

## **ADMINISTRATIVE PANEL DECISION**

Vir Biotechnology, Inc. v. Tee Jay  
Case No. D2023-3294

### **1. The Parties**

The Complainant is Vir Biotechnology, Inc., United States of America (“United States or U.S.”), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is Tee Jay, United States.

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

The disputed domain name <virbiocareers.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 August 1, 2023. On August 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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 (REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on August 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 16, 2023.

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 Respondent of the Complaint, and the proceedings commenced on August 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 19, 2023.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on October 10, 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

Complainant is a commercial stage immunology company focused on combining immunologic insights with cutting-edge technologies to treat and prevent serious infectious diseases.

Complainant has obtained registrations for its VIR BIO trademark in many countries, including U.S. Registration No. 6,008,274, filed January 25, 2017, and registered March 10, 2020, for research and development in the pharmaceutical and biotechnology fields, development of pharmaceutical preparations and medicines.

The disputed domain name was created on June 19, 2023. Prior to the creation date, Complainant had been using the VIR BIO trademark for more than 5 years.

At the time the Complaint was filed and at the time of this Decision, the disputed domain name resolved to a parked website provided by the Registrar hosting multiple hyperlinks to third-party websites. The disputed domain name is also configured for use with email, as the MX servers are hosted by the Registrar.

The record indicates that someone falsely claiming to be [...], the CEO of Complainant, used the email address "[...]@virbiocareers.com" in a fraudulent job scam in which offers of employment were made to unsuspecting job applicants.

Complainant also makes the following claims:

On June 21, 2023, a job applicant reported having received an email from "[...]@virbiocareers.com" that contained attachments including an offer letter with Complainant's VIR logo, using the name of Complainant's CEO and Complainant's physical address. The email also attached an onboarding document describing a "startup check" being sent by the hiring manager. On June 26, 2023, another job applicant reportedly sent an email to Complainant reporting having received a check for USD 4,950.00 from Consolidated Op CO, LLC. in Blue Ash Ohio. Asking if these offers are legitimate.

On June 27, 2023, Complainant received another report from an applicant stating: "I had applied for a job with Vir Biotechnology on UP Work, I then received an email to interview. I was referred to download RingCentral for the interview process. I have since been offered the job. There are a few things that just do not add up for me though. I wanted to reach out to someone directly at the company to verify if this is truly a scam or if it is legit. I have all contact documented along with a letter of the offer, start date etc. If someone could please get back to me in regards to this it would be greatly appreciated. I did try to call the main HQ. I did not have luck getting anyone on the line."

On June 28, 2023, Complainant received another report from an applicant recounting a similar story to the one above. This one also included an offer letter and onboarding document. Complainant provides a copy of an email instructing the applicant to print out the attached check, endorse the back of the check, make a remote capture of the check from the applicant's bank app and scan a picture of the deposit receipt and send it to "[...]@virbiocareers.com".

On June 29, 2023, Complainant's security team received an email from another job applicant describing a similar "startup-check" and onboarding process.

On June 29, 2023, Complainant received another report indicating that a job applicant received an offer letter and onboarding document with a typo in the word "process."

Complainant confirms that its CEO did not send the emails in question, did not register the disputed domain name, and did not authorize anyone to do so on its behalf.

Complainant claims that it wrote to the Registrar on June 29, 2023, requesting that the disputed domain name be transferred to Complainant to prevent further fraudulent use targeting Complainant and its customers. Complainant did not receive a response.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that the disputed domain name is confusingly similar to Complainant's VIR BIO trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and used in bad faith in connection with a fraudulent scheme to obtain personal financial information from job applicants deceived into believing they are submitting applications to Complainant.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

In order to succeed in its claim, Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

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

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

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

Complainant has demonstrated that it has rights in the trademark VIR BIO in connection with research and development in the pharmaceutical and biotechnology fields, and development of pharmaceutical preparations and medicines. The disputed domain name incorporates Complainant's trademark in its entirety. The additional term "careers" does not prevent the confusing similarity.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark.

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

Complainant contends that Respondent is not affiliated with or connected to Complainant in any manner. At no time has Complainant licensed, consented to or otherwise endorsed, sponsored or authorized Respondent to use Complainant's mark or to register the disputed domain name. The record is devoid of any facts that establish any rights or legitimate interests of Respondent in the disputed domain name. There is no evidence that Respondent has been commonly known by the disputed domain name or that it has any rights that might predate Complainant's adoption and use of its mark.

Respondent has not made, and is not making, a legitimate noncommercial or fair use of the disputed domain name. Respondent has not used the disputed domain name in connection with the *bona fide* offering of goods or services. The disputed domain name is used notably in connection with an email server to send emails in connection with a fraudulent employee recruitment scam, as described above, *i.e.*, as an email server for sending fraudulent email messages in order to confuse various job applicants into believing that they have been hired at Complainant's San Francisco office. The disputed domain name is deliberately being used in connection with this fraudulent scam, presumably to obtain personal and financial information from job applicants hoping to become employees of Complainant. Such fraudulent use cannot constitute fair use of the disputed domain name. Further, the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of complainant's mark.

The Panel finds that Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 3.2.1.

The record showing Respondent's fraudulent email scam indicates that Respondent most likely registered the disputed domain name for the purpose of using it in an email address to fraudulently obtain personal and financial information from job applicants hoping to become employed by Complainant. Respondent is deliberately using the disputed domain name for Respondent's financial benefit by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's website and emails.

The Panel finds that Respondent has registered and used the disputed domain name in bad faith.

### **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, <virbiocareers.com>, be transferred to Complainant.

/Lynda J. Zadra-Symes/

**Lynda J. Zadra-Symes**

Sole Panelist

Date: October 24, 2023