

## **ADMINISTRATIVE PANEL DECISION**

Virgin Enterprises Limited v. osama hamada, Ahmed khaled abu ismail,  
rginmegastoreksa, Vfhd Hfd, virginmegastore  
Case No. D2023-0795

### **1. The Parties**

Complainant is Virgin Enterprises Limited, United Kingdom, represented by AA Thornton IP LLP, United Kingdom.

Respondents are osama hamada; Ahmed khaled abu ismail, rginmegastoreksa; and, Vfhd Hfd, virginmegastore, Egypt.

### **2. The Domain Names and Registrars**

The disputed domain name <virginmeega.store> is registered with NameCheap, Inc. (the “Registrar”).

The disputed domain names <virginmegastoree-kssa.shop>, <virginmegastoree-ks.shop>, <virginmegastoree.shop>, and <virginmegastoree-ssa.shop> are registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2023. On February 22, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On February 22 and February 23 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) and Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on February 28, 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 March 2, 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 Respondents of the Complaint, and the proceedings commenced on March 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2023. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on March 29, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 6, 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 part of the Virgin Group, and is the owner of the trademarks used within the Virgin Group. The Virgin Group includes businesses in a wide variety of fields, such as music and entertainment, travel (including a famous airline), financial services, telecommunications, and so forth. According to Complainant, there are more than 40 VIRGIN-branded businesses within the Virgin Group, and these businesses have more than 59 million customers worldwide. Complainant has owned the domain name <virgin.com> since 2000, and uses that domain name to host a widely-visited commercial website.

The first Virgin Megastore was opened in London, United Kingdom in the 1970s. There are now more than 100 Virgin Megastores around the world, including several in the Middle East (which is the purported location of Respondent, who uses different names and different locations in the Whols database).

Complainant holds trademark registrations for VIRGIN MEGASTORE in numerous jurisdictions around the world, including Egyptian Reg. No. 166316 (filed April 20, 2004) and Saudi Reg. No. 767/33 (filed April 3, 2004).

Annexed to the Complaint are numerous media articles confirming the renown of Complainant's VIRGIN MEGASTORE, such as a June 13, 2022, *Forbes* article and a December 20, 2021, *Financial Post* article. Complainant also owns the domain name <virginmegastore.com>, which is used for a website where numerous goods are offered for sale. Annexed to the Complaint are various social media screenshots illustrating Complainant's robust social media presence.

The Domain Name <virginmegastoree.shop> was registered on December 18, 2022. The other three Domain Names with a ".shop" generic Top-Level Domain ("gTLD") were registered between February 1, 2023 and February 8, 2023. The Domain Name <virginmeega.store> was registered on January 27, 2013.

The four Domain Names with the gTLD .shop resolve to websites, mostly in Arabic but with some English, which purport to offer various items (cell phones, furniture, etc.) for sale, and which solicit customer and billing information from visitors.

These four .shop websites are virtually identical in appearance and content. Complainant's stylized VIRGIN trademark appears atop each of the web pages. At the bottom of each page, there is an identical legal notice for three of the four .shop websites: "All rights reserved @ Virgin Megastore." At the bottom of each page of the fourth .shop website, a similar legal notice appears: "Virgin Megastore All Rights Reserved 2023." (Note that the extra "e" at the end of "store", as appears in the .shop Domain Names, is absent in these legal notices.)

The Domain Name <virginmeega.store> does not resolve to an active website.

Complainant asserts that all five Domain Names have been registered by the same person or entity and/or are under common control. In addition to the website similarities noted above, the registrant data for three of the Domain Names <virginmegastoree-kssa.shop>, <virginmegastoree-ks.shop>, and <virginmegastoree-ssa.shop>, are identical.

Further, with respect to the two other Domain Names, <virginmegastore-ssa.shop> and <virginmeega.store>, the registrants' data show the same email addresses, which is the same as the email addresses used in another recent UDRP proceeding initiated by Complainant, *Virgin Enterprises Limited v. Vfhd Hfd, virginmegastore, Oure Rahfd*, WIPO Case No. [D2023-0254](#) (transferring domain names including <virginmegastore.shop> and <virginmegastore-ksa.shop>).

Respondent has not denied any of the foregoing allegations.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for the transfer of each of the Domain Names. Complainant also contends that all five Domain Names have been registered by the same person or entity, or, at a minimum, are under common control such that the five subject domain names should be consolidated and addressed in this proceeding.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **A. Consolidation**

Under section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a panel may consolidate in a single proceeding a complaint filed against multiple respondents, based primarily on whether: (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

Guided by these principles, the Panel here concludes that consolidation in the instant case is appropriate. First, Respondents have not come forward to dispute the allegation that the five Domain Names are under common ownership and/or common control, nor to assert that there would be any prejudice to the Respondents' case if the five Domain Names here were consolidated in a single proceeding.

Second, as discussed above, the overlapping contact information among several of the Domain Names, the overlapping contact information among other Domain Names and several domain names involved in a similar recent UDRP case, the identical website content provided *via* four of the five Domain Names, the close temporal proximity surrounding the registration of the Domain Names, the use of the same Registrar for four of the Domain Names, and the very similar naming patterns for the Domain Names, are all factors weighing in favor of the finding that the five Domain Names are more likely than not under common control.

On the undisputed record and the plausible arguments raised by Complainant, the Panel concludes that consolidation here is appropriate. Accordingly, hereinafter the Respondents will be collectively referred to as the "Respondent", unless otherwise indicated.

### **B. Merits**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the 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 in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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

The Panel concludes that Complainant has rights in the trademark VIRGIN MEGASTORE through registration and use demonstrated in the record. The Panel also concludes that each of the Domain Names is confusingly similar to that mark. With respect to the four .shop Domain Names, each Domain Name incorporates the entire mark, and adds an additional “e” at the end of “store”. Three of the .shop Domain Names also add a geographical abbreviation, which does not prevent confusing similarity.

With respect to the .store Domain Name, the Second-Level Domain of <virginmeega.store> contains a typo, in the form of an additional “e” in “mega”. When this minor typo is set aside, the Second-Level Domain and the .store Top-Level Domain form the trademark VIRGIN MEGASTORE. In circumstances like this, the Top-Level Domain may be considered in the “confusing similarity” analysis.

Complainant has established Policy paragraph 4(a)(i).

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

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Names. Respondent has not come forward in this proceeding to articulate or prove any *bona fide* basis for registering the Domain Names.

On this undisputed record, it is obvious that Respondent was aware of the well-known VIRGIN MEGASTORE mark when registering the Domain Names. The website content at Respondent’s sites, which uses Complainant’s stylized VIRGIN logo and seeks to mimic Complainant’s commercial website, makes this clear. Respondent, while seeking to impersonate Complainant, seeks consumer information at its websites, which activity cannot be viewed as vesting in the Respondent rights or legitimate interests.

Complainant has established Policy paragraph 4(a)(ii).

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

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to

Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Names in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

As discussed above, on this undisputed record, the Panel finds that Respondent clearly had Complainant's mark in mind when registering the Domain Names. Respondent's unauthorized attempt to create a false association with Complainant in order to lure consumers and gather their personal information constitutes a clear case of bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

## 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 Domain Names <virginmeega.store>, <virginmegastoree-kssa.shop>, <virginmegastoree-ks.shop>, <virginmegastoree.shop>, and <virginmegastoree-ssa.shop> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: April 20, 2023