

## **ADMINISTRATIVE PANEL DECISION**

Veja Fair Trade, Sarl v. Client Care, Web Commerce Communications Limited / Domain Admin, Whoisprotection.cc  
Case No. D2022-1053

### **1. The Parties**

The Complainant is Veja Fair Trade, Sarl, France, represented by SafeBrands, France.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia / Domain Admin, Whoisprotection.cc, Malaysia.

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

The disputed domain names <tiendavejachile.com>, <tiendavejachlie.com>, <vejaau.com>, <vejaaustralia.com>, <vejaaustraliasale.com>, <veja-ayakkabi.com>, <vejabelgie.com>, <vejaespana.com>, <vejagreece.com>, <vejanederland.com>, <vejanzsale.com>, <vejaoutletespana.com>, <vejasapatiihas.com>, <vejasapatlihas.com>, <vejashoescanada.com>, <vejashoesireland.com>, <vejasneakersgreece.com>, <vejasneakerssingapore.com> and <vejasuomi.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2022. On March 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 29, 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 29, 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 April 2, 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 April 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 2, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on May 6, 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 in the shoe industry. It owns the trademark VEJA which it has registered in a number of jurisdictions, including the European Union (Reg. No. 009075003, registered on November 30, 2012).

According to the Whois records, the disputed domain names were registered on various dates between March 2021 and March 2022. The Respondent has used the disputed domain names to point to websites that contain the Complainant's trademarks and content, and which the Complainant believes are being used to sell counterfeit products.

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

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

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

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

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

#### **6. Procedural Matter – Consolidation of Multiple Respondents**

There are multiple named Respondents but the Complainant asserts the disputed domain names have been registered by a single Registrant or at least are subject to common control. Accordingly, the Complainant requests that all of the disputed domain names be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted.

Paragraph 10(e) of the Rules states that a "[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules". Paragraph 10(c) of the Rules provides, in relevant part, that "the [p]anel shall ensure that the administrative proceeding takes place with due expedition". Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. The following facts, asserted by the Complainant and undisputed by the named Registrants, support this conclusion:

- Fifteen disputed domain names have been registered with the same Whois details and four others with the same information.
- The Respondents' phone numbers provided by the Registrar are the same.
- The Respondents' email addresses have been created under the same domain name <webnic.cc>.
- All of the disputed domain names have been registered with the sponsoring Registrar ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED.
- All of the disputed domain names are pointing to substantially identical websites. All of these websites reproduce in the same manner the Complainant's graphic content, trademarks, logos, and photos
- All disputed domain names as well as their websites target a unique trademark, namely the Complainant's trademark VEJA.
- The disputed domain names have been registered in a similar naming pattern, *i.e.* all of the disputed domain names are a combination of the Complainant's trademark VEJA and a generic term/name that refers to the Complainant's product and/or the country targeted by the Respondent.
- The disputed domain names were registered within a relatively short period, *i.e.*, between March 2021 and March 2022, in most cases between March and May 2021.

The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

## **7. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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. The Panel finds that all three of these elements have been met in this case.

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

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the VEJA mark by providing evidence of its trademark registrations.

The disputed domain names incorporates the VEJA mark in its entirety. This is sufficient for showing confusing similarity under the Policy.

It is standard practice when comparing a disputed domain name to a complainant's trademarks, to not take the extension into account. See [WIPO Overview 3.0](#) at 1.11.1 ("The 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.").

The disputed domain names incorporate the VEJA mark in its entirety with various geographical terms, which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's VEJA mark. See [WIPO Overview 3.0](#), section 1.8. The VEJA mark remains recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainant has established this first element under the Policy.

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

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (1) it has not authorized the Respondent to use the VEJA mark in the disputed domain names, (2) use of the VEJA mark in the disputed domain names is not a noncommercial or fair use, and (3) the Respondent has not been commonly known by the Complainant's VEJA mark.

Additionally, the Complainant asserts, and has provided evidence, that the Respondent has used the disputed domain names to publish websites that offer for sale products supposedly coming from the Complainant at discounted prices. There is no language on the websites that clarifies the Respondent has no relationship with the Complainant. Accordingly, Internet users would be led to believe that the websites are either the Complainant's websites or are authorized by the Complainant, when in fact they are not. The Complainant has introduced evidence showing actual consumer confusion, and asserts that it is likely the goods sold through these websites are counterfeit, given the heavy discounts offered. The Complainant asserts that this use of the disputed domain names is not a *bona fide* offering of goods and services.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Furthermore, the nature of several of the disputed domain names, incorporating the Complainant's widely known trademark and a geographical term, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

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

The Policy requires a complainant to establish that the disputed domain names were registered and are being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

The Complainant puts forth a number of assertions on the issue of bad faith registration. It asserts that the Respondent could not have been unaware of the Complainant's trademark rights, given the many years of use of the Complainant's distinctive mark, the fact that the websites associated with the disputed domain names refer to the Complainant's goods and services, and the existence of registrations for the Complainant's mark. Further, the Complainant notes that the Respondent used a proxy service to obfuscate its identity when registering the disputed domain names. The Panel finds these undisputed facts demonstrate bad faith registration of the disputed domain names.

As for bad faith use of the disputed domain names, the Complainant asserts, and has provided evidence, that the Respondent has used the disputed domain names to publish websites that offer for sale products supposedly coming from the Complainant at discounted prices. These websites use the Complainant's trademark, copyrighted photos and graphical material without authorization. There is no language on the websites that clarifies the Respondent has no relationship with the Complainant. Accordingly, Internet users would be led to believe that the websites are either the Complainant's websites or are authorized by the Complainant, when in fact they are not. The Complainant has introduced evidence showing actual consumer confusion, and asserts that it is likely the goods sold through these websites are counterfeit, given the heavy discounts offered. The Panel finds these facts to support a finding that the disputed domain names are used in bad faith.

The Panel finds that the Complainant has succeeded on this 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 names, <tiendavejachile.com>, <tiendavejachlie.com>, <vejaau.com>, <vejaaustralia.com>, <vejaaustraliasale.com>, <veja-ayakkabi.com>, <vejabelgie.com>, <vejaespana.com>, <vejagreece.com>, <vejanederland.com>, <vejanzsale.com>, <vejaoutletespana.com>, <vejasapatiihas.com>, <vejasapatlihas.com>, <vejashoescanada.com>, <vejashoesireland.com>, <vejasneakersgreece.com>, <vejasneakerssingapore.com> and <vejasuomi.com> be transferred to the Complainant.

*/Evan D. Brown/*

**Evan D. Brown**

Sole Panelist

Date: May 20, 2022