

ADMINISTRATIVE PANEL DECISION

Veja Fair Trade, SARL v. Marcus BRETZKE, Michael BAADER
Case No. D2023-3101

1. The Parties

The Complainant is Veja Fair Trade, SARL, France, represented by SafeBrands, France.

The Respondents are Marcus BRETZKE, Germany, and Michael BAADER, Germany.

2. The Domain Names and Registrar

The disputed domain names <vejaayakkaburkiye.com> and <vejashoesphilippine.com> are registered with NETIM SARL (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2023. On July 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 21, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 July 28, 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 Respondents of the Complaint, and the proceedings commenced on August 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on August 22, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on August 25, 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 a French shoe producer, established in 2005.

The Complainant is the owner of the following trademark registrations (the “VEJA trademark”):

- the European Union trademark VEJA with registration No. 9075003, registered on November 30, 2012, for goods in International Classes 18 and 25; and
- the International trademark VEJA with registration No. 848383, registered on February 01, 2005, for goods in International Classes 18 and 25; and
- the International trademark V VEJA with registration No. 1415444, registered on May 23, 2018, for goods in International Class 25.

The Complainant is also the owner of the domain name “www.veja-store.com” registered on March 21, 2007, which resolves to the Complainant’s official website.

The details about the registration and use of the disputed domain names are specified in the table below:

Disputed domain name	Date of registration	Registrant	Associated website
<vejaayakkabiturkiye.com>	May 10, 2021	Marcus Bretzke	Currently inactive. At the time of filing of the Complaint, it redirected to the website at “www.vejatr.co”, which is an online shop, purportedly selling shoes marked with the Complainant’s VEJA trademark.
<vejashoesphilippine.com>	August 3, 2022	Michael Baader	At the time of filing of the Complaint, it redirected to the website at “www.vejashoesphilippinesph.com”, which is an online shop, purportedly selling shoes marked with the Complainant’s VEJA trademark. Currently, still redirecting to such an online shop.

5. Parties’ Contentions

A. Complainant

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

The Complainant states that all the disputed domain names are confusingly similar to its VEJA trademark, since their other elements are only dictionary words in English or in Turkish and refer to the Complainant’s products and business. The Complainant maintains that the English word “shoes”, the geographic indication “Philippines”, the Turkish word “ayakkabi” (meaning “shoe” in English) and the geographic indication “Turkiye” do not prevent a finding of confusing similarity, as the VEJA trademark of the Complainant remains easily recognizable.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because it is not related to the Complainant or commonly known under the disputed domain names, and has not been authorized by the Complainant to use its VEJA trademark. In the

Complainant's view, considering the nature of the disputed domain names, which refer to the Complainant's products and business, the reputation of the Complainant, and the use of the disputed domain names in reference of the VEJA trademark, the Respondents could not have ignored the Complainant and its trademark.

According to the Complainant, the Respondents' intend for commercial gain to mislead Internet users into believing that the websites at the disputed domain names are somehow connected with the Complainant, and to divert Internet users looking for the Complainant's products to the Respondents' websites. The Complainant points out that the disputed domain names redirect to websites that reproduce the VEJA trademark, logos and copyrighted photos, and graphic charter. Considering their significantly discounted prices, the Complainant suspects the products offered on the Respondents' websites to be counterfeit, given that the websites at the disputed domain names do not accurately disclose the relationship, if any, between the Respondents and the Complainant.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. It maintains that considering the reputation of the VEJA trademark after its use for over 15 years, and the nature of the disputed domain names which refer to the Complainant's products and business, the Respondents could not have ignored the existence of the VEJA trademark at the time of the registration of the disputed domain names.

In the Complainant's view, the Respondents are engaged in disrupting the business of the Complainant. The Complainant notes that the disputed domain names redirect to unauthorized and misleading websites that offer for sale products supposedly coming from the Complainant at discounted prices. It points out that the Complainant's trademarks, logos, copyrighted photos and graphic charter are also reproduced on these websites. According to the Complainant, Internet users are therefore likely to mistakenly believe that the websites at the disputed domain names either belong to the Complainant or to an official authorized agent of it.

