

ADMINISTRATIVE PANEL DECISION

Villeroy & Boch AG v. Domain Protection Services, Inc. / Andwe Idwnq
Case No. D2022-2402

1. The Parties

The Complainant is Villeroy & Boch AG, Germany, represented by Taylor Wessing, Germany.

The Respondent is Domain Protection Services, Inc., United States of America (“United States”) / Andwe Idwnq, China.

2. The Domain Name and Registrar

The disputed domain name <villeroyboch.site> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 1, 2022. On July 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 July 11, 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 July 11, 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 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2022.

The Center appointed Andrew Brown Q.C. as the sole panelist in this matter on August 10, 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 German company which has used its VILLEROY & BOCH trademark as part of its company name since 1748 in Germany and subsequently internationally. The Complainant's headquarters are in Mettlach, Germany. The Complainant has around 7,000 employees and operates products facilities in 13 countries in Europe and Asia. Its product range includes ceramic bathroom collections, bathroom furniture, showers, bath tubs, hot tubs, bathroom fittings, kitchen sinks, tableware, kitchen furniture, bathroom and kitchen textiles, lighting, flooring and lifestyle accessories. These products are sold in 125 countries worldwide.

The Complainant is a proprietor of multiple trademarks for VILLEROY & BOCH ('the VILLEROY & BOCH Mark') in the European Union, Germany, Benelux, Switzerland, the United Kingdom, the United States of America, Canada, China and Japan. The trademark portfolio is set out in Annex 1 to this decision and includes registrations in classes 8, 11, 18, 20, 21, 22 and 24.

The Complainant also claims that its VILLEROY & BOCH Mark has accrued extensive goodwill and reputation as a result of its 270 year history of trading.

As to domain names, the Complainant owns the domain name <villeroy-boch.com> as well as <villeroy-boch> as a second level domain name e.g. <villeroy-boch.de> and <villeroy-boch.us>.

The disputed domain name was registered on June 20, 2022.

5. Parties' Contentions

A. Complainant

The Complainant asserts its rights in the VILLEROY & BOCH Mark. The Complainant contends that the disputed domain name is confusingly similar to its VILLEROY & BOCH Mark and that the disputed domain name reproduces the Complainant's well-known VILLEROY & BOCH Mark, the only difference being that the ampersand is left out. This is only due to the fact that the ampersand sign "&" cannot technically be included in a domain name.

The Complainant relies on the Panel decision in *Villeroy & Boch AG v Mario Pingema*, WIPO Case No. [D2007-1912](#) where the Panel found that <Villeroy-Boch.mobi> was confusingly similar to the Complainant's VILLEROY & BOCH Mark. The Complainant asserts that Internet users will associate the disputed domain name with the widely-known VILLEROY & BOCH Mark due to the identical incorporation of the personal name Villeroy and Boch with only a minor variation.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this respect, the Complainant states that before the Complainant became aware of the conflict, the Respondent had not been using either the disputed domain name or a name corresponding to it in connection with a *bona fide* offering of goods and services. Further, there is no indication that the Respondent has made any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or for a legitimate non-commercial purpose.

In addition, the Complainant points to the fact that the disputed domain name is used to host a website offering tableware and cutlery – being the Complainant's core products. Further, the Respondent is using hundreds of copyrighted photographs of the Complainant's products to imitate an offer of genuine Villeroy & Boch products at a reduced price on its website hosted at the disputed domain name.

The Complainant points to this activity as evidence that the Respondent is not able to demonstrate a good faith offering of goods. Further, the Respondent's intent is to gain an illegitimate commercial benefit by using the disputed domain name which fully incorporates the Complainant's well-known Mark. The Complainant claims that the aim is to mislead and divert consumers who will mistakenly believe the site offers genuine products of the Complainant or that it is affiliated with or endorsed by the Complainant.

The Complainant asserts further that:

- (a) The Respondent has not ever been commonly known by the disputed domain name or the VILLEROY & BOCH Mark.
- (b) The Respondent could not have become commonly known by the disputed domain name or the VILLEROY & BOCH Mark without infringing the Complainant's registered trademarks.
- (c) The Complainant has never licensed or permitted the Respondent to use its VILLEROY & BOCH Mark.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It asserts that the Respondent was fully aware of the existence of the Complainant and its VILLEROY & BOCH Mark when registering the disputed domain name. Further, it says that the Respondent is targeting the Complainant to take advantage of its VILLEROY & BOCH Mark.

