

## **ADMINISTRATIVE PANEL DECISION**

Supreme PLC and VN Labs Ltd v. Steve Hoops  
Case No. D2023-0675

### **1. The Parties**

The Complainants are Supreme PLC (“First Complainant”) and VN Labs Ltd (“Second Complainant”), United Kingdom, both represented by Brandsmiths SL Limited, United Kingdom.

The Respondent is Steve Hoops, United States of America (“United States”).

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

The disputed domain name <vnlabsltd.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 February 14, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (a privacy protection service) and contact information in the Complaint. The Center sent an email communication to the Complainants on February 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on the same day.

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 February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 15, 2023. 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.

On March 21, 2023, the Panel issued Administrative Panel Procedural Order No. 1, in which it invited the Complainants to elaborate on the evidence supporting its claim of unregistered trademark rights in VN Labs by March 26, 2023 and granted the Respondent until March 31, 2023, to submit any comments on the Complainants' submission in response to the Order. The Order also extended the Decision due date until at least April 6, 2023. The Panel received an email communication from the Complainants on March 30, 2023, in which they confirmed their reliance on the arguments presented in the Complaint. The Respondent did not comment.

#### **4. Factual Background**

The First Complainant manufactures and supplies household products, including batteries, lighting, vaping and sports nutrition products. The Second Complainant produces and distributes e-liquid products, protein powders, vitamins, and other supplements. The Second Complainant is a wholly-owned subsidiary of the First Complainant. The Second Complainant was established in 2013 and registered the domain name <vn-labs.com> on December 2, 2020, which it uses in connection with a website where it provides information about itself and its products. The website prominently displays a VN LABS logo. The official website of the First Complainant, associated with the domain name <supreme.co.uk>, includes a page presenting the activities of the Second Complainant, to which it refers as "VN Labs".

The Respondent is an individual resident in the United States.

The disputed domain name was registered on May 8, 2022. At the time of the Complaint, it resolved to an online store. The website prominently displayed a logo featuring the name "VN LABS LTD" and the tagline "Leading the way" while the header on every page read "VN LABS LTD – Premium quality shopping". The website offered a variety of drinks, foods and groceries, paper, and other products, referring to "VN Labs" at least twice. Another page on the site invited Internet users to become "VN LABS Premium" customers.

Certain customers who purchased goods on the website associated with the disputed domain name complained to the Second Complainant that the goods were not delivered. One of these customers provided the Complainants with copies of an invoice and a sales and purchase agreement dated November 23 and November 26, 2022, respectively, that it had received from the operator of the website associated with the disputed domain name. These documents displayed the Second Complainant's company name, company registration number, VAT number, street address, and CEO name, but a contact email address and website address that used the disputed domain name. The documents were executed with a company seal displaying the Second Complainant's company name below the disputed domain name, alongside a signature purported to be that of the Second Complainant's CEO.

The Complainants' legal representative sent cease-and-desist letters to the Respondent on January 20, January 24, and February 3, 2023, via the host of the website associated with the disputed domain name, the contact email address shown on the sales and purchase agreement, and finally the Registrar, respectively.

At the time of this Decision, the disputed domain name no longer resolves to any active website; rather, it is passively held.

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

##### **A. Complainants**

The disputed domain name is identical to the Second Complainant's unregistered mark VN LABS and its

corporate name VN Labs Limited, and confusingly similar to its domain name <vn-labs.com>. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no connection with, or affiliation to, the Complainants and does not have any express or implied permission to use the Second Complainant's VN LABS mark. The Respondent is not known by the VN LABS mark.

The disputed domain name was registered and is being used in bad faith. The Respondent's actions are (a) illegal, in that they are fraudulent; and (b) unlawful, in that they infringe the significant unregistered trademark rights that the Second Complainant has acquired in the VN LABS mark and its associated business. The Respondent has plainly carried out, and continues to carry out, such activity for its own commercial gain.

In response to Administrative Panel Procedural Order No. 1, the Complainants confirmed that they were content with the Complaint as drafted which, in their view, a) clearly demonstrated that the name VN LABS had become a distinctive identifier associated with the Second Complainant. For example, it explains that the Second Complainant has traded under the VN LABS name for almost 10 years and in the financial year ended 31 March 2022 had a very significant global revenue of over GBP 26 million; and b) importantly, the disputed domain name has clearly been registered and thereafter used for fraudulent purposes. For the above reasons the Complainants considers it plain that the Complainant satisfies the three requirements of paragraph 4(a) of the Policy.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **6.1 Consolidation: Multiple Complainants**

The Complaint was filed by two complainants against a single respondent. The Second Complainant is a wholly-owned subsidiary of the First Complainant. The Second Complainant claims to have rights in a VN LABS trademark. The Complainants are jointly represented in this proceeding. The Panel finds that the Complainants have a specific common grievance against the Respondent and that it would be equitable and procedurally efficient to permit the consolidation of their complaints. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1. Therefore, the Complainants are referred to below collectively as "the Complainant" except as otherwise indicated.

### **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

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

The Complainant claims unregistered trademark rights in a VN LABS mark. The Panel recalls that, in order to establish unregistered trademark rights for the purposes of the UDRP, the Complainant must show that its alleged mark has become a distinctive identifier that consumers associate with its goods and/or services. See [WIPO Overview 3.0](#), section 1.3.

