

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. NICHOLAS GUGLIELMO
Case No. D2022-3715

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom (“UK”), represented by AA Thornton IP LLP, UK.

The Respondent is NICHOLAS GUGLIELMO, United States of America (“US”).

2. The Domain Name and Registrar

The disputed domain name <careers-virgin-atlantic.com> (the “Domain Name”) is registered with Squarespace Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 5, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 6, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 10, 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 October 12, 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 October 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 10, 2022.

The Center appointed Gregor Vos as the sole panelist in this matter on November 29, 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 part of the Virgin Group based in the United Kingdom and owner of various trademarks and domain names. The Complainant's company operations span a diverse range of sectors covering financial services, health and wellness, music and entertainment, people and planet, telecommunications and media, travel and leisure, and space. The Complainant has been operating since 1970 and has 60,000 employees and more than 50 million customers worldwide.

The Complainant is the owner of *inter alia* the following European Union ("EU"), UK, US, and international trademark registrations (hereinafter jointly referred to as the "Trademarks"):

- EU Registration No. 1798560 for VIRGIN registered on June 5, 2002;
- US Registration No. 2808270 for VIRGIN ATLANTIC registered on January 27, 2004;
- EU Registration No. 14030589 for VIRGIN ATLANTIC registered on October 12, 2015;
- UK Registration No. 3107251 for   registered on November 20, 2015;
- UK Registration No. 3163127 for  registered on July 29, 2016;
- EU Registration No. 15404841 for  registered on December 2, 2016.

Further, it is undisputed that the Complainant is the holder of *inter alia* the following domain names:

- <virgin.com>, registered on September 10, 1997;
- <virginatlantic.com>, registered on October 22, 1998;
- <virginatlanticcargo.com>, registered on June 13, 2010.

The Domain Name was registered on August 19, 2022. On the filing date of the Complaint, the Domain Name resolved to a webpage on which a recruitment website was offered that mimics a website of the Complainant.

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to the Trademarks. The Trademarks are incorporated in the Domain Name in their entirety with the mere addition of the generic, descriptive term "careers" and hyphens.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent holds no relevant trademark registrations and has never received a license or any other form of authorization from the Complainant to use the Trademarks. Additionally, the Respondent did

not use the Domain Name in connection with a *bona fide* offering of goods or services, the Respondent is not commonly known by the Domain Name and the Respondent does not make a legitimate noncommercial or fair use of the Domain Name. On the contrary, the Respondent uses the Trademarks on the website connected to the Domain Name and reproduces images from a legitimate website of the Complainant, which amounts to copyright infringement.

Finally, according to the Complainant, the Respondent has registered and uses the Domain Name in bad faith. The Respondent deliberately attempts to confuse internet users into believing that the Respondent's website is a service provided by, connected to or endorsed by the Complainant. Correspondingly, according to the Complainant, the Respondent attempts to capitalize on the Complainant's Trademarks by gathering personal details from consumers, likely for the purpose of phishing for illegitimate commercial gain, which will tarnish the Complainant's Trademarks. Considering the well-known character of the Complainant's Trademarks, it is improbable that the use of the Domain Name by the Respondent is an act of good faith. Finally, in the event that the Respondent would offer a legitimate business through the Domain Name, the nature of the Respondent's relationship to the Complainant is not made sufficiently clear.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a), and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- ii. the 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.

Only if all three elements have been fulfilled, the Panel is able to grant the remedies requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered confusingly

similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Name. The addition of the term “careers” and the use of hyphens between the elements does not prevent a finding of confusing similarity with the Trademarks (see sections 1.8 and 1.11 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The *onus* of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-exhaustive examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to rebut the *prima facie* case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present. Moreover, the construction of the Domain Name and the impersonating nature of the content found at the Domain Name affirm the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the Domain Name and Complainants as to the origin or affiliation of the website at the Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-exhaustive circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant’s rights to the Trademarks predate the registration date of the Domain Name. In light of the well-known character of the Trademarks, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant’s activities and its Trademarks under which the Complainant is doing business. The well-known character and strong reputation of the Trademarks of the Complainant has been confirmed by earlier UDRP panels (see e.g. *Virgin Enterprises Limited v. Mars Out*, WIPO Case No. [D2017-2335](#)).

Furthermore, in light of the lack of any rights to or legitimate interest in the Domain Name by the Respondent and in the absence of any conceivable good faith use of the Domain Name, the Panel finds from the present circumstances that 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 Trademarks as to the source, sponsorship, affiliation or endorsement. This is reinforced by the fact that the Respondent has attempted to mimic a legitimate website of the Complainant and used the Complainant’s Trademarks and copyrighted images on its website.

Therefore, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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 <careers-virgin-atlantic.com> be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: December 13, 2022