

## **ADMINISTRATIVE PANEL DECISION**

Virgin Enterprises Limited v. Privacy Service Provided by Withheld for Privacy ehf/ Uba Kingsley  
Case No. D2022-2282

### **1. The Parties**

The Complainant is Virgin Enterprises Limited, United Kingdom, represented by AA Thornton IP LLP, United Kingdom.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Uba Kingsley, Nigeria.

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

The disputed domain name <virginatlanticvisatravels.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 June 23, 2022. On June 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 24, 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 the Complainant on June 27, 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 amendment to the Complaint on June 29, 2022.

The Center verified that the Complaint together with the amendment to 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 July 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 27, 2022.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on August 3, 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, which is a member of the Virgin group, a United Kingdom-based multinational founded in the 1970s by Sir Richard Branson, is active in particular in the field of air passenger and cargo transport and enjoys a reputation among travelers with its modern fleet and the quality of its on-board services.

The Complainant is the owner of multiple trademark registrations throughout the world for the mark VIRGIN ATLANTIC. These include the following:

- United Kingdom trademark registration No. 1287264 for VIRGIN ATLANTIC, registered on June 28, 1991, in classes 41 and 43;
- United Kingdom trademark registration No. 1287263 for VIRGIN ATLANTIC, registered on April 3, 1992, in class 39;
- European Union Trade Mark registration No. 14030589 for VIRGIN ATLANTIC (word), filed on May 5, 2015, and registered on October 12, 2015; and
- United States trademark registration No. 2808270 for VIRGIN ATLANTIC (word), filed on March 5, 2003, and registered since January 27, 2004.

The Complainant has registered domain names under generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”) worldwide such as <virginatlantic.com> and <virginatlanticcargo.com>.

The disputed domain name <virginatlanticvisatravels.com> was registered on June 1, 2022. The registrant is physical person domiciled in Nigeria. The disputed domain name resolves to a website that is providing information about visa requirements for every country in the world, assisting with express visa procurement, diplomatic passport procurement and foreign work permit programs.

#### **5. Parties’ Contentions**

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

The dominant part of the disputed domain name comprises the words “virgin atlantic”, which is identical to the Complainant’s registered trademark VIRGIN ATLANTIC. The disputed domain name also comprises the words “visa” and “travels”. These additions do not detract from the overall impression and the disputed domain name is clearly confusingly similar to the Complainant’s registered trademark VIRGIN ATLANTIC.

The fame of the VIRGIN ATLANTIC trademark has been confirmed in previous UDRP decisions.

The Complainant claims that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services and instead the Respondent has intentionally chosen the disputed domain name in order to generate traffic and income through a website using VIRGIN ATLANTIC logo together with the image of its founder Sir Richard Branson while providing information about visa requirements for every country in the world, assisting with express visa procurement, diplomatic passport procurement and foreign work permit programs.

By using the disputed domain name, the Respondent exploits the goodwill and the image of the VIRGIN ATLANTIC trademark, which may result in dilution and damage for the Complainant's trademarks.

The Respondent does not own any registered trademark or trade names corresponding to the disputed domain name.

It is clear that the Respondent was aware of the rights the Complainant has in the trademark at the time of its registration.

The Respondent is using the disputed domain name to attempt 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 his website.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three elements, which the Complainant must prove, during the administrative proceedings, to merit a finding that the disputed domain name be transferred to the Complainant:

- (a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (c) the disputed domain name has been registered and is being used in bad faith.

Pursuant to paragraph 15(a) of the Rules, the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

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

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, "VIRGIN ATLANTIC" is the distinctive part of the Complainant's trade name since 1984 and the Complainant holds multiple trademark registrations for VIRGIN ATLANTIC.

The disputed domain name <virginatlanticvisatravels.com> integrates the Complainant's VIRGIN ATLANTIC trademark as a dominant element and adds the words "visa" and "travels" which do not prevent a finding of confusing similarity. As regards the gTLD ".com", it is typically disregarded under the confusing similarity test.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and satisfied the requirement under paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

The onus is on the Complainant to make out at least a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and it is then for the Respondent to rebut this case. See section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

The Panel accepts the Complainant’s submissions that the Respondent does not appear to be commonly known by the disputed domain name, has not used or made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain name, and has no consent from the Complainant to use its trademark.

The Respondent has not filed a Response.

The Complainant has made out its *prima facie* case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeeds in relation to the second element of the Policy.

## C. Registered and Used in Bad Faith

The Panel accepts the Complainant’s contention that the trademark VIRGIN ATLANTIC is a well-known trademark. The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

It is the Panel’s view that in using such descriptive words “visa” and “travels” together with the VIRGIN ATLANTIC mark creates an impression that the disputed domain name is in some way connected to the Complainant’s trademarks (see, e.g., *Société des Produits Nestlé S.A. v. MrToys.com LLC*, WIPO Case No. [D2012-1356](#); *Allianz SE v. Roy Lee / Traffic-Domain.com*, WIPO Case No. [D2012-1459](#); *Swarovski Aktiengesellschaft v. mei xudong*, WIPO Case No. [D2013-0150](#); or *Swarovski Aktiengesellschaft v. ‘www.swarovski-outlet.org’*, WIPO Case No. [D2013-0335](#)).

The Respondent is using the stylized version and the logo of the VIRGIN ATLANTIC trademark on the website. Moreover, the website includes the photos of the Complainant’s founder Sir Richard Branson and uses the copyrighted material of the Complainant. All these circumstances give the impression that the Respondent is affiliated with the Complainant, or it is an authorized dealer of the Complainant.

The Respondent’s registration of the disputed domain name resolving to a website impersonating the Complainant’s websites clearly constitutes bad faith. Therefore, the only reason for the registration of the disputed domain name by the Respondent must have been with bad faith intent to use it to exploit, for commercial gain, the Complainant’s reputation. The Respondent is using the disputed domain name for precisely that purpose.

Lastly, the Panel observed that the Respondent used a privacy shield. While the Respondent’s use of a privacy service will not in itself constitute bad faith under the Policy, the Panel may still take it into account and draw adverse inferences. The use of the privacy shield in this case together with other elements gives rise to the suspicion that the privacy shield was used to mask the identity of the true registrant, to give impression that the Complainant is offering this website in the absence of any information regarding the ownership of the website and to obstruct proceedings commenced under the Policy.

Accordingly, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been met by the Complainant.

## 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, <virginatlanticvisatravels.com> be transferred to the Complainant.

*/Emre Kerim Yardimci/*

**Emre Kerim Yardimci**

Sole Panelist

Date: August 27, 2022