B. Respondents

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

6. Discussion and Findings

6.1. Procedural issue – Consolidation of the Respondents

The Complainant requests the consolidation of the Respondents, and asserts that all disputed domain names are owned by, or are under the effective control of a single person or entity or of a group of individuals acting in concert. In support of this assertion, the Complainant points out that all disputed domain names:

- have been registered with the same Registrar;
- are owned by individuals supposedly located in Germany, who have indicated email addresses created with one and the same Chinese email service provider, which makes it likely that the Respondents are not located in Germany but in China, and that their contact details may be false;
- target the Complainant's VEJA trademark and point to substantially identical websites that reproduce in the same manner the Complainant's graphic charter, trademarks, logos, photos and offer for sale suspected counterfeit products; and
- follow a similar naming pattern, being a combination of the Complainant's VEJA trademark and a generic term that refers to the Complainant's products or the country targeted by the Respondents.

The Center has discharged its duties to notify the persons listed as registrants of the disputed domain names. None of the listed registrants of the disputed domain names has submitted a formal Response or objected to the consolidation request of the Complainant.

Paragraph 10(e) of the Rules grants a UDRP panel the power to consolidate multiple domain name disputes, and paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. As discussed in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where a complaint is filed against multiple respondents, UDRP panels look at whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. UDRP panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in the content or layout of websites corresponding to the disputed domain names, any naming patterns in the disputed domain names, or other arguments made by the complainant.

The Panel is satisfied that the Complainant has shown good reasons why the consolidation of the Respondents and disputes related to the disputed domain names in a single proceeding is justified and appropriate in the circumstances. The disputed domain names were registered with the same Registrar, and follow the same pattern – a combination of the distinctive VEJA trademark with a geographic term and the dictionary word “shoe(s)” in English and in Turkish, which refer to the Complainant’s business of selling shoes, while the websites to which the disputed domain names redirect are indeed similar in design and content and have purportedly offered for sale shoes marked with the Complainant’s VEJA trademark. The Panel notes that the email addresses provided by the Respondents to the Registrars also show similarities, as they were created with the same Chinese email service provider. These circumstances show that it is more likely than not that the disputed domain names are under common control.

None of the Respondents has advanced any reasons why it may not be equitable to allow the consolidation of the disputes. It appears that the consolidation would lead to greater procedural efficiency, and the Panel is not aware of any reasons why the consolidation would not be fair and equitable to all parties.

Therefore, the Panel decides to allow the consolidation of the disputes in relation to the disputed domain names in the present proceeding and the Respondents will jointly be referred to as the “Respondent” throughout the remaining of this Decision.

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 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the VEJA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the VEJA trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to this trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain names also contain the dictionary word “shoe(s)” in English and in Turkish, and the geographical indications “Philippines” and “Turkiye”. While the addition of other terms as these may bear on assessment of the second and third elements, the Panel finds the addition of these terms does not prevent a finding of confusing similarity between the disputed domain names and the VEJA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain names redirected to third party commercial sites seemingly purportedly offering the Complainant’s products for sale. Such redirection for commercial purposes does not support a finding of rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3. Particularly, the composition of the disputed domain names carries a risk of implied affiliation to the Complainant, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Further, as also noted by the Complainant and not denied by the Respondent, the goods offered on the Respondent’s websites may have been counterfeit.

Based on the available record, the Panel therefore 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.

In the present case, the disputed domain names are confusingly similar to the VEJA trademark and have been used to redirect to websites that feature this trademark and offer for sale goods marked with it, without including a disclaimer for the lack of relationship with the Complainant. In the lack of any evidence to the contrary, this supports a conclusion that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain names and the associated websites by creating a likelihood of confusion with the Complainant’s VEJA trademark as to the source or affiliation of the goods offered on them for commercial gain. It is also notable that the Respondent has not denied the Complainant’s submission that the goods offered on the websites at the disputed domain names are counterfeit. Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The fact that, one of the the disputed domain name is currently inactive does not preclude a finding of bad faith, as their deactivation has taken place following the submission of the Complaint.

Having reviewed the record, the Panel therefore finds the Respondent’s registration and use of the disputed domain names constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <vejaayakkabiturkiye.com> and <vejashoesphilippine.com>, be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: September 8, 2023