

ADMINISTRATIVE PANEL DECISION

vidaXL IP B.V. v. Yunfeng Liu

Case No. D2023-1498

1. The Parties

The Complainant is vidaXL IP B.V., Netherlands, represented by Oriol Ferré, Netherlands.

The Respondent is Yunfeng Liu, China.

2. The Domain Names and Registrar

The disputed domain names <homevidaxl.com> and <vidaxlfurniture.com> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2023. On April 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (www.homevidaxl.com) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 11, 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 April 17, 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 April 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on May 12, 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 supplies furniture, home decor, gardening, outdoor living and other products via a website at "www.vidaxl.com".

The Complainant owns International Registration No. 1373535 for VIDAXL.COM (figurative), registered on November 18, 2016, in classes 1 to 28 and 35, for various jurisdictions including China, the United States of America, and Australia.

The disputed domain names were registered on December 30, 2022.

As of March 31, 2023, the disputed domain names resolved to similar websites, branded with the Complainant's VIDAXL logo and purporting to offer furniture for sale. The Complainant's trade mark was also included in the product descriptions.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The disputed domain names are confusingly similar to the Complainant's trade mark.

The Respondent lacks rights or legitimate interests in the disputed domain names, which were registered and are being used in bad faith.

The Respondent has made unauthorised use of the Complainant's trade marks in the disputed domain names and in various areas of the Respondent's websites.

The Respondent is falsely representing itself as affiliated with the Complainant, thereby deceiving customers into thinking that the Respondent's websites are official sales channels. Accordingly, the Complainant's customers are unknowingly purchasing products that have not been legitimately authorised by the Complainant, with the result that they never receive the promised goods.

By using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of Confusion with the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered rights in the mark VIDAXL.COM.

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) makes clear that the first element functions primarily as a standing/threshold requirement. Where at least a dominant feature of the relevant mark is recognisable in the disputed domain name, it will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Section 1.8 of [WIPO Overview 3.0](#) makes clear that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms, whether descriptive or otherwise, would not prevent a finding of confusing similarity under the first element.

Here, the disputed domain names both contain the dominant feature of the Complainant’s mark, namely the term “vidaxl”, plus the additional words “home” and “furniture”, which do not prevent a finding of confusing similarity as explained above.

For the above reasons, the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s trade mark and that the Complainant has therefore established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out 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 domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, for reasons explained in section 6C below, the Panel considers that the Respondent has used the disputed domain names to impersonate the Complainant. Such use of the disputed domain names could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel considers that the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant’s trade mark in accordance with paragraph 4(b)(iv) of the Policy.

First, the disputed domain names include the term “vidaxl”, which is the dominant and highly distinctive component of the Complainant’s mark.

Second, the Respondent has used the disputed domain names for websites that impersonate the Complainant including by prominent use of the Complainant's mark/logo. The Panel notes that the Respondent had not appeared in this proceeding to deny the Complainant's assertions of bad faith, including that the Respondent is engaged in some sort of fraud whereby customers do not receive the goods they ordered.

In any event, it is reasonable to infer that the Respondent was intent on commercial gain.

For the above reasons, the Panel considers that the Complainant has established the third element of 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 names, <homevidaxl.com> and <vidaxlfurniture.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: May 26, 2023