

## **ADMINISTRATIVE PANEL DECISION**

The Constant Company LLC v. Lauren stones  
Case No. D2025-0122

### **1. The Parties**

The Complainant is The Constant Company LLC, United States of America (“US”), represented by Walters Law Group, US.

The Respondent is Lauren stones, United Kingdom.

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

The disputed domain name <vultracloud.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2025. On January 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 15, 2025, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2025, 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 January 21, 2025.

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 January 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 18, 2025.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on March 3, 2025. 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 in this administrative proceeding is The Constant Company LLC, an American company. The Complainant owns and operates the website hosted at the domain name <vultr.com> and has used its domain name for more than a decade in connection with the provision of website hosting and cloud computing services.

The Complainant is, inter alia, the owner of:

- US Trademark Registration number 4636137 for the VULTR (word) trademark, registered on November 11, 2014.
- International Trademark Registration number 1635056 for the VULTR (word) trademark, registered on November 12, 2021.

The disputed domain name was registered on November 19, 2024. The disputed domain name resolves to a website where website hosting and cloud computing services in direct competition with the Complainant's services are offered. The website associated with the disputed domain name has utilized a color scheme and design similar to those of the Complainant's official website.

On December 10, 2024, the Complainant sent a cease-and-desist letter to the privacy service provider listed in the Complaint, asking the Respondent to cease any and all use of the disputed domain name and to transfer the same to the Complainant. This letter remains unanswered.

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

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the addition in the disputed domain name of the meaningless letter "a" plus the descriptive term "cloud", which is closely associated with the Complainant's field of activity, does not avoid confusion between the disputed domain name and the Complainant's trademark; that the Respondent's use of the disputed domain name to host a commercial website that advertises goods and services in direct competition with those of the trademark owner does not give rise to legitimate rights or interests; and that bad faith use and registration should be found, since the Respondent has used the Complainant's VULTR trademark plus a term, "cloud", from the Complainant's "area of commercial activity" (cloud services) to register the disputed domain name and use it for a website offering competing services.

##### **B. Respondent**

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

## 6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the VULTR mark is incorporated entirely and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "a" and "cloud", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel further notes that the specific choice of the descriptive term "cloud", which is closely associated with the Complainant's field of activity, as well as the content of the website hosted at the disputed domain name, and the similar color scheme and design of the website hosted at the disputed domain name, shows a

clear intent to falsely suggest a connection with the Complainant. Furthermore, although the disputed domain name also includes an additional letter “a”, the Panel finds there is a risk that Internet users will not notice the subtle addition of this letter and therefore finds that the composition of the disputed domain name carries a risk of implied affiliation and cannot constitute fair use as it effectively suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name 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 3.0](#), section 3.2.1.

In the present case, the Panel notes that, as discussed below, it is highly likely that the Respondent was aware of the Complainant’s trademark registrations and rights to the VULTR trademark when it registered the disputed domain name.

The disputed domain name contains in its entirety, without any authorization or approval, the Complainant’s registered VULTR trademark combined with the letter “a” and the descriptive term “cloud”.

Owing to the substantial presence established, worldwide and on the Internet, by the Complainant, it is unlikely that the Respondent, apparently operating in the same field of activity, was not aware of the existence of the Complainant, or of the Complainant’s trademark and domain name, when registering the disputed domain name.

In fact, the VULTR trademark and the <vultr.com> domain name were registered several years before the Respondent registered the disputed domain name.

Noting also the composition of the disputed domain name, incorporating the Complainant’s trademark with the additional terms “a” and “cloud”, with “cloud” directly related to the Complainant’s activities, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant’s earlier rights to the VULTR trademark. This is further affirmed by the use of a very similar style for the website resolving from the disputed domain name offering competing services. The Panel is therefore satisfied that the Respondent has registered and used the disputed domain name in bad faith.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The bad faith registration and use of the disputed domain name are also affirmed by the fact that the Respondent did not respond to the cease-and-desist letter sent by the Complainant’s representatives through the privacy service provider, and did not deny the assertions of bad faith made by the Complainant in this proceeding.

Owing to the circumstances of the case, the Respondent’s use of a Whois privacy shield registration can be considered as further inference of bad faith registration and use of the disputed domain name.

The Panel finds that the Complainant has established the third element 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 <vultracloud.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: March 10, 2025