

ADMINISTRATIVE PANEL DECISION

Vitol Holding B.V. v. Contact Privacy Inc. Customer 0162545083 / Ethan Harris, Brian and Partners
Case No. D2022-0057

1. The Parties

The Complainant is Vitol Holding B.V., Netherlands, represented by NLO Shieldmark B.V., Netherlands.

The Respondent is Contact Privacy Inc. Customer 0162545083, Canada / Ethan Harris, Brian and Partners, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <vitoltr.com> is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 6, 2022. On January 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 7, 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 19, 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 amendment to the Complaint on January 19, 2022.

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 February 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 9, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on March 14, 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, a Dutch company operating in the energy and commodities sector, is the owner of the following registrations for the trademark VITOL, as per trademark certificates submitted as Annex III to the Complaint:

- International Trademark Registration No. 1202452 in classes 1, 4, 6, 30, 35, 36, 37, 39, 40, and 42, registered on September 11, 2013, priority date of claim March 20, 2013;
- European Union Trade Mark No. 017865708 in classes 1, 4, 36, 37, 39, 40 and 42, filed on February 26, 2018, and registered on January 24, 2019;
- United States Registration No. 4,442,614 in classes 1, 4, 35, 36, and 39, registered on December 3, 2013; and
- United States Registration No. 6,376,098 in classes 35 and 36, registered on June 8, 2021.

The disputed domain name <vitotr.com> was registered on September 9, 2021. According to the uncontested evidence submitted by the Complainant (Annex II), the disputed domain name is being used as part of an email address to send emails purporting to be from the Complainant (more precisely from the Recruiting Team of Vitol Energy Turkey) and to be recruiting expatriates to work on an alleged “engineering subdivisions and ground energy/oil & gas project” in Turkey.

The cease and desist letters sent by the Complainant on December 16, 2021 had no effect and remained unanswered.

5. Parties’ Contentions

A. Complainant

The Complainant asserts and contends that:

- The disputed domain name incorporates the Complainant’s mark VITOL in its entirety with the addition of the letters “tr” which stand for the country code of Turkey.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name because (i) the Respondent does not own any prior trademark or tradename rights in VITOL and (ii) the disputed domain name has been used in conducting job offer scams using the email address associated with the disputed domain name, purporting to be from the Complainant.
- The disputed domain name was registered and is being used in bad faith because: (i) the disputed domain name was registered on September 9, 2021, while the Complainant’s rights in the trademark VITOL date back to earlier dates; (ii) the disputed domain name is being used for fraudulent activities; and (iii) the job offer scam conducted using the Complainant’s trademark VITOL as part of the disputed domain name is potentially causing considerable damages to the Complainant both in financial and reputational terms.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark VITOL based on the trademark registrations cited under section 4 above. The disputed domain name consists of the whole of the Complainant's registered mark VITOL followed by the letters "tr".

As recorded in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, as it entirely incorporates the Complainant's mark VITOL with the addition of the letters "tr" which does not prevent the confusingly similarity when comparing the disputed domain names and the Complainant's trademark. The letters "tr", which generally stand for the country code of Turkey, may be perceived by Internet users as suggesting that the disputed domain name resolves to content relating to jobs offered by the Recruiting Team of a – nonexistent – Turkish branch of the Complainant, which is discussed under the second and third elements.

The addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. (See section 1.11 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has provided evidence that the disputed domain name has been used in an email address for email communications purporting to be from the Complainant, offering a job on an alleged "engineering subdivisions and ground energy/oil & gas project" in Turkey.

Given the confusing similarity of the disputed domain name to the Complainant's trademark and the absence of any relationship between the Respondent and the Complainant, such a use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use of the disputed domain name. As noted above, the addition of the letters "tr" to the Complainant's trademark is likely to be perceived as suggesting that the disputed domain name resolves to content relating to jobs offered by the Complainant in Turkey. Therefore, the nature of the disputed domain name is such to carry a risk of implied affiliation, which in the circumstances cannot confer rights or legitimate interests on the Respondent.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As stressed by many previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see [WIPO Overview 3.0](#), section 2.1).

By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The disputed domain name incorporates the VITOL mark. The fact that the disputed domain name has been used by the Respondent in an email address for email communications purporting to be from the Complainant, offering jobs related to the Complainant's sector of activity, indicates that the Respondent targeted the Complainant when it registered the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2) with a deliberate intent to create an impression of an association with the Complainant and its VITOL mark.

The uncontested evidence submitted by the Complainant indicates that the Respondent has used the disputed domain name for the purposes of posing as the "Recruiting Team" of the – nonexistent – Complainant's Turkish branch as part of a job scam, to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's registered trademark VITOL as to the source, sponsorship, affiliation or endorsement. The fact that one of the recipients of these emails sent a request for clarification to the Complainant supports this conclusion.

In view of the above, the Panel finds that the Complainant has demonstrated that the Respondent registered and used the disputed domain names in bad faith according to paragraph 4(a)(iii) 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 <vitotr.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: March 24, 2022