

ADMINISTRATIVE PANEL DECISION

VFS Global Services Pvt. Ltd. v. Solum
Case No. D2024-0308

1. The Parties

The Complainant is VFS Global Services Pvt. Ltd., India, represented by Aditya & Associates, India.

The Respondent is Solum, India.

2. The Domain Name and Registrar

The disputed domain name <vfsglobals.org> is registered with PDR Ltd., d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 24, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 27, 2024, 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 (Name and Address of the Registrant is not available as hidden by Withheld for Privacy, PDR Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaints on February 1 and February 10, 2024.

The Center verified that the Complaint together with the amended Complaints 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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 4, 2024.

The Center appointed Harini Narayanswamy as the sole panelist in this matter on March 21, 2024. 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 in the business of providing support services to foreign embassies and diplomatic missions for visa processing. The Complainant owns the trademarks VFS and VFS GLOBAL and has numerous trademark registrations for the marks in India and several other jurisdictions.

The Complainant has Indian trademark registrations for the mark VFS GLOBAL with registration number 1555893, under class 9, registered on May 7, 2007. The Complainant also owns Indian trademark registration for the VFS GLOBAL mark with registration number 1555892, under class 35 in respect of computer services and online computer services, registered on May 7, 2007. The Complainant registered the domain name <vfsglobal.com> on February 23, 2005, from which it runs its website.

The Respondent is located in Bangalore, as disclosed in Registrar's disputed domain name records. The Respondent registered the disputed domain name on November 6, 2023. The Respondent has not created a website but has used the disputed domain name to send and receive emails, impersonating the Complainant. Presently, the disputed domain name does not display any content and it merely displays a message stating that the site cannot be reached.

5. Parties' Contentions

A. Complainant

The Complainant states that it was incorporated in 2001 and its business grew rapidly, with its operations covering 151 countries in five continents including offices in Dubai and London. The Complainant alleges that it has processed over 236 million visa applications and over 104.05 million biometric enrolments since 2007 and operates 3516 Visa Application Centers with its major operations based in India. The Complainant adds that it has made large investments in state-of-the-art customized proprietary software, periodically upgrading it, and has the highest security standards for privacy protection and has well-trained dedicated human resources.

The Complainant alleges that the entire system is linked through its official website, which it operates from <vfsglobal.com> and is accessed by millions of users every day. Its website provides information about visa processing, application procedure, fee structure, and interview scheduling. The Complainant contends that due to its technical expertise for its services and operations, its offices across the world are certified with ISO 9001:2008 for Quality Management System and ISO 27001:2005 for Information Security Management System by TUV SUD, which are the world's leading external and independent testing and certification bodies.

The Complainant states that its trademarks are registered in numerous countries including India. The Complainant has provided evidence of its trademark registrations in several countries including the United Kingdom, the United Arab Emirates, Brazil, and the United States of America, among others. The Complainant alleges that due to long and extensive use of its marks and its high quality of services, the marks have acquired goodwill and reputation. The Complainant argues that the Respondent is fraudulently targeting customers by using the disputed domain name, which is confusingly similar to its mark and lures misled users to make monetary payments.

The Complainant contends that it has satisfied each of the elements required under the Policy, that the Respondent has registered the disputed domain name which is akin to its mark. The Complainant alleges

that the Respondent lacks rights or legitimate interests in the disputed domain name and has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Three elements need to be established by the Complainant under paragraph 4 (a) of the Policy to obtain transfer of the disputed domain name, these are:

- (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 lacks rights or legitimate interests in the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith by the Respondent.

A. Identical or Confusingly Similar

The first element under paragraph 4(a) of the Policy requires the Complainant to establish the disputed domain name is confusingly similar to a trademark or a service mark in which it has rights.

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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The Complainant has provided evidence of its trademark rights in its VFS GLOBAL marks and is therefore found to have established its rights in respect of the trademarks or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel also concurs with UDRP panels that have recognized the Complainant's established rights in the trademarks VFS and VFS GLOBAL, in *VFS Global Services Private Limited, VFS Bangladesh (Private) Limited v. Binary Quest Ltd.*, WIPO Case No. [D2014-1324](#) (<vfsglobalcanada.net>), and *VFS Global Services Private Limited v. WhoisGuard, Inc., Quijano & Associates / Nandra Singhmanushi*, WIPO Case No. [D2020-2116](#) (<vfs-globalhelpline.org>).