In the present case, the evidence shows that the Second Complainant refers to itself in the course of trade as VN LABS and uses a VN LABS logo. It also refers to itself by its company name “VN Labs Ltd”, which consists of the alleged VN LABS mark plus a commercial status identifier. The website of its parent company, the First Complainant, also refers to the Second Complainant as VN LABS.

As regards the duration of use of the alleged VN LABS mark, the Complainant claims that it has traded under the VN Labs name for almost 10 years. That claim is evidently based on the date of incorporation of the Second Complainant in 2013. However, while the Complainant provides an extract from the United Kingdom Companies House database showing its current company name is “VN Labs Ltd”, an online search of the same database shows that it only adopted that name in July 2020. There is no evidence that it traded under the VN Labs name previously. The Panel notes that the Second Complainant registered the domain name <vn-labs.com> for use with its website in December 2020 and that an archived screenshot of that website shows that it has been using the alleged VN LABS mark since at least August 2021. In light of these facts, the Panel finds that the Second Complainant has been using the alleged VN LABS mark for approximately two years.<sup>1</sup>

As regards the amount of sales, the Complainant submits that the Second Complainant had revenue of GBP 28 million in the last financial year. However, the First Complainant acknowledges on its website that the Second Complainant uses the Supreme brands “Kik” and “88Vape” as well as private labels. Accordingly, while the Second Complainant’s revenues are considerable, the Panel will not assume that they were generated entirely in connection with the alleged VN LABS mark.

As regards the degree of public recognition, the evidence demonstrates that the Second Complainant is being impersonated as part of a scheme that includes the website associated with the disputed domain name. The operation of that scheme relies on customers’ association of the Second Complainant’s VN LABS brand with its products and there is evidence of actual deception due to that association.

Based on the above record, and bearing in mind that the first element of paragraph 4(a) of the Policy functions essentially as a standing requirement, the Panel is satisfied that VN LABS has become a distinctive identifier that consumers associate with the Second Complainant’s products. Therefore, for the purposes of this proceeding under the Policy, the Complainant holds unregistered trademark rights.

Turning to the comparison, the Panel notes that the disputed domain name wholly incorporates the VN LABS mark, adding the commercial status identifier “Ltd”, meaning “Limited”. However, this addition does not prevent a finding of confusing similarity because the VN LABS mark remains clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

The only additional element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element may be disregarded in the comparison with a domain name for the purposes of the first element of paragraph 4(a) of the Policy unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element of paragraph 4(a) of the Policy.

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<sup>1</sup> The Panel notes its general powers articulated *inter alia* in paragraphs 10 and 12 of the Rules and has searched the publicly available United Kingdom Companies House database (“www.gov.uk”) and the Internet archive (“www.archive.org”) to evaluate evidence in the Complaint. The Panel considers this process of evaluation useful in assessing the merits of the case and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

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

The Complainant provides evidence showing that the Respondent has been using the disputed domain name as part of a scheme to impersonate the Second Complainant. The disputed domain name formerly resolved to an online store displaying the Second Complainant's VN LABS name and mark. The operator of the website has issued an invoice and a sales and purchase agreement displaying the Second Complainant's company name, company registration number, VAT number, street address, and CEO name, with what purported to be the Second Complainant's company seal and its CEO's signature but with a different contact email and website address. It is clear from the Complaint that the Respondent actually has no relationship to the Complainant. Certain customers who purchased goods on the website reported that the goods were not delivered. Irrespective of whether the Respondent has been using the disputed domain name to engage in passing off or whether it was rather to perpetrate fraud, either way its use was for illegal activity, which can never confer rights or legitimate interests on a Respondent. See [WIPO Overview 3.0](#), para. 2.13.1. The disputed domain name is now passively held, which does not confer rights or legitimate interests either.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain name was registered in May 2022. The disputed domain name incorporates the VN LABS mark and combines it with the commercial status identifier "ltd" which forms an exact match with the Second Complainant's company name. The website associated with the disputed domain name displayed the VN LABS mark and that company name. Documents issued by the operator of the website, presumably the Respondent, displayed the Second Complainant's company name, company registration number, VAT number, street address, and CEO name. This demonstrates that the Respondent is fully aware of the Complainant. It is clear that the Respondent's intent was to capitalize unfairly on the Complainant's rights in the VN LABS mark, whether those rights already existed or whether they were still nascent at the time when it registered the disputed domain name. See [WIPO Overview 3.0](#), section 3.8.

As regards use, the Respondent formerly used the disputed domain name as part of a scheme to impersonate the Second Complainant. The disputed domain name formerly resolved to a website that was falsely presented as the Second Complainant's website, offered for sale what were falsely purported to be the Second Complainant's products, and was used with sales documentation that purported to be issued by the Second Complainant. These is evidence of actual customer deception. Given these circumstances, the Panel considers that by using the disputed domain name, the Respondent has intentionally attempted 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 its website and the products on that website within the terms of paragraph 4(b)(iv) of the Policy.

The Panel notes that the use of the disputed domain name has now changed and that it no longer resolves to an active website. This change in use does not alter the Panel's conclusion; if anything, it may be a further indication of bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 name <vnlabsltd.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: April 16, 2023