

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Obi Frank
Case No. D2022-2647

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom, represented by AA Thornton IP LLP, United Kingdom.

The Respondent is Obi Frank, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <virginiunite.net> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2022. On July 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 2022, 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 July 25, 2022, 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 July 29, 2022.

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 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on September 16, 2022. 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 the IP-owning subsidiary of the Virgin Group, and is the owner of the VIRGIN brand and the related trademarks. The Complainant is particularly responsible for registering and maintaining the registrations for the trademarks containing the VIRGIN name and VIRGIN signature logo and for licensing these rights to the various businesses in the Virgin Group. Of particular importance to this proceeding are the trademarks used by, and the activities of, the Complainant's licensee, the Virgin Foundation, a UK registered charity. This company uses the VIRGIN UNITE marks intensively to undertake charitable projects collaborating with a range of organizations and individuals around the world, taking a business approach in addressing social and environmental issues, including human rights and criminal justice, climate change and conservation, drug policy reform and hurricane response.

The Complainant provides evidence that it owns a large portfolio of trademark registrations for VIRGIN, VIRGIN UNITE and related trademarks in over 150 countries. Examples of such registrations include United Kingdom Trademark registration number UK00002375670 for the word mark VIRGIN UNITE, registered on June 17, 2005 and United States Trademark Registration number 3472228 for the word mark VIRGIN UNITE, registered on July 22, 2008. The Complainant also owns related marks, including United Kingdom Trademark Registration number UK00003163127 for the logo mark representing the Virgin signature ("Virgin Signature Mark"), registered on July 29, 2016. The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain name by the Respondent, which is May 31, 2022.

The Complainant submits evidence that the disputed domain name directs to an active website, which presents itself as a website operated by the Virgin Foundation, prominently uses the Virgin Signature and VIRGIN UNITE marks as well as images and contents from the Foundation's official website, displays information about the Virgin Foundation's activities and requests donations from Internet users.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for VIRGIN UNITE, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are intensively used and globally famous in a variety of industries and sectors in which the Virgin Group is active, including financial services, health and wellness, music and entertainment, people and planet, telecommunications and media, travel, leisure, and space. The Complainant provides printouts of its official website and of its marketing and related materials. Moreover, the Complainant provides evidence that the disputed domain name is linked to an active website, operating as a copycat website of the website of the Virgin Foundation. In this context, the Complainant essentially claims that the Respondent is unlawfully misrepresenting itself as the Virgin Foundation, using the Complainant's trademarks and images and content, which is likely protected by copyright, and requesting donations from unsuspecting Internet users for commercial gain. Moreover, the Complainant argues that the Respondent is using the disputed domain name to conduct phishing activities, and contends that it is highly likely that any communications received to the email address used on the website linked to the disputed domain name would be used to obtain personal and financial information from Internet users for the purposes of commercial gain. The Complainant finally also claims that the Respondent was involved in a number of previous domain name disputes where bad faith use and registration was found by the panels in those cases, and argues that the Respondent has engaged in a pattern of trademark-abusive conduct. The

Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Policy requires the Complainant to prove three elements:

(a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(c) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in its marks for VIRGIN UNITE, based on its use and registration of the same as trademarks in several jurisdictions, as stated above.

Further, as to confusing similarity of the disputed domain name with the Complainant's VIRGIN UNITE marks, the Panel finds that the disputed domain name consists of the combination of two elements, namely the Complainant's VIRGIN UNITE trademark, whereby between the two words comprising this trademark, the letter "i" was added. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing" (see also *Wal-Mart Stores, Inc. v. Richard McLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). The Panel concludes that the disputed domain name contains the entirety of the Complainant's trademark for VIRGIN UNITE, which remains easily recognizable in spite of the addition of the single letter "i", and is therefore confusingly similar to the Complainant's VIRGIN UNITE marks. The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (".net" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, based on the above elements, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As

such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the website of the Virgin Foundation. In fact, this website prominently displays the Complainant's VIRGIN UNITE marks and the Virgin Signature Mark and uses the Complainant's own images and content likely protected by copyright, thereby misleading consumers into believing that the Respondent is licensed by, or otherwise affiliated with the Virgin Foundation, the Complainant and/or their VIRGIN UNITE and Virgin Signature Marks. Moreover, such website also requests donations from unsuspecting Internet users and poses a grave risk of fraud and phishing by displaying the Respondent's email address "[...][@virginiunite.net](mailto:[...]@virginiunite.net)", which may lead unsuspecting Internet users to share sensitive information such as identity and payment information with the Respondent. It is clear to the Panel from the foregoing elements that the Respondent is not a good faith provider of goods or services under the disputed domain name (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) and, given the abovementioned facts, the Panel concludes that the Respondent's use does not constitute legitimate noncommercial use or fair use of the disputed domain name.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the very widespread reputation and fame of the Virgin Group and the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name clearly and consciously targeted the Complainant's prior registered trademarks for VIRGIN UNITE. The Panel deducts from these efforts to consciously target the Complainant's prior registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. The Panel also considers the disputed domain name to be so closely linked and so obviously connected to the Complainant and its trademarks that the Respondent's registration of this disputed domain name points toward the Respondent's bad faith. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the website of the Virgin Foundation, displaying the Complainant's trademarks, official content and images (thereby likely violating the Complainant's copyrights) and requesting donations from unsuspecting Internet users. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to the website associated with the disputed domain name, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. Moreover, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to a number of prior UDRP decisions involving the Respondent (or supposedly other parties with contact details corresponding to those of the Respondent, and which are therefore presumably the Respondent), where the Respondent had engaged in similar acts of cybersquatting against the Complainant's trademarks, see for instance *Virgin Enterprises Limited v. Obi Frank*, WIPO Case No. [D2021-1328](#) and *Virgin Enterprises Limited v. Kalu Tall and Abdul Umeh*, WIPO Case No. [D2020-2653](#). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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, <virginiunite.net>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: September 30, 2022