

## **ADMINISTRATIVE PANEL DECISION**

Vi-Spring Ltd v. Daniel Smith, Vispring  
Case No. D2022-4007

### **1. The Parties**

The Complainant is Vi-Spring Ltd, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Daniel Smith, Vispring, United States of America (“United States”).

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

The disputed domain name <viispring.com> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2022. On October 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 2022, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 27, 2022 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 amended Complaint on October 31, 2022.

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 paragraphs 2 and 4 of the Rules, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 1, 2022. In accordance with paragraph 5 of the Rules, the due date for Response was November 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 22, 2022.

The Center appointed Yuji Yamaguchi as the sole panelist in this matter on November 30, 2022. 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 paragraph 7 of the Rules.

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

The Complainant is a leading manufacturer of beds and mattresses based in the United Kingdom. The Complainant, originally named the Marshall Sanitary Mattress Company, was incorporated in 1901, beginning to produce the mattress with coiled springs wrapped in muslin commercially. After decades of innovation and countless bespoke mattresses, the Complainant was given the Queen's Award for Enterprise in 2012, which is one of the Complainant's proudest achievements. The Complainant has offices and customer service centers in many countries worldwide, including the United States, Canada, Belgium, China and Singapore. Today, the Complainant's beds are sold in 50 countries in over 500 stores worldwide.

The Complainant maintains the registration of the VISPRING trademarks (the "VISPRING Trademarks") across various jurisdictions, including United Kingdom Trademark No. UK00000799653 registered on December 29, 1959, European Union Trade Mark No. 006161855 registered on June 23, 2008, International Trademark No. 1290687 registered on October 20, 2015, United States Trademark No. 4995611 registered on July 12, 2016, and Canadian Trademark No. TMA982743 registered on October 13, 2017.

The "VI" in the current Complainant's name refers to the Roman numeral VI, which means six. This represents the six turns in each coil which has been the Complainant's VISPRING Trademarks, and the Complainant's coils are made with vanadium steel wire, which has excellent spring resilience and consistent properties.

As part of the Flex Bedding Group, the Complainant's parent company Flex Equipos De Descanso purchased a controlling share in the Complainant back in 2005, and also operates the website at the Complainant's primary domain name <vispring.com>. The Complainant is the owner of over 20 domain names, where 14 of these domain names incorporate the Complainant's VISPRING trademark. According to Similarweb.com, the Complainant's primary website at the domain name <vispring.com> had a total of more than 120,000 visitors, ranking 831,544th globally and 830,009th in the United States in the 3-month period from July to September 2022.

The Respondent registered the disputed domain name on July 1, 2022. The Respondent is using the disputed domain name to redirect Internet users to a website that resolves to a blank page and lacks content. Furthermore, the Respondent sent an email from the disputed domain name to the Complainant's business partner, fraudulently attempting to create the impression that such an email originates from the Complainant.

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

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

The Complainant's contentions may be summarized as follows:

First, the disputed domain name is a purposeful misspelling of the Complainant's VISPRING Trademarks and must be considered confusingly similar to the Complainant's Trademarks. As the disputed domain name differs from the Complainant's VISPRING Trademarks by just one letter, the disputed domain name must be considered a prototypical example of typosquatting which intentionally takes advantage of Internet users that inadvertently type an incorrect address.

Second, the Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant's VISPRING Trademarks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain

name, which evinces a lack of rights or legitimate interests. In the instant case, the pertinent Whois information identifies the Registrant as “Contact Privacy Inc. Customer 7151571251 / Contact Privacy Inc. Customer 7151571251”, which is a privacy service and does not resemble the disputed domain name in any manner. Further, the Center sent an email on Notice of Registrant Information which identifies the Respondent as “Daniel Smith / Vispring”, which also does not resemble the disputed domain name in any manner. Although the Respondent’s organization name contains “Vispring” and is therefore identical to the VISPRING Trademarks, the Respondent should still not be regarded as commonly known by the disputed domain name. There is no evidence to show that the Respondent has ever been commonly known by the moniker “Vispring”, apart from the disputed domain name. Thus, where no evidence, including the Whois record for the disputed domain name, suggests that the Respondent is commonly known by the disputed domain name, then the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name. The Respondent has failed to make use of this disputed domain name’s website and has not demonstrated any attempt to make legitimate use of the disputed domain name and its website, which evinces a lack of rights or legitimate interests in the disputed domain name. In the phishing email, the Respondent attempted to impersonate as the Complainant’s employee to request a business partner to change payment method to wire transfer for some overdue invoices. By sending emails from the disputed domain name, the Respondent is attempting to pass itself off as the Complainant, which provides additional evidence of the Respondent’s lack of legitimate interests or rights in the disputed domain name.

