

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Kingsley jonathan
Case No. D2024-3368

1. The Parties

The Complainant is VFS Global Services PLC, United Kingdom (“UK”), represented by Aditya & Associates, India.

The Respondent is Kingsley jonathan, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 16, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 19, 2024, 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 August 23, 2024.

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 August 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on September 19, 2024. 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 company which was established in 2001, and provides outsourcing and technology services in connection with the provision of visa application services for various countries, including operating visa application centers under the VFS brand in which individuals can file visa applications.

The Complainant has processed over 292 million applications since 2001, over 138.49 million biometric enrolments since 2007, and operates out of 3,442 Visa Application Centers located in Asia, Africa, Middle East, and Europe.

The Complainant promotes its services under the VFS brand including its portal at the domain name <vfsglobal.com> which its group company registered on February 23, 2005.

The Complainant is the owner of registered trademarks in various jurisdictions consisting of VFS and VFS GLOBAL, including:

- Indian trademark VFS with registration number 12555698 of December 16, 2003, for, inter alia, visa administration services;
- United Arab Emirates device mark VFS GLOBAL with registration number 303932 of April 21, 2019, for, inter alia, professional business consulting, and;
- Unites States of America device mark VFS. VFS. GLOBAL EST. 2001 with registration number 5,694,062 of March 12, 2019, for, inter alia, administration of business engaged in providing full visa, passport and travel documents administration services.

In all such registered trademarks the term “VFS” is the dominant element (together and individually the “VFS Mark”). The trademark VFS is based on the initials of the old name of the Complainant, originally incorporated as Fastrac Visa Facilitation Services Pvt. Ltd. on July 10, 2001.

The disputed domain name was registered on July 5, 2024, and it currently resolves to an error page. However, the Complainant provided evidence that indicates the disputed domain name was used to send emails to commit fraud impersonating the Complainant.

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 disputed domain name is confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainant must satisfy 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 domain name has been registered and is being used in bad faith.

Under paragraph 14(b) of the Rules, the Panel shall draw such inferences from the Respondent's default as the Panel considers appropriate. Nevertheless, the Panel may rule in the Complainant's favor only after the Complainant has proven that the above elements are present.

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 entirety of the mark is reproduced 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 "service", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 disputed domain name resolves to an error page and the Complainant has provided evidence indicating that the disputed domain name was used in connection with fraudulent emails sent to the Complainant's costumers impersonating the Complainant. Therefore, the Respondent is not using the disputed domain name in connection with any bona fide offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name. Rather, it appears the disputed domain name has been used for illegal purposes, which can never confer rights or legitimate interests upon the Respondent. Section 2.13.1 of the [WIPO Overview 3.0](#).

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.

In the present case, the Panel finds that the Respondent was, more likely than not, aware of the Complainant and its trademark at the time of the registration of the disputed domain name, since the disputed domain name has been used to create email addresses from which the Respondent has sent fraudulent emails as indicated by the evidence included in the complaint.

Fraudulent conduct is sufficient to find a bad faith use of the disputed domain name, even though the disputed domain name is not operated in connection with an active website (see *Bouygues v. Ange Rita Pasquini*, WIPO Case No. [D2021-3994](#) and *Pomona v. WhoisGuard Protected, WhoisGuard, Inc. / Lamar Derick*, WIPO Case No. [D2021-0361](#) and [WIPO Overview 3.0](#), section 3.3.).

The Panel is of the view that the use of a domain name for illegitimate activity is considered as manifest evidence of bad faith (see [WIPO Overview 3.0](#), section 3.4).

Considering the above evidence and findings, the Panel therefore finds that the Respondent registered and is using the disputed domain name in bad faith and that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <vfsservice.online> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: October 3, 2024.