

ADMINISTRATIVE PANEL DECISION

Verizon Trademark Services LLC v. Marian Kucavik, ImpresMedia Case No. D2023-4031

1. The Parties

The Complainant is Verizon Trademark Services LLC, United States of America (“US”), represented internally.

The Respondent is Marian Kucavik, ImpresMedia, Slovakia.

2. The Domain Name and Registrar

The disputed domain name <verizonspeedtest.com> (the “Domain Name”) is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 28, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (John Doe / Redacted for GDPR Privacy, ImpresMedia) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On October 3 and October 5, 2023, the Respondent sent informal email communications to the Center. The Complainant filed an amended Complaint on October 4, 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 October 9, 2023. On the same date, the Respondent sent another informal email communication to the Center. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Gregor Vos as the sole panelist in this matter on November 22, 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 was founded in 2000 and is active in the field of technology and communications products and services. The Complainant is present in over 150 countries and has 117,100 employees worldwide.

The Complainant is the owner of *inter alia* the following trademark registrations (hereinafter jointly referred to as: the "Trademarks"):

- US Trade Mark registration No. 2886813 for VERIZON registered on September 21, 2004; and
- US Trade Mark registration No. 5223839 for VERIZON and Design registered on June 13, 2017.

The Domain Name was registered on January 15, 2021. At the time of filing of the Complaint, the Domain Name resolved to a pay-per-click ("PPC") website displaying links related to the Complainant's services and currently the Domain Name is inactive.

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to its well-known Trademarks. The Domain Name incorporates the Trademarks in their entirety with the mere addition of the generic Top-Level Domain ("gTLD") ".com" and the English words "speed test", which does not prevent a finding of confusing similarity between the Trademarks and the disputed domain name.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received a license or any other form of authorization from the Complainant to use the Trademarks, has no prior rights to the Domain Name and is not commonly known by the Domain Name. Also, at the time of filing of the Complaint the Domain Name resolved to a website on which PPC links were displayed, which does not constitute a *bona fide* offering of goods or services or legitimate noncommercial use of the Domain Name.

Finally, according to the Complainant, the Respondent has registered and is using the Domain Name in bad faith. In light of the well-known character of the Complainant's Trademarks, it is inconceivable that the Respondent registered the Domain Name without knowledge of the Complainant and its Trademarks and this has as a consequence that the registration and use of the Domain Name qualifies as opportunistic bad faith. Also, according to the Complainant, the Domain Name is being used in bad faith. The Respondent is using the Domain Name for commercial gain by attracting Internet users to a webpage on which PPC links are shown.

B. Respondent

The Respondent did not substantively reply to the Complainant's contentions. In the Respondent's email communications, the Respondent offered the Domain Name for sale first, followed by an offer to transfer it for free.

6. Respondent's Consent

In its informal communications to the Center, the Respondent indicated that it consents to give up the Domain Name and that it registered the Domain Name in good faith. The Panel has decided to proceed to a substantive determination for the following reasons.

First, the Respondent initially offered the Domain Name for sale. Second, the Respondent expressly denies that it registered the Domain Name in bad faith. Third, the Complainant has requested that the proceedings proceed to a decision.

7. Discussion and Findings

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- iii. the Domain Name has been registered and is being used in bad faith.

Only if all three elements have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). 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 (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Name. The addition of the gTLD ".com" and the term "speedtest" does not prevent a finding of confusing similarity with the Trademarks (see sections 1.7 and 1.11 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By failing to provide a substantive response, the Respondent has failed to rebut the *prima facie* case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4© of the Policy is present. The Panel notes that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Name. In light of the well-known character and the strong worldwide reputation of the Trademarks, also noting the composition of the Domain Name, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business. The well-known character of the Trademarks of the Complainant has been confirmed by earlier UDRP panels (see e.g. *Verizon Trademark Services LLC v. Mike Duffy, London Central Communications Ltd*, WIPO Case No. [D2014-1994](#); and *Verizon Trademark Services LLC v. Richard Miyashita*, WIPO Case No. [D2017-1335](#)).

Further, even if the current non-use of the Domain Name is taken into account, it is generally accepted by UDRP panels that the non-use of a domain name does not prevent a finding of bad faith (section 3.3 of the [WIPO Overview 3.0](#)). In light of the reputation of the Trademarks, the lack of any rights or legitimate interests in the Domain Name by the Respondent, and in the absence of any conceivable good faith use of the Domain Name, the Panel finds from the present circumstances that the Respondent has intentionally sought to take unfair advantage of or otherwise abuse the Trademarks. This is reinforced by the strong reputation of the Complainant's Trademarks, as referenced above.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <verizonspeedtest.com> be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: December 6, 2023