Third, the Complainant and its VISPRING Trademarks are known internationally across numerous countries, including in the United States where the Respondent is based. The Complainant has marketed and sold its goods and services using the VISPRING Trademarks since 1901, which is well before the Respondent’s registration of the disputed domain name on July 1, 2022. By registering the disputed domain name that is a purposeful misspelling of the Complainant’s VISPRING Trademarks, the Respondent has created a domain name that is confusingly similar to the Complainant’s VISPRING Trademarks, as well as its domain name <vispring.com>. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant’s brand and business. Further, the Respondent has made use of the disputed domain name to attempt email fraud by impersonating as the Complainant’s employee to send an email to a business partner to request payment. The Respondent has registered and used the disputed domain name for purposes of launching a phishing attack, which is clear evidence of bad faith registration and use. After first creating a strong likelihood of confusion by misappropriating the Complainant’s VISPRING Trademarks in the disputed domain name, the Respondent has sent an email posing as the Complainant’s employee to attempt to request payment from a business associate for ‘overdue invoices’ and provided alternative wire transfer information on fake letterhead with the Complainant’s VISPRING Trademarks. The Respondent’s efforts to masquerade as the Complainant in an attempt to solicit sensitive, financial information from unsuspecting people certainly constitute fraud, which must be considered bad faith registration and use of the disputed domain name. The disputed domain name can only be taken as intending to cause confusion among Internet users as to the source of the disputed domain name, and thus, the disputed domain name must be considered as having been registered and used in bad faith. More specifically, where the disputed domain name is almost identical to the Complainant’s primary domain name <vispring.com>, there is no plausible good-faith reason or logic for the Respondent to have registered the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainant must assert and prove the following three elements are present:

(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 is the owner of the VISPRING Trademarks and has sufficient standing to file this UDRP case. See section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The disputed domain name only differs from the Complainant's VISPRING Trademarks in that one more letter "i" is inserted between the letters "v" and "spring" in the disputed domain name and the generic Top-Level Domain ("gTLD") suffix ".com" is added.

The double key touch "ii" is a common typographical mistake (see *Actelion Pharmaceuticals, Ltd v. VistaPrint Technologies Ltd*, WIPO Case No. [D2015-1788](#)). The disputed domain name which consists of a common, obvious, or intentional misspelling of the Complainant's VISPRING Trademarks is considered to be confusingly similar to the Complainant's VISPRING Trademarks. See section 1.9 of the [WIPO Overview 3.0](#). Moreover, the additional letter "i" is likely to be overlooked in any quick reading of the disputed domain name (see *Shipco Transport Inc. v. WholsGuard, Inc. / Joel Kelvin*, WIPO Case No. [D2018-2374](#)), and the Panel also finds visual and phonetical similarity of the disputed domain name with the VISPRING Trademarks (see *Comerica Incorporated v. domainnamesbyproxy.com Inc.*, WIPO Case No. [D2012-1371](#)).

The gTLD ".com" may be disregarded for the assessment of confusing similarity under the first element in paragraph 4(a) of the Policy. See section 1.11.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel concludes that the Complainant has proven the first element of paragraph 4(a) of the Policy.

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

The VISPRING Trademarks are registered and maintained by the Complainant for more than half a century in the United Kingdom and recognized in many countries worldwide. As the Complainant asserts, the Respondent is not sponsored by or affiliated with the Complainant. The Respondent is not also commonly known by the disputed domain name, even though the Respondent's organization name disclosed by the Registrar contains "Vispring". The Respondent is not able to acquire rights or legitimate interests by the use of the disputed domain name as an email address to send phishing emails (see *Syngenta Participations AG v. Guillaume Texier, Gobain Ltd*, WIPO Case No. [D2017-1147](#)).

As the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent to establish that the Respondent has rights or legitimate interests. See section 2.1 of the [WIPO Overview 3.0](#). However, the Respondent has not submitted any response or provided any evidence whatsoever, despite the opportunity given.

The Respondent having failed to discharge the burden of production, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and then the Complainant has succeeded in the second element of paragraph 4(a) of the Policy.

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

The Complainant has built a strong reputation in the VISPRING Trademarks during its long history since 1901. Thus, it is difficult to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's VISPRING Trademarks at the time of the registration of the disputed domain name (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The registration of the disputed domain name comprising a typo that is confusingly similar to a widely known VISPRING Trademark by the Respondent unaffiliated with the Complainant can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Further, the Respondent used the disputed domain name to facilitate a phishing scam by requesting a wire transfer to a fake bank account. Such a phishing email is clear evidence of use by the Respondent of the disputed domain name in bad faith (see *Technisem v. Wire Lord*, WIPO Case No. [D2020-2136](#)). Considering that the disputed domain name is almost identical to the Complainant's primary domain name <vispring.com> and has been used to attempt email fraud, it defies common sense to believe that the Respondent coincidentally selected the disputed domain name without any knowledge of the Complainant and its VISPRING Trademarks (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)).

Although the disputed domain name currently resolves to an inactive site and is not being used, it does not prevent a finding of bad faith under the doctrine of passive holding in this case, in consideration of (i) the reputation of the Complainant's VISPRING Trademarks, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent's concealing its identity, and (iv) the implausibility of any good faith use to which the disputed domain name may be put. See section 3.3 of the [WIPO Overview 3.0](#).

For the reasons set out above, the Panel reached the conclusion that the Complainant has succeeded in the third element of paragraph 4(a) of the Policy and is entitled to the remedy requested, namely that the disputed domain name be transferred to the Complainant.

## 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 <viispring.com> be transferred to the Complainant.

*/Yuji Yamaguchi/*

**Yuji Yamaguchi**

Sole Panelist

Date: December 14, 2022