As to use in bad faith, the Complainant claims that the Respondent has used the disputed domain name with the intention to attract users to a website at the disputed domain name where identical products are offered in competition with the Complainant. The Complainant's contention is that the use of the disputed domain name is to create confusion amongst Internet users and to promote the false belief that the disputed domain name belongs to the Complainant or that the Respondent's business is economically linked to the Complainant.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, a Complainant must prove each of the following elements with respect to the disputed domain name in order to succeed in this proceeding:

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

A. Identical or Confusingly Similar

The Complainant has provided evidence of its registration of its VILLEROY & BOCH Mark in multiple jurisdictions including the European Union, Germany, Benelux, Switzerland, the United Kingdom, the United States of America, Canada, China and Japan. It has also provided evidence of extensive use of its VILLEROY & BOCH Mark internationally starting with first use in 1748, as well as its registration in active use of domain names including <villeroy-boch.com> and in other second level domain names using the same format.

It is the Panel's view that the Complainant has clearly and sufficiently demonstrated its rights in the VILLEROY & BOCH Mark. The Panel is satisfied that the Complainant is well-known internationally by its VILLEROY & BOCH Mark in relation to a core group of products including tableware and cutlery.

The Panel accepts that the disputed domain name is confusingly similar to the Complainant's VILLEROY & BOCH Mark. The words "Villeroy" and "Boch" in the disputed domain name are clearly and unmistakably recognizable in the disputed domain name. The Panel also relies on the decision in *Villeroy & Boch AG v Mario Pingema*, WIPO Case No. [D2007-1912](#) which held that <villeroy-boch.mobi> was confusingly similar to the Complainant's VILLEROY & BOCH Mark.

The Panel finds that the disputed domain name is therefore confusingly similar to the Complainant's VILLEROY & BOCH Mark and finds in favor of the Complainant.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish that it has rights or legitimate interests in the disputed domain name, among other circumstances, by showing any one of the following elements:

- (i) That before notice of the dispute, the Respondent used or made demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) That the Respondent has been commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or
- (iii) That the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name lies with the Complainant.

There is no evidence of the existence of any rights or legitimate interests on the part of the Respondent in the VILLEROY & BOCH Mark pursuant to paragraph 4(c) of the Policy. The Complainant unquestionably has prior rights in the VILLEROY & BOCH Mark which precede the Respondent's registration of the disputed domain name by several hundred years. The Panel is satisfied that the Respondent has never licensed or permitted the Respondent to use its VILLEROY & BOCH Mark. It is also satisfied that the Respondent has never been commonly known by the disputed domain name.

The Panel is satisfied too that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name. The Respondent has, without authorization or license, copied and pasted copyright photographs of the Complainant's products to the website located at the disputed domain name and has used the disputed domain name to imitate and offer genuine Villeroy & Boch products. In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)".

The Respondent has failed to show that it has acquired any rights in respect to the disputed domain name or that the disputed domain name is used in connection with a *bona fide* offering of goods and services. The Respondent had the opportunity to demonstrate its rights or legitimate interests, but it did not reply to the Complainant's Complaint.

The Panel therefore finds that the Complainant has satisfied the burden of establishing a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and accordingly finds

that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

C. Registered and Used in Bad Faith

The Panel is also satisfied that the disputed domain name has been registered in bad faith for the following reasons:

(i) The Panel is satisfied that the Complainant's VILLEROY & BOCH Mark is well-known for a whole range of goods including ceramic bathroom collections, bathroom furniture, showers, bathtubs, hot tubs, bathroom fittings, kitchen sinks, tableware, kitchen furniture, bathroom and kitchen textiles, lighting, flooring and lifestyle accessories. The Panel is also satisfied that the Respondent was and is aware of the Complainant and its VILLEROY & BOCH Mark at the time of registration. This is evidenced by the fact that the website located at the disputed domain name reproduces copyright photographs of the Complainant's tableware and cutlery products, thus showing knowledge of the Complainant and its trademark.

(ii) Paragraph 2 of the UDRP puts a burden on registrants where it states "by applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and bond to us that [...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else's rights." Even the most cursory trademark or other online search or any online search of existing domain names prior to the Respondent registering the disputed domain name would instantly have revealed the Complainant and its VILLEROY & BOCH Mark. See in this regard section 3.2.3 of the [WIPO Overview 3.0](#).

The Panel is also satisfied that the disputed domain name has been used in bad faith for the following reasons:

(i) The Complainant has provided evidence that the Respondent is using the disputed domain name to gain an illegitimate commercial benefit by attracting users to the website hosted there. The Panel is satisfied that the Respondent's use will cause confusion or deception amongst Internet users and promote the false belief that the disputed domain name belongs to the Respondent or that the Respondent's business is economically linked to the Complainant.

(ii) Further, the Respondent has made no submissions in these proceedings and so the Panel infers that the Respondent has intentionally used the disputed domain name with an intent to confuse people into thinking that it is controlled by the Complainant or an entity affiliated with the Complainant.

Accordingly the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favor of 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 <villeroyboch.site> be transferred to the Complainant.

