

## **ADMINISTRATIVE PANEL DECISION**

Vente-Privee.Com v. Foster William  
Case No. DCC2023-0008

### **1. The Parties**

The Complainant is Vente-Privee.Com, France, represented by Cabinet Degret, France.

The Respondent is Foster William, Albania.

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

The disputed domain name <veepeemail.cc> is registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on June 28, 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) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 28, 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 amendment to the Complaint on June 29, 2023.

The Center verified that the Complaint together with the amendment to the 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 July 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on August 2, 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 sells all kinds of goods and services through e-commerce tools.

The Complainant owns several registered trademarks, such as:

- European Union Trade Mark VENTE-PRIVEE LOGO filed on July 17, 2013, registered on January 3, 2014 under number 11991965;
- European Union Trade Mark VEEPEE filed on November 8, 2017, registered on March 29, 2018 under number 17442245;
- International trademark VEEPEE registered on November 8, 2017, under number 1409721, and designating *inter alia*, Switzerland, Norway and Monaco.

The disputed domain name was registered on June 17, 2023 and resolved to a log in / create account website in French, referring to the Complainant and its VENTE-PRIVEE and VEEPEE trademarks.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant runs the website <vente-privee.com>, a shopping club that has been operated for nearly 21 years in connection with the organization of event sales of all kinds of discounted products and services.

The Complainant, at the beginning of 2019, has initiated a process of group rebranding to unify all its trademarks under one and only new denomination VEEPEE. This rebranding has been highly advertised internationally.

The Complainant's website has been operated in France first, and then, in several foreign countries such as Spain (2006), Italy and the United Kingdom in 2008 (until 2019), the Netherlands (Kingdom of the) (2011), the United States of America (since 2011 until 2014) and, progressively, in other European countries.

The Complainant has sold more than 70 million products in 2013. This figure rose to 90 million in 2015 and then, to 125 million in 2017.

The Complainant has grown from 3,3 million members in 2007 to more than 30 million in 2016.

The disputed domain name reproduces identically the Complainant trademarks, and only differs from the latter by the juxtaposition of the expression "mall" which is related to the running of shopping centers, one of the main activities of the Complainant.

The Complainant contends that the Respondent is not known under the denomination "veepee".

The Complainant has not authorized the Respondent to register and to use the disputed domain name not through a license agreement nor through any other kind of agreement.

The Respondent makes neither a legitimate noncommercial use nor fair use of the disputed domain name since it uses it to redirect towards a website in French language which contains an "About" section containing a presentation of the Complainant, thus giving the impression that said website is run by the latter.

The Respondent is unduly using the disputed domain name to benefit from the reputation of the VEEPEE trademarks for its own personal gain.

The Respondent has registered the disputed domain name being aware the Complainant's trademarks since the VEEPEE trademarks are well-known at an international level and especially among French consumers who are the target of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (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. Considering these requirements, the Panel rules as follows:

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks VEEPEE on the basis of several trademark registrations including its international registration, and in the European Union. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of the [WIPO Overview 3.0](#). The Respondent's incorporation of the Complainant's VEEPEE trademark in full in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's mark.

Mere addition of the term "mall" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's VEEPEE mark because the Complainant's VEEPEE mark remains clearly recognizable in the disputed domain name.

As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Furthermore, the addition of the country-code Top-Level Domain "ccTLD" ".cc" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

In accordance with paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel observes that there is no relationship, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Panel also finds that there is no indication that the Respondent is commonly known by

the disputed domain name because the Respondent's name is "Foster William" which has no apparent connection with the VEEPEE trademark. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. Furthermore, the disputed domain name directs to a commercial website in French language which contains an "About" section containing a presentation of the Complainant, thus giving the impression that said website is run by the latter, exacerbating the user confusion as to the website's affiliation to the Complainant. Such use for deliberately attracting Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant supports a finding that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b). The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

The Panel concludes that the Respondent deliberately chose to include the Complainant's VEEPEE trademark in the disputed domain name, in order to achieve commercial gain by misleading third parties, and that such use cannot be considered as a legitimate noncommercial or fair use. The Panel further finds that the disputed domain name carries a risk of implied affiliation with the Complainant. The additional term "mall", corresponding to the activities of online sales or e-shopping centers, is closely related to the Complainant's e-commerce activity. See section 2.5.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

In the Panel's view, a finding of bad faith may be made where the Respondent "knew or should have known" of the registration and/or use of the trademark prior to registering the disputed domain name. In this case, the Complainant submits that at the date of registration of the disputed domain name the Respondent knew or should have known of the Complainant's mark VEEPEE considering the global renown of the Complainant's prior mark and the website content targeting the Complainant's logos and products. The Panel takes note of the construction of the disputed domain name, which combines the VEEPEE mark with the term "mall" that is descriptive of the Complainant's goods, as well as the fact that the disputed domain name redirect towards a website in French language which contains an "About" section containing a presentation of the Complainant. The Panel is satisfied that by directing the disputed domain name to a commercial website, requesting personal information from the users and displaying Complainant's trademarks, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website. Under paragraph 4(b)(iv) of the

Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith. Consequently, the Panel finds that the disputed domain name was registered and used by the Respondent in bad faith within Paragraph 4(a)(iii) 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 <veepeemail.cc> be transferred to the Complainant.

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: August 16, 2023