

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Modestus

Case No. D2022-3258

1. The Parties

Complainant is VFS Global Services PLC (“Complainant”), United Kingdom, represented by Aditya & Associates, India.

Respondent is Modestus (“Respondent”), Nigeria.

2. The Domain Name and Registrar

The disputed domain name <vsfglobaltravels.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2022. On September 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 2, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on September 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 26, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on October 7, 2022 (“Panel”). 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 is an India-based company providing technological and logistics support for foreign embassies and diplomatic missions in India as well as other parts of the world, namely, providing visa outsourcing and technology services specialists for governments and diplomatic missions worldwide. Complainant is the owner of the <vfsglobal.com> domain name and the domain name is the site through which Complainant provides its visa processing services online. Complainant registered the <vfsglobal.com> domain name on February 23, 2005.

Complainant provided evidence that Complainant is the owner of the VFS and VFS GLOBAL trademarks in numerous countries around the world, including, but not limited to Afghanistan, Albania, Algeria, Armenia, Australia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bhutan, Brazil, Chile, China, Colombia, Dominican Republic, Egypt, Georgia, Ghana, India, Iran, Jamaica, Japan, Kazakhstan, Kenya, Kurdistan, Kyrgyzstan, Laos, Macedonia, Mexico, Moldova, Myanmar, New Zealand, Nepal, Nigeria, Palestine, Peru, Singapore, Sri Lanka, Taiwan, Tajikistan, Turkmenistan, Uganda, Ukraine, the United Kingdom, the United States of America, the United Arab Emirates and Uzbekistan. In particular, Complainant is the owner of Indian trademark Reg. No. 1555893 for VFS Global, registered on May 7, 2007. Complainant's trademarks are herein after referred to as the "VFS GLOBAL Mark".

The Domain Name was registered by Respondent on October 21, 2021. The Domain Name has been used for a fraudulent email scheme, but as of the issuance of this decision, the Domain Name does not resolve to a functioning website.

5. Parties' Contentions

A. Complainant

As background, Complainant alleges that it manages the administrative tasks related to visa, passport and consular services for its client governments. Presently Complainant serves 65 sovereign governments in 141 countries. Since its formation in 2001, Complainant has processed over 240 million visa applications, over 105.97 million biometric enrolments since 2007, and operates out of 3,541 visa application centers located in Asia, Africa, the Middle East, and Europe.

Complainant contends that the Domain Name should be transferred to Complainant because Complainant has established each of the three elements as required in paragraph 4(a) of the Policy.

With respect to the first element of the Policy, Complainant contends that the Domain Name is a classic example of typosquatting and as such the Domain Name is confusingly similar to Complainant's VFS GLOBAL Mark. Specifically, Complainant contends that Respondent has merely transposed the letters F and S in Complainant's VFS GLOBAL Mark in the Domain Name. Complainant further contends that the addition of the generic/descriptive wording TRAVELS does not prevent the Panel from finding that the Domain Name is confusingly similar to Complainant's VFS GLOBAL Mark.

With respect to the second element of the Policy, Complainant alleges that Respondent does not have any rights or legitimate interests in the Domain Name because Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized Respondent to register or use the VFS GLOBAL Mark nor is Respondent commonly known by the name "VSF" or "VSF GLOBAL" or "VSF GLOBAL TRAVEL". Complainant further contends that Respondent has used the Domain Name in connection with an email that was used in an attempt to fraudulently secure payment from one of Complainant's customers.

With respect to the third element of the Policy, Complainant alleges that Respondent's registration and use of the Domain Name in bad faith is evidenced by the combination of (i) Respondent's lack of any rights or legitimate interest in the Domain Name, (ii) Respondent knew of Complainant and Complainant's prior existing rights in the VFS GLOBAL Mark, and (iii) despite the foregoing Respondent still registered the

Domain Name and then used it in connection with an email that was used in an attempt to fraudulently secure payment from one of Complainant's customers. As further evidence of bad faith, Complainant provided evidence that on July 14, 2022, Complainant received a query on Complainant's Customer Care account from an individual seeking to ascertain the legitimacy of an email that this individual had received from "[...][@vsfglobaltravels.com](mailto:vsfglobaltravels.com)". In this email a person claiming to be Mr. Lopez of "VSF GLOBAL TRAVELS LIMITED MADRID SPAIN" requested payment for processing of certain documents to properly complete job placement related formalities in Spain. Complainant contends this is evidence that the Domain Name has been used for fraudulent activity.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kasso Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. On this point, Complainant has provided sufficient evidence that Complainant is the owner of existing trademark rights in the VFS GLOBAL Mark.

As discussed in the [WIPO Overview 3.0](#), paragraph 1.9, the consensus view is that "a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element". Similarly, previous UDRP panels have consistently held that "a mere addition or a minor misspelling of Complainant's trademark does not create a new or different mark in which Respondent has legitimate rights". *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. [D2008-1302](#) ("Such insignificant modifications to trademarks is commonly referred to as 'typosquatting' or 'typo-piracy,' as such conduct seeks to wrongfully take advantage of errors by users in typing domain names into their web browser's location bar.") The spelling errors used in typosquatting have been found to produce domain names that are confusingly similar to the marks which they mimic. See, e.g., *Yahoo! Inc. and GeoCities v. Data Art Corp. et al.*, WIPO Case No. [D2000-0587](#). Here, the Domain Name is comprised of an obvious

misspelling of Complainant's VFS GLOBAL Mark, namely, Respondent has merely transposed the letters "F" and "S" in VFS of the VFS GLOBAL Mark. It is well established, and the Panel agrees, that typosquatting domain names constitute confusing similarity. See, *First American Financial Corporation v. VistaPrint Technologies Ltd*, WIPO Case No. [DCO2016-0008](#).