/Andrew Brown Q.C./

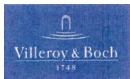
Andrew Brown Q.C.

Sole Panelist

Date: August 24, 2022

Annex 1

Complainant owns, *i.a.*, the following trademark registrations:

- European Union Trade Mark (EUTM) 001840362 "VILLEROY & BOCH" (filing date September 6, 2000), Classes 11, 20, 21;
- ETUM 006825533 VILLEROY & BOCH (filing date April 11, 2008), Classes 18, 20, 22, 24;
- ETUM 009420779 VILLEROY & BOCH (filing date October 4, 2010), Classes 3, 4, 11, 14, 16, 25-28, 35;
- EUTM 012020533 VILLEROY & BOCH (filing date July 29, 2013), Classes 2, 6, 8, 18, 19, 32;
- EUTM 016482771 VILLEROY & BOCH (filing date March 20, 2017), Classes 9, 10, 17, 21, 23, 33, 34, 41, 43
- German TM 946093 VILLEROY & BOCH (filing date August 22, 1975), Classes 10, 11, 19-21, 34;
- German TM 302012037734 "  (filing date July 2, 2012), Classes 8, 11, 14, 19-21, 24, 25, 32, 33, 35, 37, 43;
- UK00001507251 VILLEROY & BOCH (filing date July 18, 1992), Classes 8, 21;
- United States (US) TM 73440808 VILLEROY & BOCH (filing date July 24, 1983), Classes 11, 19, 21;
- US TM 74468353 VILLEROY & BOCH (filing date December 9, 1993), Classes 8, 20, 21, 24;
- US TM 76158760 VILLEROY & BOCH (filing date November 2, 2000), Classes 8, 11, 20, 21;
- US TM 79166417 VILLEROY & BOCH (filing date January 22, 2015), Classes 20, 25, 28;
- Chinese TM 11145584-8 VILLEROY & BOCH (filing date July 2, 2012), Class 8;
- Chinese TM 11145583-11 VILLEROY & BOCH (filing date July 2, 2012), Class 11;
- Chinese TM 11145580-19 VILLEROY & BOCH (filing date July 2, 2012), Class 19;
- Chinese TM 11145579-20 VILLEROY & BOCH (filing date July 2, 2012), Class 20;
- Chinese TM 11145578-21 VILLEROY & BOCH (filing date July 2, 2012), Class 21;
- IR 586592 VILLEROY & BOCH (from March 2, 1992), designating Algeria, Austria, Azerbaijan, Benelux, Bulgaria, China, Croatia, Czech Republic, Egypt, France, Hungary, Italy, Liechtenstein, Monaco, Montenegro, Morocco, Poland, Portugal, Romania, Russian Federation, San Merino, Serbia, Slovakia, Slovenia, Spain, Switzerland, Tajikistan and Viet Nam (Classes 6, 8, 11, 14, 19-21, 24, 34);
- IR 715818 VILLEROY & BOCH (from February 23, 1999), designating Albania, Antigua and Barbuda, Armenia, Australia, Azerbaijan, Belarus, Bhutan, Bonaire, Sint Eustatius and Saba, Bosnia and Herzegovina, Botswana, Croatia, Cuba, Curacao, Egypt, Estonia, Georgia, Ghana, Iceland, Israel, Japan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Liberia, Lithuania, Madagascar, Moldova, Mongolia, Montenegro, Mozambique, Namibia, North Macedonia, Norway, Oman, Serbia, Sierra Leone, Singapore, Sin Maarten, Slovakia, Slovenia, Sudan, Sao Tome and Principe, Turkmenistan, Ukraine, Uzbekistan, Zambia (Classes 6, 8, 11, 19-21, 24);
- IR 758823 VILLEROY & BOCH (from January 17, 2001), designating Albania, Algeria, Antigua and Barbuda, Armenia, Austria, Azerbaijan, Belarus, Benelux, Bhutan, Bosnia and Herzegovina, Bulgaria, China,

Croatia, Cuba, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Italy, Japan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, North Korea, North Macedonia, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Sudan, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan and Viet Nam (Classes 11, 20);

- IR 1250183 VILLEROY & BOCH (from January 22, 2015), designating Armenia, Australia, Azerbaijan, Belarus, Bosnia and Herzegovina, China, Egypt, Georgia, Iceland, India, Iran (Islamic Republic of), Japan, Kazakhstan, Kyrgyzstan, Liechtenstein, Mexico, Moldova, Monaco, Montenegro, Morocco, Namibia, New Zealand, North Macedonia, Norway, Russian Federation, San Marino, Serbia, Singapore, South Korea, Switzerland, Tajikistan, Tunisia, Turkey, Turkmenistan, Ukraine, United States, Uzbekistan and Viet Nam (Classes 20, 25, 28).