

## **ADMINISTRATIVE PANEL DECISION**

Viaplay Group AB v. Eric Lavigne  
Case No. D2024-3394

### **1. The Parties**

The Complainant is Viaplay Group AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is Eric Lavigne, France.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 20, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 amendment to the Complaint on August 23, 2024.

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 August 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on September 27, 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 in this administrative proceeding is Viaplay Group AB, a Swedish group of companies founded in 2018.

The Complainant is an established international entertainment and media provider, operating numerous entities spread across multiple continents and jurisdictions, including its wholly-owned subsidiary Viaplay Group Sweden AB, holder of the majority of the Complainant's trademarks and domain names.

The Complainant is listed on the Stockholm Stock Exchange, has more than 6.2 million paying VIAPLAY subscribers, and employs more than 1,500 people.

The Complainant has numerous trademark registrations for the VIAPLAY and VIAPLAY GROUP trademarks.

The Complainant is, inter alia, the owner of:

European Union Trademark VIAPLAY GROUP (device), registration number 018591100, registered on March 4, 2022.

European Union Trademark VIAPLAY (word), registration number 010352375, registered on March 21, 2012.

Swedish trademark VIAPLAY (word), registration number 396460, registered on June 27, 2008.

The Complainant's official website is "www.viaplaygroup.com".

The disputed domain name was registered on June 17, 2024.

The disputed domain name redirects to the Complainant's official website, "www.viaplaygroup.com".

The Complainant's representatives sent a cease-and-desist letter to the Respondent on July 5, 2024, which has remained unanswered.

#### **5. Parties' Contentions**

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

The 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 the disputed domain name is confusingly similar to the Complainant's trademarks and company name, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and - particularly - that the Respondent's redirection of the disputed domain name to the Complainant's official website suggests that the Respondent may have fraudulent intentions, and the Complainant thus argues that the Respondent is attempting to create the impression that the disputed domain name is connected to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (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 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.

### **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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms here, "ab", 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.

In addition, the Panel notes that the composition of the disputed domain name reproducing the Complainant's VIAPLAY GROUP trademark with the addition of the letters "ab", which is the acronym for "aktiebolag" (in English "joint-stock company"), carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

The disputed domain name reproduces, without any authorization or approval, the Complainant's registered VIAPLAY and VIAPLAY GROUP trademarks with the addition of the letters "ab". The disputed domain name was registered several years after the Complainant's trademarks were registered. In addition, the disputed domain name is similar to the Complainant's domain name <viaplaygroup.com>, and identical to the Complainant's company name Viaplay Group AB.

Noting also the composition of the disputed domain name, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the VIAPLAY and VIAPLAY GROUP trademarks.

The Panel also notes that the disputed domain name redirects, without any authorization or approval, to the Complainant's official website. The fact that the disputed domain name is redirected to the official website of the Complainant shows that the Respondent is targeting the Complainant and that it was fully aware of the Complainant and of the Complainant's trademarks at the time of registration. Previous UDRP panels have concluded that the use of a domain name incorporating a trademark, by an unauthorized third party, to redirect Internet users to a complainant's (or a competitor's) website is evidence of non-legitimate interest and bad faith; see *FXCM Global Services LLC v. WhoisGuard Protected, Whoisguard Inc. / Jenny Sohia* WIPO Case No. [D2018-1111](#).

Finally, as affirmed by previous UDRP panels, the failure of a respondent to respond to a cease and desist letter has been considered relevant in a finding of bad faith; see e.g. *LEGO Juris A/S v. Colin Heggie*, WIPO Case No. [D2011-1304](#).

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 <viaplaygroupab.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: October 10, 2024