

## **ADMINISTRATIVE PANEL DECISION**

VKR Holding A/S v. Domain Administrator, See PrivacyGuardian.org / Utilities co., ltd., woshi baba  
Case No. D2022-0021

### **1. The Parties**

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America / Utilities co., ltd., woshi baba, United Arab Emirates.

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

The disputed domain name <archvelux.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2022. On January 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on January 5, 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 January 7, 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 also on January 7, 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 January 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on February 4, 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 a company registered in Denmark. It is the parent company of Velux Group which is a supplier of roof windows, modular skylights and related products under the brand name and trademark VELUX.

The Complainant is the owner of trademark registrations for the mark VELUX in various territories. Those registrations include, for example:

- Denmark trademark registration number VR 1942 00950 for the word mark VELUX, registered on October 3, 1942 in International Classes 6 and 19; and
- International trademark registration number 928560 for a figurative mark including the word VELUX, registered on March 28, 2007 in International Classes 19, 20, 24 and 37.

The disputed domain name was registered on September 8, 2021.

The disputed domain name has resolved to a Chinese-language website at “www.archvelux.com” offering pornographic content.

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

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

The Complainant states that its group of companies, of which Velux Group is the largest, employs a total of 15,400 individuals in 40 countries. It states that the group reported gross revenues of DKK 22.6 billion in 2020. The Complainant states that Velux Group operates a website at “www.velux.com” which received over 148,000 visits between October 2020 and March 2021. The Complainant contends that by virtue of the above and its substantial promotional efforts, its trademark VELUX has become distinctive and uniquely associated with the Complainant and its products.

The Complainant submits that the disputed domain name is confusingly similar to its VELUX trademark. It contends that the disputed domain name incorporates that trademark in full, together with the prefix “arch” which is a descriptive term generally understood to be an abbreviation for “architectural”. The Complainant contends that the addition of this term, which relates to its own business activities, does not distinguish the disputed domain name from its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or permitted the Respondent to use its VELUX trademark, that the Respondent has not been known by the disputed domain name and that the Respondent is not making any *bona fide* commercial use of the disputed domain name. The Complainant submits that, instead, the Respondent is using the disputed domain name, which is confusingly similar to its trademark, misleadingly to divert Internet users to a website offering explicit material.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It states that its VELUX trademark is widely known in commerce and that any Internet search for “arch velux” will produce numerous links referencing the Complainant. It contends that the Respondent registered a

confusingly similar domain name to its VELUX trademark to divert Internet users to a website containing adult content, which tarnishes its trademark and constitutes use of the disputed domain name in bad faith. The Complainant further submits that the Respondent failed to reply to a “cease and desist” letter sent to it in September 2021, which further evidences its bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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**

The Complainant has established that it is the owner of registered trademark rights in the name and mark VELUX. The disputed domain name wholly incorporates that trademark, prefixed by the term “arch” which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

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

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Respondent’s use of the disputed domain name to direct to a pornographic website, having no apparent connection with the disputed domain name, does not give rise to rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

The Panel finds the Complainant’s VELUX trademark to be distinctive and accepts the Complainant’s submission that the addition of the prefix “arch” within the disputed domain name is suggestive of the Complainant’s business activities. In the absence of any explanation from the Respondent, the Panel infers accordingly that the Respondent registered the disputed domain name in the knowledge of the Complainant’s trademark and business and with the intention of taking unfair advantage of the Complainant’s goodwill attaching to that trademark.

The Panel further finds the disputed domain name to be inherently misleading, as being likely to suggest to Internet users that it resolves to a website legitimately connected with the Complainant’s VELUX products. The disputed domain name connects, in fact, to a pornographic website and the Panel infers that the Respondent intends to derive revenue from the Internet users so misdirected to that website. The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the

Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) 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, <archvelux.com>, be transferred to the Complainant.

**Steven A. Maier**

Sole Panelist

Date: February 18, 2022