

ADMINISTRATIVE PANEL DECISION

VFS Global Services Pvt. Ltd. v. Arnon Panyathip, BU Innovation co., Ltd.
Case No. D2022-0522

1. The Parties

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

The Respondent is Arnon Panyathip, BU Innovation co., Ltd., Thailand.

2. The Domain Name and Registrar

The disputed domain name <vfsglobal-thaifasttrack.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2022. On February 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 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 February 16, 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 on February 21, 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 February 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2022. The Respondent did not submit any response. The Center received the Respondent’s communication by email on March 9, 2022. On March 23, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Douglas Clark as the sole panelist in this matter on March 25, 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, which is based in India, 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. The Complainant 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.

The Complainant has successfully processed over 236 million applications since its inception in 2001, and over 104.05 million biometric enrolments since 2007 and operates out of 3,516 Visa Application Centres located in Asia, Africa, Middle East, and Europe of which major operations are based in India. The Complainant's website "www.vfsglobal.com" provides all country specific visa information, visa requirements, application procedure, fee structure, scheduling of interviews etc. The website is accessed by millions every day who seek visa (of various categories and purpose) for United States of America, United Kingdom, Canada, and other countries as the Complainant is exclusively authorized by the government of these countries through their embassies.

The Complainant has registered the trademarks VFS and VFS GLOBAL in numerous countries around the world. In particular, it has registered in Thailand the following marks:

Registration No. 577341 in class 9 for VFS Logo and device registered on April 27, 2006;
Registration No. 1007093 in class 9 for VFS GLOBAL Composite label registered on January 17, 2022;
Registration No. 1007094 in class 16 for VFS GLOBAL Composite label registered on August 7, 2017;
Registration No. 577342 in class 35 for VFS Logo and device registered on March 14, 2006;
Registration No. 1007095 in class 35 for VFS GLOBAL Composite label registered on July 20, 2020;
Registration No. 1007096 in class 38 for VFS GLOBAL Composite label registered on May 30, 2017;
Registration No. 1007097 in class 39 for VFS GLOBAL Composite label registered on May 30, 2017;
Registration No. 1007098 in class 42 for VFS GLOBAL Composite label registered on May 30, 2017;
Registration No. 170138638 in classes 9, 16, 35, 38, 39 for VFS GLOBAL PRIVILEGE registered on July 29, 2020.

The Respondent is an individual and company based in Thailand. The website under the disputed domain name resolves to a website with a page stating "Fast Track Management" and requiring entry of a user name and password.

The Respondent in an email to the Center stated that two years ago they had worked on a project with VFS (Thailand) Ltd with a project name Fasttrack and the disputed domain name had been registered but that use of the disputed domain name had been discontinued.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

The disputed domain name is confusingly similar to its trademark. It incorporates the trademark VFS GLOBAL in its entirety. The addition of the terms "thai", "fast" and "track" in the disputed domain name does

not eliminate the overall notion that the designation is connected to the trademark and the likelihood of confusion that the disputed domain name and the trademark are associated;

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorization or license to use the Complainant's trademark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and

The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name that incorporates the VFS GLOBAL trade mark in its entirety. The Respondent must have known of the Complainant when doing so.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent replied in an email to the Center that two years ago they had worked on a project with VFS (Thailand) Ltd with a project name Fastrack and the disputed domain name had been registered at the time. However, the use of the disputed domain name had been discontinued.

6. Discussion and Findings

6.1 Preliminary Issue: Language of Proceedings

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the language of the Registration Agreement for the disputed domain name is in Japanese. There is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the grounds the Complaint and its representatives were only conversant in English.

The Respondent did not specifically respond to this but wrote an email to the Center in fluent English showing it understood the Complaint.

In accordance with paragraph 11(a) of the Rules and taking into consideration paragraph 10(b) and (c) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the Respondent can clearly understand English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name <vfsglobal-thaifastrack.com> is confusingly similar to the Complainant's trademark. The disputed domain name incorporates the Complainant's VFS GLOBAL trade mark in full with the words "thai", "fast", and "track" added to it. These words do not prevent a finding of confusing similarity. The generic Top-Level Domain ("gTLD") ".com" is generally disregarded when considering the first element.

The Panel finds that the Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent has stated that it was working on a project with VFS (Thailand) Ltd two years ago, but produced no evidence to support this.

Section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") provides:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Complainant has asserted that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's VFS GLOBAL trademark or to apply for registration of the disputed domain name.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests.

It is for the Respondent to rebut this. Assuming the Respondent's statement is true, a business cooperation does not give a party a right to use the other parties' trademarks without consent. The Respondent did not in any event assert that VFS (Thailand) Ltd had given any consent.

Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered, on the Respondent's admission, in full knowledge of the rights the Complainant had in the trade mark VFS GLOBAL and for commercial purposes. The use of VFS GLOBAL was clearly intended to attract consumers to the website. As noted above, the Respondent does not assert it had the Complainant or VFS (Thailand) Ltd's consent to register the disputed domain name which the Panel notes resolves to a page requiring entry of a user name and password thereby presenting a risk of confusion.

For these reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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 <vfsglobal-thaifasttrack.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: April 10, 2022