

ADMINISTRATIVE PANEL DECISION

VKR Holding A/S v. Dion Osbourne

Case No. D2023-0057

1. The Parties

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Dion Osbourne, United Kingdom.

2. The Domain Names and Registrar

The disputed domain names <veluxlondon.com> and <veluxlondon.net> are registered with 123-Reg Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 9, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 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 amended Complaint on January 12, 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 the Respondent of the Complaint, and the proceedings commenced on January 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2023.

The Center appointed Andrew F. Christie as the sole panelist in this matter on February 20, 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 is the parent company of the VELUX Group. Through its subsidiaries, the Complainant offers roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products. The Complainant's founder, Villum Kann Rasmussen, established the VKR Group in 1941, and patented his first roof window in 1942. He called it VELUX, with "VE" derived from the word "ventilation" and "LUX" from the Latin word for "light". Today, the Complainant employs 15,400 people in 40 countries. In 2020, the VKR Group reported DKK 22.6 billion in revenue and DKK 3.7 billion in net profit.

The Complainant is the owner of several trademark registrations for the word trademark VELUX across various jurisdictions, including United Kingdom Trademark Registration No. 00000691115 (filed on and registered from July 28, 1950).

The Complainant promotes and provides information about its VELUX brand and products at the website resolving from its domain name <velux.com>. The Complainant also maintains a website dedicated to the British market resolving from its domain name <velux.co.uk>, which received 165,000 individual visits in November 2022 alone.

The disputed domain names were registered on July 28, 2022. The Complainant has provided screenshots, taken on December 19, 2022, showing that the disputed domain names resolved to parked webpages containing links to websites for various goods and services relating to doors and windows products. At the time of this decision, the disputed domain names resolve to parked webpages with what appear to be essentially the same links.

5. Parties' Contentions

A. Complainant

The Complainant made the following contentions to establish that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The disputed domain names incorporate the Complainant's VELUX trademark in its entirety while merely adding the geographically descriptive term "london". It is well established that the addition of a geographic term or place name does not alter the underlying trademark or negate the confusing similarity. The Complainant operates in the United Kingdom and maintains a website for the United Kingdom market using its domain name <velux.co.uk>, which receives approximately 165,000 individual visits monthly. By adding the particular geographically descriptive term "london" to the Complainant's trademark, the Respondent seeks to create the impression that the disputed domain names are somehow connected to the Complainant and its trademark and brand, which thereby enhances the confusing similarity with the Complainant's trademark.

The Complainant made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The granting of registrations by the United Kingdom Intellectual Property Office, the European Union Intellectual Property Office and the United States Patent and Trademark Office to the Complainant for the VELUX trademark is *prima facie* evidence of the validity of the term "VELUX" as a trademark, of the Complainant's ownership of this trademark, and of the Complainant's exclusive right to use the VELUX trademark in commerce on or in connection with the goods and/or services specified in the registration certificates. 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 trademark in any manner, including in domain names. The Respondent is not commonly known by the disputed domain names. The Complainant has not licensed, authorized, or permitted the

Respondent to register domain names incorporating the Complainant's trademark. The Respondent is using the disputed domain names to redirect Internet users to webpages featuring links to third-party websites, some of which directly compete with the Complainant's business. Presumably, the Respondent receives pay-per-click ("PPC") fees from the websites that are linked at the webpages resolving from the disputed domain names. The disputed domain names were registered on July 28, 2022, which is significantly after the Complainant filed for registration of its VELUX trademark, and also significantly after the Complainant's first use in commerce of its trademark, in 1942. The disputed domain names' registration date is also significantly after the Complainant's registration of its domain name <velux.com> on April 19, 1999, and its domain name <velux.co.uk> on May 30, 1997.

The Complainant made the following contentions to establish that the disputed domain names were registered and are being used in bad faith. The Complainant and its VELUX trademark are known internationally, with trademark registrations across numerous countries, and the Complainant has marketed and sold its goods and services using this trademark since 1942, well before the Respondent's registration of the disputed domain names. The Respondent makes several references to VELUX windows at its own website, resolving from the domain name <dionosbourneroofing.co.uk> (which is the domain name used in the Respondent's email address), with one reference indicating the Respondent installed the Complainant's VELUX products. As such, the Respondent has demonstrated a knowledge of, and familiarity with, the Complainant's brand and business. Searches performed across a number of Internet search engines for "Velux London" returns multiple links referencing the Complainant and its business. The Respondent is using the disputed domain names to confuse unsuspecting Internet users looking for the Complainant's products in London, United Kingdom, and to mislead Internet users as to the source of the disputed domain names and their webpages. By creating this likelihood of confusion between the Complainant's trademark and the disputed domain names, the Respondent has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainant's trademark in order to increase traffic to the webpages resolving from the disputed domain names for the Respondent's own pecuniary gain, as evidenced by the presence of multiple PPC links posted to the Respondent's webpages, some of which related to the products that the Complainant manufactures, and which may compete with the Complainant's own offerings. Where the disputed domain names merely consist of the Complainant's distinctive VELUX trademark combined with the geographical term "london", there is no plausible good faith reason or logic for the Respondent to have registered the disputed domain names.

The Respondent has ignored the Complainant's attempts to resolve this dispute outside of this administrative proceeding by failing to respond to the Complainant's cease and desist letter.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the generic Top-Level Domains ("gTLDs") ".com" and ".net" are ignored (which is appropriate in this case; see section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")), the disputed domain names consist of the Complainant's VELUX trademark, followed by the word "london". The Complainant's trademark is clearly recognizable within the disputed domain names. The addition of the geographic term "london" does not avoid the confusing similarity of the disputed domain names with the Complainant's trademark.

Accordingly, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its VELUX trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain names, or that it has, for any other reason, rights or legitimate interests in the disputed domain names. The evidence provided by the Complainant shows that the disputed domain names have been used to resolve to webpages that contain what appear to be PPC links to websites for goods and services related to the business of the Complainant.

Given the confusing similarity of the disputed domain names to the Complainant's trademark, the absence of any relationship between the Respondent and the Complainant, and the risk of implied false affiliation with the Complainant, the Respondent's use of the disputed domain names is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The disputed domain names were registered many decades after the Complainant first registered its VELUX word trademark. It is inconceivable that the Respondent registered the disputed domain names ignorant of the existence of the Complainant's trademark, given the renown of the Complainant's trademark and that the disputed domain names consist of the Complainant's trademark with the mere addition of the geographic term "london", a region in which the Complainant operates.

Given the Respondent's lack of rights or legitimate interests in the disputed domain names and the confusing similarity of the disputed domain names to the Complainant's trademark, any use of the disputed domain names by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain names in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain names in an attempt to attract, almost certainly for commercial gain, Internet users to websites by creating confusion in the minds of the public as to an association between the websites and the Complainant. The Respondent's use of the disputed domain names in this manner is a bad faith use.

Accordingly, the Panel finds that the disputed domain names have been registered and are being used 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 names, <veluxlondon.com> and <veluxlondon.net>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: March 6, 2023