

## **ADMINISTRATIVE PANEL DECISION**

Veolia Environnement SA v. Jibril YAHYAOU  
Case No. DAI2023-0025

### **1. The Parties**

The Complainant is Veolia Environnement SA, France, represented by IP Twins, France.

The Respondent is Jibril YAHYAOU, France.

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

The disputed domain name <veolia.ai> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 amended Complaint on September 13, 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 September 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 11, 2023. Informal communications from the Respondent were received by the Center on September 13, 2023, and September 21, 2023.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on October 26, 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 corporation which is the holding company of a global water, waste, and energy services group having a 160-year history, with around 220,000 employees worldwide and a turnover in 2022 of more than EUR 42,8 billion.

The Complainant owns a large portfolio of registered trademarks containing VEOLIA, including the International trademark No. 814678 for VEOLIA, registered on September 11, 2003, and the United States of America trademark No. 3000764 for VEOLIA, registered on September 27, 2005 (together hereinafter referred to as “the Mark”).

The Complainant also owns *inter alia* the <veolia.com> domain name, registered on December 30, 2002.

The disputed domain name was registered on June 1, 2023, and resolved to a parking page. At the time of this decision, it still resolves to this parking page.

#### **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 reproduces the Mark, in which it has rights, and is identical to the Mark insofar as the disputed domain name contains the Mark in its entirety.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and never had any affiliation with the Complainant (which never authorized the Respondent to use the Mark in any manner).

Furthermore, the Complainant contends that the Respondent had knowledge of the Mark and registered the disputed domain name in bad faith, and is also using it in bad faith.

##### **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. The Respondent merely sent an email to the Center on September 13, 2023, stating in relevant part: “Hi, I do not own this domain anymore. Please check with onlydomains (i have asked for refund) because of intellectual property.” And another email on September 21, 2023, stating in relevant part: “Hello, I told you already that the domain name is not mind. Check with onlydomains ! I have refunded several months ago and cancelled the registrations. Feel free to call me if you want some detail.”

#### **6. Discussion and Findings**

##### **6.1. Procedural Aspects – Failure to respond**

As aforementioned, no formal Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the failure of the Respondent to file a formal Response is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's lack of rebuttal as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the informal, non-substantive communications from the Respondent, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by failing to substantively respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

## **6.2. Requirements of paragraph 4(a) of the Policy**

### **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.

Based on the available record, the Panel finds 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 Panel finds the Mark is entirely reproduced in the disputed domain name. Accordingly, the disputed domain name is identical to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Regarding the country code Top-Level Domain ("ccTLD") ".ai" in the disputed domain name, it is well established that a TLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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, 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 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. Given the identical nature of the disputed domain name, its composition is such to carry a high risk of implied affiliation to the Complainant, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

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

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

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (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 or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the composition of the disputed domain name, identical to the Mark, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, it is well-established in prior UDRP decisions that where the respondent knew or should have known of a trademark prior to registering the disputed domain name, such conduct may be, in certain circumstances, evidence of bad faith registration. See *Weetabix Limited v. Mr. J. Clarke*, WIPO Case No. [D2001-0775](#).

Several URDP Panels have recognized the Mark to be well known and long established (See for instance *Veolia Environnement S.A. v. Raj Singh*, WIPO Case No. [D2010-2048](#); *Veolia Environnement SA v. WhoisGuard Protected / Greg Tapper*, WIPO Case No. [D2020-0531](#); *Veolia Environnement S.A. v. Hartford Vehicle*, WIPO Case No. [D2021-3821](#); and *Veolia Environnement S.A. v. Ivan McCraken*, WIPO Case No. [D2023-3246](#)).

Considering the reputation of the Mark, the size of the Complainant's current operations, and the fact that the Respondent is apparently located in France where the Complainant is headquartered, the Panel finds implausible that the Respondent chose to register the disputed domain name randomly with no knowledge of the Mark. See *Barney's Inc. v. BNY Bulletin Board*, WIPO Case No. [D2000-0059](#); *Kate Spade, LLC v. Darmstadter Designs*, WIPO Case No. [D2001-1384](#), citing *Cellular One Group v. Paul Brien*, WIPO Case No. [D2000-0028](#); and *Semcorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#).

Finally, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party.

See Policy, paragraph 2(b); *Nike, Inc. v. Ben de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

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 name, <veolia.ai>, be transferred to the Complainant.

*/Louis-Bernard Buchman/*

**Louis-Bernard Buchman**

Sole Panelist

Date: November 9, 2023