

ADMINISTRATIVE PANEL DECISION

Victron Energy B.V. v. Daniel Walker, HB PLUS PTY LTD as the Trustee for
HB Plus Unit Trust

Case No. DAU2025-0015

1. The Parties

The Complainant is Victron Energy B.V., Kingdom of the Netherlands (“the Netherlands”), represented by HWL Ebsworth Lawyers, Australia.

The Respondent is Daniel Walker, HB PLUS PTY LTD as the Trustee for HB Plus Unit Trust, Australia.

2. The Domain Name and Registrar

The disputed domain name <victronenergy.au> is registered with GoDaddy.com, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2025. On April 22, 2025, the Center transmitted by email to GoDaddy.com, LLC a request for registrar verification in connection with the disputed domain name. On the same day, GoDaddy.com, LLC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center sent an email communication to the Complainant on April 25, 2025, requesting the Complainant to submit an amended Complaint in compliance with the word-count compliant Complaint. The Complainant filed an amended Complaint on April 29, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .au Dispute Resolution Policy (the “Policy”), the Rules for .au Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .au Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 29, 2025. In accordance with the Rules, paragraph 5(a), the due date for Response was May 19, 2025. The Center received email communications from the Respondent on April 29, 2025.

The Center appointed Rebecca Slater as the sole panelist in this matter on May 23, 2025. 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 has owned and operated the business “Victron Energy” since 1975. It designs and produces independent energy supply solutions. The Complainant is headquartered in the Netherlands and sells its products worldwide. It operates its business in Australia through 118 distributors.

The Complainant holds trade mark registrations for VICTRON ENERGY in a number of jurisdictions, including Australian Trade Mark Registration No. 1719633 for VICTRON ENERGY word mark (registered August 7, 2023), International Trade Mark Registration No. 1663662 for VICTRON ENERGY word mark (registered November 8, 2021), and International Trade Mark Registration No. 1411010 for VICTRON ENERGY logo mark (registered April 25, 2018) (the “Trade Mark”).

The Complainant is also the registrant of numerous domain names which incorporate the Trade Mark, including <victronenergy.com.au>.

The Respondent is located in Australia and operates a website that sells off grid energy solutions. The Respondent did not submit a formal response, and consequently little additional information is known about the Respondent.

The Respondent registered the disputed domain name on October 3, 2022. The disputed domain name currently redirects to a website at “offgriddirect.com.au/collections/victron”, which hosts a webpage headed “Victron Energy” that lists products branded with the Trade Mark for sale.

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, at the very least, confusingly similar to the Trade Mark. The disputed domain name differs from the Trade Mark only through the removal of the “.au” Top-Level Domain.
- The Respondent has not been making a bona fide use of the disputed domain name. It unsuccessfully attempted to become an authorized distributor of the Complainant, initially emailing the Complainant with this request on February 8, 2022. The Respondent is trading off the Trade Mark to funnel users who are interested in the Complainant’s products to the Respondent’s website (and away from the Complainant’s website and the websites of authorized distributors of the Complainant). The Respondent is not commonly known by the disputed domain name. The Respondent’s use is commercial, as the webpage that the disputed domain name redirects to displays products for sale. The Respondent is not an authorized distributor, so the Oki Data principles do not apply. In any case, the Oki Data criteria are not met.
- The following are evidence of the registration or use of the disputed domain name in bad faith. The registration of the disputed domain name prevents the Complainant from reflecting its Trade Mark in the disputed domain name. The Respondent is disrupting the business of the Complainant (which operates in Australia through its authorized distributors). The Respondent is using the disputed domain name to redirect traffic to its website where it sells multiple different brands of products (including the Complainant’s products). The Respondent registered the disputed domain name after its failed attempt to become an authorized distributor of the Complainant. The fact that the disputed domain name incorporates the Trade

Mark is likely to lead consumers to believe that the Respondent is an agent or authorized distributor of the Complainant.

- The Complainant was made aware of the disputed domain name when it received a copy of a fraudulent email purporting to be from its managing director that used the disputed domain name.

