

ADMINISTRATIVE PANEL DECISION

Bureau Veritas Exploitation v. jerome levalois

Case No. DCC2023-0005

1. The Parties

The Complainant is Bureau Veritas Exploitation, France, represented by Dennemeyer & Associates SAS, France.

The Respondent is jerome levalois, Netherlands.

2. The Domain Name and Registrar

The disputed domain name <bureauveritas.cc> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed in French with the WIPO Arbitration and Mediation Center (the "Center") on May 22, 2023. On May 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 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 (Redacted for privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication in English and French regarding the language of the proceeding on June 13, 2023. On the same day, the Center sent a notification indicating that the Complaint was administratively deficient, the Complainant filed an amended Complaint in English on June 16, 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 June 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 17, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on July 21, 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.

According to paragraph 11(a) of the Rules, “[u]nless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Complaint was initially submitted in French. The Registrar has confirmed that the language of the Registration Agreement for the disputed domain name is in English. In response to the Center’s notification regarding the language of the proceeding, the Complainant has submitted the amended Complaint in English. Therefore, the Panel finds that English shall be the language of the proceeding in accordance with paragraph 11(a) of the Rules.

4. Factual Background

The Complainant was founded in 1828 and presently renders testing, inspection and certification (TICS) services, employing over 82,000 people in more than 1,600 offices and laboratories worldwide.

The Complainant is the owner, amongst others, of the domain names <bureauveritas.com>, <bureauveritas.fr>, <bureauveritas.de> and <bureauveritas.jp>, as well as of the following, amongst others, trademarks (Annexes 7-9 to the Complaint):

- European Union trademark registration No. 004518544 for the word mark BUREAU VERITAS, filed on June 30, 2005, and registered on June 1, 2006, subsequently renewed, in classes 38 and 42;
- European Union trademark registration No. 005927711 for the word and device mark BUREAU VERITAS filed on May 11, 2007, and registered on February 6, 2008, subsequently renewed, in class 42; and
- European Union trademark registration No. 007282651 for the word and device mark BUREAU VERITAS filed on October 2, 2008, and registered on April 16, 2009, subsequently renewed, in class 42.

The disputed domain name was registered on April 4, 2023 and presently does not resolve to an active webpage. The disputed domain name has been used in connection with the email address “[...]@bureauveritas.cc” to transmit false reports to the Complainant’s clients (Annexes 5 and 10-16 to the Complaint), having the Complainant initiated criminal proceedings before the Tribunal Judiciaire de Nanterre against its former employee who the Complainant believes is behind the fraudulent scheme (Annex 17 to the Complaint).

5. Parties’ Contentions

A. Complainant

The Complainant asserts to be a world leader in testing, inspection and certification services, helping its clients to improve their performance by offering services and innovative solutions to ensure that their assets, products, infrastructures and processes meet standards and regulations in respect of quality, health and safety, environmental protection and social responsibility.

The Complainant contends that the disputed domain name has been actually used by its former employee, who was retained on December 18, 2019 and fired on March 15, 2022 for misconduct (Annexes 3 and 4 to the Complaint), in connection with false reports reproducing the Complainant’s letterhead and details, transmitted to the Complainant’s clients by the email address “[...]@bureauveritas.cc” unlawfully using the details of another former employee of the Complainant.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark, lacking the Respondent rights or legitimate interests in the disputed domain name.

The Complainant further contends that the registration of the disputed domain name was done clearly in bad faith given the full knowledge of the Respondent in the Complainant's trademarks and with the malicious and unfair intent to harm the Complainant. The Respondent has used the disputed domain name with the intention of diverting the Complainant's customers for profit by creating a likelihood of confusion as to the origin of the services and thus tarnishing the Complainant's aforementioned trademarks and damaging the Complainant's image and reputation.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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 disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established rights over the BUREAU VERITAS trademark.

The disputed domain name incorporates the Complainant's well-known trademark in its entirety and is therefore 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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. Therefore, Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the Respondent's rights or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as individuals, businesses, or other organizations) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or

- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Under the Policy, paragraph 4(a)(ii), the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed domain name. According to the evidence submitted, the Complainant has made a *prime facie* case against the Respondent that it has not been commonly known by the disputed domain name and that the Respondent has not been authorized to register or use the disputed domain name.

Also according to the evidence submitted by the Complainant, the use made of the disputed domain name in connection with the false reports sent to the Complainant's clients cannot be considered a legitimate or fair use of the disputed domain name. Furthermore, the Panel finds the nature of the disputed domain name carries a high risk of implied affiliation with the Complainant and supports a finding that the Respondent lacks rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.5.1.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must show that the Respondent registered and is using the disputed domain name in bad faith. The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv) in view of the reproduction of the well-known BUREAU VERITAS trademark in the false reports transmitted via the disputed domain name to the Complainant's clients, which create a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement thereof.

In the present case, the Panel further notes another factor that may corroborate a finding of the Respondent's bad faith: the privacy protection service was used most likely to conceal the Respondent's true identity when registering the disputed domain name.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name.

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 <bureauveritas.cc> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: August 3, 2023