

## **ADMINISTRATIVE PANEL DECISION**

VFS Global Services Pvt. Ltd. v. Kingsley jonathan, Ninomoney  
Case No. D2024-1544

### **1. The Parties**

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

Respondent is Kingsley jonathan, Ninomoney, Nigeria.

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

The disputed domain name <vfsbiometric.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 (redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 an amended Complaint on April 22, 2024.

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 April 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on May 29, 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**

Complainant states that it is “a global business process- outsourcing and technology services specialist for and in business of providing technological and logistics support services to various Foreign Embassies and Diplomatic Missions in India as well as other parts of the world” and that it “is involved in providing administrative and non-judgmental tasks related to visa application for its client Embassies and Foreign Missions from the distribution of visa application forms, accepting Visa Application at its Visa Applications Centers, forwarding the Visa Applications to the concerned Embassy or Diplomatic Mission to return processed applications, and performs other related services and enjoys high goodwill and reputation for the services provided.” Complainant further states that it “serves the interests of the diplomatic missions of 64 sovereign governments in 151 countries across 5 continents worldwide” and that it “has successfully processed over 236 million applications since its inception in 2001, and over 104.05 million biometric enrolments since 2007 and operate out of 3516 Visa Application Centers located in Asia, Africa, Middle East and Europe of which major operations are based in India.”

Complainant states, and provides evidence to support, that it is the owner of registrations in “several countries” for marks that consist of or contain VFS or VFS GLOBAL (the “VFS Trademark”), including the following:

- India Registration (“Reg.”) No. 1,126,304 for VFS (registered August 14, 2002) for use in connection with “pamphlets, leaflets, bulletins, stationary, travel, guide, maps, charts, periodicals, books, instructional, teaching materials, albums, printed matter, bromides, billboards, hoardings, visiting cards, envelopes, publications, magazines, brochures, advertisements, publicity materials”;
- India Reg. No. 1,455,675 for VFS (registered May 31, 2006) for use in connection with, inter alia, “pre-recorded and customized computer software related to complete visa administration”;
- India Reg. No. 1,255,698 for VFS (registered December 16, 2003) for use in connection with, inter alia, “to provide full visa administration services to diplomatic missions in Singapore, embassies, consulates, airlines, travel agents, travel managers, associations, trade and travel bodies, services relating to onward forwarding of documents and payments related to visa applications.”

The Complaint identifies 36 countries or jurisdictions, including Nigeria, in which Complainant owns one or more registrations for the VFS Trademark.

The Disputed Domain Name was created on November 1, 2023. According to an annex provided by Complainant, the Disputed Domain Name has been used by someone in an email purporting to be from “VFS Canada Visa Information Service Centre in Nigeria,” requesting payment “for confirmation to help facilitate your work visa and bio-metric capturing application process.” Complainant provided a copy of a demand letter that it sent to Respondent regarding the Disputed Domain Name on January 10, 2024, which, presumably, went unanswered.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- Complainant has rights in the VFS Trademark as a result of the registrations cited above, and the Disputed Domain Name is identical or confusingly similar to the VFS Trademark because “the essential and significant part of the Disputed Domain Name” is identical or confusingly similar to the VFS Trademark, and “common and general words [should] be disregarded while comparing” the Disputed Domain Name to the VFS Trademark.

- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, Complainant’s use and registration of the VFS Trademark predates Respondent’s registration of the Disputed Domain Name; “Complainant confirms that it has not, nor has it ever, granted the Respondent any right, license, authorization or consent to use its ‘VFS’ trademark, in India or elsewhere”; “[t]he use of the domain name vfsbiometric.com in respect of visa services, biometric appointment and related queries and correspondence via emails causes absolute confusion as to the source of the services rendered”; and “Complainant is the proprietor of the trademark ‘VFS/VFSGLOBAL’ and... any unauthorized and deceptive use of such unique and distinctive trademark on any services; more particularly visa related services will be tantamount to infringement of their trademark.”

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, “by referring to the Disputed Domain Name of the Respondent, people in general are getting confused and believing that the Disputed Domain Name is nothing but related/connected to the Complainant and are also sharing their valuable personal information with the Respondent and the Respondent is taking undue advantage of such information which is ultimately affecting the painstakingly earned reputation and goodwill of the Complainant and its Group Companies”; and Respondent has used the Disputed Domain Name in “a blatant attempt to deceive and cheat by posing to be the Complainant and intending to defraud and scam the querist monetarily.”

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark, that is, the VFS Trademark, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the VFS Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Further, the Panel finds the VFS Trademark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the VFS Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “biometric”, may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 Panel finds the first element of the Policy has been established.

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

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.

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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has used the Disputed Domain Name in an email purporting to be from “VFS Canada Visa Information Service Centre in Nigeria”, requesting payment “for confirmation to help facilitate your work visa and bio-metric capturing application process” and that Complainant provided a copy of a demand letter that it sent to Respondent regarding the Disputed Domain Name on January 10, 2024, which, presumably, went unanswered. This use of the Disputed Domain Name indicates bad faith pursuant to paragraph 4(b)(iv) of the Policy: “by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.” As set forth in section 3.1.4 of [WIPO Overview 3.0](#), “seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful” – which is exactly what has occurred here – supports a finding that a respondent has engaged in bad faith under paragraph 4(b)(iv) of the Policy.

Further, as set forth in section 3.1.4 of [WIPO Overview 3.0](#), “the mere registration of a domain name that is identical or confusingly similar... to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Here, given the large number of longstanding registrations owned by Complainant for the VFS Trademark and the large scale of Complainant’s business associated with the VFS Trademark, the Panel finds that the VFS Trademark is famous or widely known and, therefore, that Respondent’s registration of the Disputed Domain Name can by itself create a presumption of bad faith.

Finally, Respondent’s failure to respond to Complainant’s demand letter is additional evidence of bad faith. See, e.g., *Encyclopaedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#); and *RRI Financial, Inc., v. Ray Chen*, WIPO Case No. [D2001-1242](#).

The Panel finds that the Complainant has established the third element 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 <vfsbiometric.com> be transferred to the Complainant.

*/Douglas M. Isenberg/*

**Douglas M. Isenberg**

Sole Panelist

Date: June 4, 2024