B. Respondent

The Respondent did not file a formal response. On April 29, 2025, the Respondent sent an email to the Center, in which the Respondent stated that he had previously tried to resolve these matters with the Complainant. The Respondent attached its previous communication with the Complainant in which it indicated that no fraudulent email was sent from the disputed domain name asking the Complainant to provide the full original email to investigate. In the same communication, the Respondent also indicated that the disputed domain name was registered by a member of his marketing team a few years ago and has been used exclusively to link directly to Victron products. The communication further indicates: "There has been no claim that HBPlus Pty Ltd represents Victron, nor has there been any intent to mislead. The domain has always functioned to direct users to Victron-related content, providing clear value rather than causing loss or reputational harm."

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a name, trade mark 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 disputed domain name has been registered or subsequently used in bad faith.

The onus of proving these elements is on the Complainant even though the Respondent has not filed a formal response.

A. Identical or Confusingly Similar

The disputed domain name is identical to the Trade Mark in which the Complainant has rights. Generally, and as is appropriate in this case, the first level suffix (i.e. ".au") is disregarded (see section 1.11 of the Overview of Panel Views on Selected auDRP Questions, Second Edition ("auDRP Overview 2.0")).

The Respondent does not contest this point.

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy provides that the Complainant must establish that the Respondent has no rights or legitimate interests in the disputed domain name. Paragraph 4(c) non-exhaustively lists circumstances that can demonstrate the Respondent's rights or legitimate interests in the disputed domain name.

In the Panel's view, the following establish a prime facie case against the Respondent:

- the Complainant has not licensed or otherwise authorized the Respondent to use the Trade Mark;
- there is no evidence to suggest that the Respondent might be commonly known by the disputed

domain name; and

- the Respondent has not been making a bona fide use of the disputed domain name (for the reasons set out below).

The principles set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) can be applied to unauthorized resellers to determine whether a respondent's commercial use of a domain name is a "fair use" (see section 2.8.6 of the auDRP Overview 2.0). Under the *Oki Data* principles, a reseller or distributor can be making a bona fide offering of goods and services, and therefore have a legitimate interest in the domain name, if its use meets these requirements:

1. The respondent must actually be offering goods or services related to the trade mark or name in respect of which the domain name is confusingly similar.
2. The respondent must offer only those goods or services in connection with the domain name.
3. The respondent must have disclosed its true relationship with the owner of the trade mark or name to which the domain name is identical or confusingly similar, prior to notice of the dispute.
4. The respondent must not have attempted to "corner the market" in domain names that reflect the complainant's trade mark/name.

Applying these principles here:

1. The Respondent is actually offering goods related to the Trade Mark.
2. The Respondent offers goods other than those related to the Trade Mark at the website to which the disputed domain name redirects.
3. The Respondent has not disclosed its true relationship with the Complainant. The Respondent's website does not state that the Respondent is not authorized to sell the Complainant's products.
4. It appears that the Respondent has attempted to "corner the market" as the disputed domain name consists wholly of the Trade Mark.

Due to the Respondent's failure to satisfy principles 2, 3 and 4 above, the Panel finds that the Respondent has not established rights or legitimate interests in the disputed domain name.

The burden of production shifts to the Respondent to provide evidence of its rights or legitimate interests under paragraph 4(c) of the Policy (see, e.g., *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd*, WIPO Case No. [DAU2002-0001](#)). The Respondent has not provided any evidence to demonstrate its rights or legitimate interests in the disputed domain name.

Under these circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The second element of the Policy is satisfied.

C. Registered or Subsequently Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the disputed domain name has been registered or subsequently used in bad faith.

Paragraph 4(b)(iv) of the Policy provides that using the domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of that website or location or of a product or service on that website or location may be evidence of bad faith.

The Respondent requested to become an authorized distributor of the Complainant in February 2022, but the Parties did not proceed further after an exchange of information. The Respondent then registered the disputed domain name in October 2022. This sequence of events indicates that the Respondent was aware of the Complainant and its Trade Mark at the time the Respondent registered the disputed domain name. The disputed domain name resolves to a webpage that displays the Complainant's products for sale. The Respondent's objective in registering and using the disputed domain name appears to be to attract Internet

users to the Respondent's website for commercial gain.

The Panel finds the above constitutes use of the disputed domain name in bad faith.

The Complainant succeeds on the third element of the Policy.

7. Decision

For all 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 <victronenergy.au>, be transferred to the Complainant.

/Rebecca Slater/

Rebecca Slater

Sole Panelist

Date: May 27, 2025