

ADMINISTRATIVE PANEL DECISION

Voith GmbH & Co. KGaA v. Srisha Gupta

Case No. D2023-0980

1. The Parties

The Complainant is Voith GmbH & Co. KGaA, Germany, represented by Bardehle Pagenberg Partnerschaft mbB, Germany.

The Respondent is Srisha Gupta, India.

2. The Domain Name and Registrar

The disputed domain name <voithindia.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 2023, 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 (Not Available From Registry, Registration Private, Domain By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 10, 2023 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 March 29, 2023.

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 March 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2023.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on May 2, 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.

4. Factual Background

The Complainant was founded 1867 in Germany and is active in the markets of energy, oil & gas, paper, raw materials and transport & automotive. The Complainant employs more than 20,000 people, generates EUR 4.3 billion in sales and operates in about 60 countries around the world.

The Complainant owns trademark registrations in various jurisdictions, including the International Trademark VOITH (Reg. No. 405353, registered on December 12, 1973), and an IR trademark in India (Reg. No. 2406917, registered on October 5, 2012).

The Complainant holds the domain name <voith.com> under which the official website of the Complainant is available and owns a large number of further domain names incorporating the designation “voith” such as <voith.asia>, <voith.in>, <voith.co.in> and <voith-india.com>.

The disputed domain name was registered on December 4, 2022 and resolves to a website with sponsored links.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

On the basis of the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the VOITH trademark, which is wholly reproduced in the disputed domain name.

A domain name is “identical or confusingly similar” to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on the assessment of the second and third elements”. Hence, the Panel holds that the addition of the term “india” to the Complainant's VOITH trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant's trademark and a geographical term, cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the Complainant's credible contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, including the composition of the disputed domain name, year of the registration of the disputed domain name, and reputation of the Complainant's trademark, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

The Panel finds that the reproduction of the Complainant's trademark along with the term "india" creates a likelihood of confusion between the Complainant's trademark and the disputed domain name.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to generate traffic to sites with sponsored links by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website for its own commercial benefit. The Respondent has therefore used the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) 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, <voithindia.com> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: May 16, 2023