]omain [N]ame does not demonstrate use of, or demonstrable preparation to use, the [D]isputed [D]omain [N]ame or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services”; the Disputed Domain Name “may represent one or more of an inadvertent duplicate keystroke, a misspelling of ‘Verint Systems,’ or a homophone of ‘Verint Systems’”; and “Respondent has not otherwise been commonly known by the [Disputed] [D]omain [N]ame, nor has Respondent acquired trademark or service mark rights to the term ‘verintsystems’”.
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*, “redirection to parking pages or other pages containing third party commercial links has been sufficient for a finding of Respondent’s bad faith.”

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (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. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the VERINT Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the VERINT Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “verintssystems”) because “[t]he applicable Top-Level Domain (‘TLD’) in a domain name (*e.g.*, ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Further, as set forth in section 1.8 of [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.”

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “Respondent does not operate a business under any name consisting of or incorporating either ‘Verint,’ ‘Verints,’ or a substantial variant of any of the foregoing terms”; “[t]he content of the website appearing under the <verintssystems.com> [Disputed] [D]omain [N]ame does not demonstrate use of, or demonstrable preparation to use, the [D]isputed [D]omain [N]ame or a name corresponding to the [Disputed] [D]omain [N]ame in connection with a *bona fide* offering of goods or services”; the Disputed Domain Name “may represent one or more of an inadvertent duplicate keystroke, a misspelling of ‘Verint Systems,’ or a homophone of ‘Verint Systems’”; and “Respondent has not otherwise been commonly known by the [Disputed] [D]omain [N]ame, nor has Respondent acquired trademark or service mark rights to the term ‘verintssystems’”.

[WIPO Overview 3.0](#), section 2.1, states: “[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.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the respondent has registered or 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 the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location. Policy, paragraph 4(b).

Numerous UDRP panels have found the registration and use of a domain name that is confusingly similar to a complainant's trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the Policy where, as here, the domain name is associated with a monetized parking page that contains links for goods or services competing with the complainant. See, e.g., *Wal-Mart Stores, Inc. v. Whois Privacy, Inc.*, WIPO Case No. [D2005-0850](#); *Columbia Pictures Industries, Inc. v. North West Enterprise, Inc.*, WIPO Case No. [D2006-0951](#); and *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#).

Further, Respondent's failure to respond to Complainant's allegations is additional evidence of bad faith. *Encyclopaedia Britannica, Inc. v. Zuccarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#); and *RRI Financial, Inc., v. Ray Chen*, WIPO Case No. [D2001-1242](#).

Accordingly, the Panel finds that Complainant has proven the third element 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 Disputed Domain Name <verintssystems.com> be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: May 11, 2022