

ADMINISTRATIVE PANEL DECISION

VIOOH Limited v. Qing Shui
Case No. DCO2022-0017

1. The Parties

The Complainant is VIOOH Limited, United Kingdom, represented by Nameshield, France.

The Respondent is Qing Shui, China.

2. The Domain Name and Registrar

The disputed domain name <viooh.co> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2022. On March 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 2, 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 March 3, 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 March 3, 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 March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2022.

The Center appointed Leon Trakman as the sole panelist in this matter on April 14, 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, VIOOH Limited, was launched in 2018. It serves as a global digital out-of-home marketplace at which it combines data and technology and connects buyers and sellers within its digital marketplace.

The Complainant owns the following trademarks:

1. The French Trademark VIOOH, number 4404784, registered since November 15, 2017.
2. The International Trademark VIOOH, number 1436571, registered on May 14, 2018.
3. The International Trademark VIOOH, number 1434610, registered on May 14, 2018.

The Complainant also owns the following domain names:

1. <viooh.com> registered on February 27, 2017
2. <viooh.net> registered on November 9, 2017
3. <viooh.fr> registered on November 29, 2017
4. <viooh.us> registered on January 24, 2018.

The disputed domain name <viooh.co> was registered on February 25, 2022.

It redirects user to “www.dan.com” website at which the disputed domain name is offered for sale for USD 955.

5. Parties' Contentions

A. Complainant

The Complainant contends:

Firstly, the disputed domain name is identical to a trademark or service mark in which the Complainant has rights.

(Policy, paragraph 4(a)(i); Rules, paragraphs 3(b)(viii), 3(b)(ix)(1))

Secondly, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

(Policy, paragraph 4(a)(ii); Rules, paragraph 3(b)(ix)(2))

Thirdly, the disputed domain name was registered and is being used in bad faith.

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel determines that the disputed domain name is identical to a trademark in which the Complainant has rights (Policy, paragraph 4(a)(i); Rules, paragraphs 3(b)(viii), 3(b)(ix)(1)).

In particular, the disputed domain name <viooh.co> is identical to the trademark VIOOH other than that it adds to ccTLD suffix “.co”, which may be 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, stipulating that, “[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”.

As a result, the Panel determines that the Complainant has satisfied the first requirement, namely, that the disputed domain name <viooh.co> is identical to the Complainant’s trademark VIOOH.

B. Rights or Legitimate Interests

The Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name ((Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2)).

In particular, the Complainant has made out a *prima facie* case that the Respondent lacks such rights or legitimate interests. In so doing the burden of production shifts to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. The Respondent has failed to do so, e.g., by invoking any of the criteria specified in paragraph 4(c) of the UDRP.

The facts of the case confirm this Panel’s determination. In particular, the Respondent is not known by the disputed domain name. Nor is there any evidence on record that the Respondent has any other rights or legitimate interests in that name, such as through a surname associated with the Respondent.

The Respondent is also not engaged in any business activity, whether directly or by affiliation, that demonstrates that it is authorized, expressly or impliedly, to act as agent, representative or in any other legal capacity for the Complainant.

Nor has any evidence been adduced that the Respondent is personally known by the disputed domain name, such as through a surname that replicates the word “viooh”, whether in whole or part.

Accordingly, the Panel determines that the Complainant has met its burden on this element.

C. Registered and Used in Bad Faith

The Panel determines that the disputed domain name was registered and is being used in bad faith (Policy, paragraphs 4(a)(iii), 4(b); and the Rules, paragraph 3(b)(ix)(3)).

The disputed domain name is identical to the Complainant’s trademark, as determined in 6.A, and the Respondent has not advanced any reasons for its registration that would be in good faith. It is also evident that the Respondent is not associated with it in any legal or personal capacity.

The Respondent is attempting to sell the disputed domain name and in doing so, the Respondent is likely to have assumed that the Complainant would offer to purchase it to protect its trademark, or that a third party might offer to buy it to attract buyers to a site offering an alternative digital connection service to that of the Complainant.

The Panel finds instructive the words of the panel in the case of *Pixers Ltd. v. Whois Privacy Corp.*, WIPO Case No. [D2015-1171](#): “Paragraph 4(b)(iv) states that using a domain name in the way specified in that paragraph is ‘evidence’ of both bad faith registration and bad faith use of the domain name. In some circumstances, that evidence can be rebutted, for example, if it can be clearly demonstrated by the Respondent that the registration was not made in bad faith. See *Xbridge Limited v. Marchex Sales, Inc.*, WIPO Case No. [D2010-2069](#) and the cases cited therein. These decisions show that paragraphs 4(a)(iii) and 4(b)(iv) cannot be read in isolation – bad faith must be considered in light of paragraph 4(a)(ii) and, as demonstrated by *Telstra*, with consideration of [*sic*] the purposes of the Policy and the dynamic nature of the Domain Name System and of cybersquatting behavior. In short, paragraph 4(b)(iv) provides an evidentiary presumption of bad faith registration where there is evidence of a certain kind of bad faith use. [...] [R]elevant factors could include the nature of the domain

name itself [...] and [...] the failure to submit a response [to rebut the Complainant's case].”

The Panel finds, that the “kind of bad faith use” in this case extends beyond the mere act of cybersquatting. It entails the Respondent’s advertising to sell to the Complainant or a third party, at an exorbitant price, a domain name that is identical to the Complainant’s trademark and to which the Respondent has no legal rights or interests. Given that demonstrated conduct by the Respondent, and the failure to respond to the Complaint, the Panel determines that, the Complainant has met its burden in this case.

7. Decision

For the foregoing reasons and in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <viooh.co>, be transferred to the Complainant.

/Leon Trakman/

Leon Trakman

Sole Panelist

Date: April 26, 2022