Furthermore, it is also well-established that the addition of a generic or descriptive word to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."); *Mastercard Int'l Inc. v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v. Kitchkulture*, WIPO Case No. [D2002-0158](#); and *DHL Operations B.V., et al. v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). Here, the addition of the descriptor "TRAVELS" to the misspelled VFS GLOBAL Mark to create the Domain Name does not prevent the Panel from finding that the Domain Name is confusingly similar to Complainant's VFS GLOBAL Mark.

For all of the reasons set forth above, the Panel finds that Complainant owns valid and subsisting trademark rights in the VFS GLOBAL Mark and that the Domain Name is confusingly similar to Complainant's VFS GLOBAL Mark. Accordingly, Complainant has satisfied the requirements of Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant needs only to make a *prima facie* case showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Name. If Respondent has failed to do so, then Complainant is deemed to have satisfied its burden of production under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); and *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

Complainant contends Respondent is not commonly known by the Domain Name of the names VSF or VSF GLOBAL that would establish any rights or legitimate interest in the registration of the Domain Name nor has Complainant authorized Respondent to register the Domain Name. Furthermore, Complainant contends that Respondent has not demonstrated any attempt to use the Domain Name in connection with a *bona fide* offering of goods or services, rather, there can be no right or legitimate interest in holding a domain name for the purpose of trading upon Complainant's VFS GLOBAL Mark in furtherance of an Internet fraud.

Respondent has not denied any of Complainant's assertions and has not put forth any evidence showing that it has a right or legitimate interest in the Domain Name. The Panel observes that the Domain Name does not resolve to any active webpage, but rather has been used to send email in an attempt to fraudulently secure payment from one of Complainant's client's by taking advantage of the confusion with the VFS

GLOBAL Mark created by the Domain Name.

Moreover, the Panel finds that the purpose of registering the Domain Name was to engage in an email scam or a phishing scheme, none of which is a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1 (“Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”); see also, *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#) (finding that the respondent had no rights or legitimate interests in the disputed domain name holding, “such phishing scam cannot be considered a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name”). The undisputed evidence of impersonation, deception and fraud nullifies any possible basis for the acquisition of rights or legitimate interests by Respondent. See *Afton Chemical Corporation v. Meche Kings*, WIPO Case No. [D2019-1082](#).

Based on the foregoing, Complainant has made a *prima facie* case showing of Respondent’s lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the panel may draw such inference from Respondent’s default as it considers appropriate.

The panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Here, Respondent registered the Domain Name to perpetrate a phishing scheme. Complainant’s VFS GLOBAL Mark was intentionally chosen when the Domain Name was registered with the intent to impersonate Complainant for the purpose of misleading Complainant’s clients. In light of the evidence demonstrating the fraudulent use of the Domain Name, there could be no other legitimate explanation except that Respondent intentionally registered the Domain Name to cloak its actions and deceive recipients into believing the emails were from Complainant. The Domain Name does not appear to have been registered for any other purpose as the Domain Name does not resolve to an active website. Such activity constitutes a disruption of Complainants’ business and also establishes bad faith registration and use. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (finding bad faith based upon the similarity of the disputed domain name and the complainant’s mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.)

In addition, the use of a deceptive domain name for an email scam has previously been found by panels to be sufficient to establish that a domain name has been registered and is being used in bad faith. See *Samsung Electronics Co., Ltd. v. Albert Daniel Carter*, WIPO Case No. [D2010-1367](#); and *Securitas AB, supra*, WIPO Case No. [D2013-0117](#).

Complainant has put forth sufficient evidence to establish that Complainant’s VFS GLOBAL Mark is well-known across multiple countries to be worthy of investing the effort of running a fraudulent scheme. Complainant asserts that Respondent registered the Domain Name to send emails impersonating Complainant in an effort to secure fraudulently obtained payments from Complainant’s clients. Such activity would constitute a disruption of Complainants’ business and also establishes bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (Finding bad faith based upon the similarity of the disputed domain name and the complainant’s mark, the fact that the complainant is a well-known global security company and the fact

that the disputed domain name is being used to perpetrate an email scam.) As discussed above, Respondent used Complainant's name when communicating with third parties with the fraudulent purpose of misleading third parties. In light of the actions undertaken by Respondent, it is inconceivable that Respondent coincidentally selected the Domain Name without any knowledge of Complainants. See e.g., *Arkema France v. Steve Co., Stave Co Ltd.*, WIPO Case No. [D2017-1632](#).

Moreover, in finding a disputed domain name used only for an email scam was bad faith, the panel in *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#), pointed out that numerous UDRP panels have found such impersonation to constitute bad faith, even if the relevant domain names are used only for email communications. See, e.g., *Terex Corporation v. Williams Sid, Partners Associate*, WIPO Case No. [D2014-1742](#) ("Respondent was using the disputed domain name in conjunction with...an email address for sending scam invitations of employment with Complainant"); and *Olayan Investments Company v. Anthono Maka, Alahaji, Koko, Direct investment future company, ofer bahar*, WIPO Case No. [D2011-0128](#) ("although the disputed domain names have not been used in connection with active web sites, they have been used in email addresses to send scam emails and to solicit a reply to an 'online location'").

For the reasons set forth above, the Panel holds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy and has established that Respondent registered and is using/used the Domain Name in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that Domain Name, <vsfglobaltravels.com>, be transferred to Complainant.

/John C. McElwaine/

John C. McElwaine

Sole Panelist

Date: October 20, 2022