

ADMINISTRATIVE PANEL DECISION

VKR Holding A/S v. Privacy Service Provided by Withheld for Privacy ehf /
Godoz Drizzard, DrizzardPvP
Case No. DCC2022-0004

1. The Parties

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Godoz Drizzard, DrizzardPvP, Peru.

2. The Domain Name and Registrar

The disputed domain name <velix.cc> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2022. On April 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 April 21, 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 22, 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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on May 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 the parent company of the Velux Group. Through its subsidiaries, the Complainant offers roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products. The VKR Group was established in 1941 and in 1942, its founder, filed his first patent for a roof window, which was called “velux” – “VE”. Today, the VKR Group consists primarily of the Velux Group and the Dovista Group. The whole group employs 15,400 people in 40 countries. In 2020, the VKR Group reported DKK 22.6 billion in revenue, and DKK 3.7 billion in net profit.

The Complainant is the owner of the following trademark registrations:

Trademark	Country	Priority/App./Reg. Dates	Reg. No.	Classes
VELUX	Peru	July 20, 2001-November 22, 2001	P00076671	6
VELUX	Australia	March 11, 1976	295005	19
VELUX	Australia	October 12, 1983	398313	24
VELUX	Australia	October 12, 1983	398314	20
VELUX	Australia	December 01, 1987	477550	22
VELUX	Iceland	March 15, 1984-June 27, 1986	362/1986	6, 9, 19, 20, 22, 24, 37
VELUX	New Zealand	November 28, 1983-March 06, 1987	150027	6
VELUX	United States of America (“US”)	October 25, 1977-May16, 1978	1091446	19

The Complainant operates online through the website at “www.velux.com”, which was visited by 163 thousand people in January 2022 and is ranked as the 310,798th most popular website in the world, and the 29,279th in the US. Furthermore, the Complainant is also the owner of the domain name <velux.cc>.

The disputed domain name was registered on December 20, 2021. On January 19, 2022, the Complainant sent to the Respondent’s Privacy Service, a cease and desist letter, pointing out the infringement of the Complainant’s trademark and asking for the transfer of the disputed domain name. The Respondent failed to reply to the cease and desist letter and the Complainant initiated this UDRP proceeding.

The disputed domain name led to a page containing pay-per-click links to third parties’ websites, some of which in competition with the Complainant’s business and one referring directly to the Complainant and its services.

5. Parties’ Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to the Complainant’s VELUX trademark because it is a purposeful misspelling of this mark and is visually and phonetically similar to it.

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use its trademark in any manner, including in the disputed domain name. The Respondent is not known by the disputed domain name. Furthermore, at the time of the filing of the Complaint, the disputed domain name led to a page containing pay-per-click links to third parties' websites, some of which in competition with the Complainant's business and one referring directly to the Complainant and its services. The Respondent presumably gains revenues from these pay-per-click links. Therefore, the Respondent is not using the disputed domain name to provide *bona fide* offering of goods or services, or in connection with a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers.

With respect to the Respondent's bad faith in the registration and use of the disputed domain name, the Complainant contends that the trademark VELUX enjoys substantial reputation and that it is not possible to conceive any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. Furthermore, the disputed domain name is a typosquatting and the Respondent is using the disputed domain name in connection with a page containing multiple pay-per-click links some of which making direct reference to the Complainant and its most popular products. Therefore, the Respondent has registered and is being using the disputed domain name to mislead Internet users as to the source of the disputed domain name and website and to capitalize on the fame and goodwill of the Complainant's trademark in order to increase traffic to the disputed domain name's website for the Respondent's profit.

Lastly, the Respondent has used a privacy service to hide its identity and has failed to reply to the cease-and-desist letter of the Complainant sent before filing the Complaint.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's VELUX trademark. Indeed, the disputed domain name consists in the term "velix", which differs from the VELUX mark by one letter only. The Respondent has replaced the letter "u" of the Complainant's trademark with the letter "i". These letters are adjacent on the keyboard. A domain name consisting of a common, obvious, or intentional misspelling of a trademark is confusingly similar to the relevant mark for purposes of the first element of the Policy (see in this respect, section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel is satisfied that the first condition under the Policy is met.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that the Respondent is not authorized to reflect a name confusingly similar to the Complainant's trademark in the disputed domain name, and that the Respondent does not appear to have been commonly known by the name "velix". Furthermore, the disputed domain name appears to be an intentional misspelling of the Complainant's trademark. The replacement of the letter "u" of the VELUX mark, with the adjacent keyboard letter "i" signals the intention of the Respondent to confuse

users looking for the Complainant. Moreover, the disputed domain name hosts a parked page containing pay-per-click links leading to the Complainant's competitor websites, and featuring the Complainant itself. Said use does not represent a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

In light of the foregoing and in the absence of a Response, the Panel is satisfied that also the second condition under the Policy is met.

C. Registered and Used in Bad Faith

With respect to the third and last requirement under the Policy, the Panel shares the Complainant's view that the Respondent was aware of the Complainant's trademark at the time of the registration of the disputed domain name. The VELUX trademark enjoys reputation in its field as already established by other UDRP panels (see, among others, *VKR Holding A/S v. cui jian jun*, WIPO Case No. [D2016-1385](#); *VKR Holding A/S v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2021-1312](#); *VKR Holding A/S v. Super Privacy Service LTD c/o Dynadot / 肖伟冬*, WIPO Case No. [D2022-0004](#)). Moreover, the disputed domain name appears to be an intentional misspelling of the Complainant's trademark. As such, it is more than likely that the Respondent knew the Complainant and its well-known trademark when it registered the disputed domain name.

Furthermore, the disputed domain name hosts a parking page containing pay-per-click links. Some of these links refer to the Complainant's activity and lead to competing websites, while one makes direct reference to the Complainant and its activity. The Respondent is presumably deriving an income from each click on the links provided on the said parking page. Absent any contrary argument by the Respondent, the Panel considers that this use is an evidence of the Respondent's intentions when it registered the disputed domain name. The fact that the links appearing on the parking page of the disputed domain name may have been automatically generated cannot prevent a finding of bad faith, as the Respondent cannot disclaim responsibility for the contents appearing on the website associated with its domain name (see section 3.5 of the [WIPO Overview 3.0](#)).

In addition to the above, the Respondent failed to reply to the cease and desist letter sent by the Respondent and the Respondent hid its identity through a Privacy Service. Both these circumstances are further elements that suggest bad faith.

In light of the foregoing, the Panel concludes that the Respondent registered and is being using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its parking page, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's parking page.

Therefore, the Panel is satisfied that also the third and last condition under the Policy is met.

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, <velix.cc>, be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: May 30, 2022