The disputed domain name consists of the VFS GLOBAL mark which is fully incorporated in the disputed domain name, and this is sufficient to find confusing similarity with the mark. The entirety of the mark is reproduced within the disputed domain name along with the letter "s". The Panel finds the addition of the letter "s" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Top-Level Domain ("TLD") extension ".org" can be disregarded under the first element of the confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1. The TLD suffix is generally disregarded under the first element similarity test unless the suffix itself is part of the trademark. Accordingly, the disputed domain name here is found to be confusingly similar to the VFS GLOBAL mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been met, that the disputed domain name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant has argued that the Respondent lacks rights or legitimate interests in the disputed domain name as the Respondent has not used the disputed domain name for legitimate activity but is using it for fraudulent activity and seeks to derive benefit from the reputation and goodwill associated with the Complainant’s mark. The Complainant has also alleged that no authorization or license has been given to the Respondent to use its mark.

The Complainant has argued that its trademarks predate the disputed domain name registration. The Respondent is not commonly known by the name and or used the name for any bona fide purposes but has used it with dishonest intention to deceive Complainant’s customers.

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. The Respondent did not respond and has not provided any explanation for choosing to register the disputed domain name. Having reviewed the available record, the Panel finds the Respondent is not known by the disputed domain name or demonstrated any legitimate reason for registration and use of the disputed domain name. The Panel notes that the Respondent does not have any authorization or license to use the VFS / VFS GLOBAL marks or any variants of the marks and it is clear that the Respondent has made unauthorized use of the Complainant’s registered trademark in the disputed domain name.

The evidence in the case file furthermore clearly indicates that the Respondent has registered and used the disputed domain name for purposes of obtaining monetary gains by misleading users looking for the Complainant’s services. Evidence filed by the Complainant to support its contentions are email communications, which show the Respondent has been impersonating the Complainant to derive monetary gains from unsuspecting recipients of these emails, details of which is discussed in the following section. Panels have held that the use of a domain name for illegal activity of impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds, on the basis of the material on record, that the Complainant has made a prima facie case that supports a showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing or demonstrated any rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The third element under paragraph 4(a)(iii) of the Policy requires the Complainant to establish the disputed domain name has been registered and used in bad faith by the Respondent. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy specifies circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may also be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

- (i) Circumstances indicate that the respondent has registered or acquired the domain name primarily for purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of respondent's documented out-of-pocket costs directly related to the domain name; or
- (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; or
- (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 the respondent's 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 the respondent's website or location.

The Complainant has provided evidence that the Respondent has been using the disputed domain name to communicate with unsuspecting Internet users regarding visa application processing. The evidence provided by the Complainant shows that a third party reported to the Complainant that he received an email from the email address "[...]@vfsglobals.org", and was instructed in that email, to fill a "VFS Global consent form" and to pay a service fee of INR 15,600 immediately. A Quick Response (QR) code was given in the said consent form as the mode of payment.

The email communication from the email address "[...]@vfsglobals.org" states that after the payment is made the receipt should be sent by email along with the filled consent form within three to six hours. Failing which, the application will not be processed by "VFS Global" till a confirmation is given by the Respondent's email that the service fees is received. The entire email communications and the "VFS Global consent form" have all been filed by the Complainant as documents of evidence.

The said consent form also shows that the Respondent has used the logo and trademark VFS GLOBAL on the form, to impersonate the Complainant. A reply that was sent by the Complainant's Data Protection Officer team to the third party stating that the email address does not belong to the Complainant, which has also been filed as evidence. The Complainant argues based on the evidence, that the Respondent has blatantly attempted to deceive and cheat recipients of these emails by posing as the Complainant and is defrauding these recipients for monetary gains.

The Panel finds based on all the material, that the Complainant has made a compelling case of Respondent's fraudulent use of the disputed domain name that contains its mark and clearly the Respondent has targeted unwary customers for making monetary gain for alleged visa services. The evidence on record demonstrates actual user confusion, and unsuspecting Internet users who are looking for visa services are being misled by the Respondent's use of the disputed domain name and are likely to be persuaded to make payments to the Respondent.

Based on the material before the Panel, it is found that there is sufficient evidence to conclude that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its disputed domain name by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the disputed domain name. The Panel finds that the Respondent has targeted the Complainant's mark in bad faith, confusing and misleading users in the manner described, is bad faith registration and use of the disputed domain name as understood under paragraph 4(b)(iv) of the Policy.

The Panel finds for the reasons discussed, that the Complainant has established the third element of the Policy that the disputed domain name has been registered in bad faith and is being used in bad faith.

The Complainant has satisfied all three of the elements required under the Policy for a transfer 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 <vfglobals.org> be transferred to the Complainant.

/Harini Narayanswamy/

Harini Narayanswamy

Sole Panelist

Date: April 4, 2024