

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Vadzim Mardan
Case No. D2022-4296

1. The Parties

The Complainant is VFS Global Services PLC, United Kingdom, represented by Aditya & Associates, India.

The Respondent is Vadzim Mardan, Belarus.

2. The Domain Name and Registrar

The disputed domain name <vfsglobal2.com> (the “Disputed Domain Name”) is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 11, 2022. On November 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 14, 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 (“Not Available”) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 November 15, 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 November 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2022. The Respondent did not file a substantive response, but sent informal emails on November 14, 15, 22, and 25, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on December 21, 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 part of the VFS Group of Companies, which provides services related to outsourcing and technology. The Complainant also provides technological and logistics support services, such as visa application assistance, to various Foreign Embassies and Diplomatic Missions in India as well as in other parts of the world. Since its incorporation in 2001, the Complainant experienced rapid growth in India and at present has a presence in many jurisdictions worldwide.

The Complainant owns numerous trademarks worldwide, including, but not limited to: VFS GLOBAL, Indian Trademark Registration No. 1555893 in international class 09; and VFS GLOBAL and device, Belarus International Trademark Registration No. 1250991 in international classes 9, 16, 35, 38, 39, and 42 (where the Respondent purportedly resides). The Complainant also owns numerous trademarks worldwide for VFS. The foregoing referenced trademarks (VFS and VFS GLOBAL) will collectively be referred to as the "VFS GLOBAL Mark."

The Complainant states that its VFS GLOBAL Mark has become synonymous with quality services of visa administration and management provided by the Complainant and its group companies. The Complainant has also acquired a positive reputation and goodwill regarding the unique services provided by the Complainant.

The Complainant owns the domain name <vfsglobal.com>, which it registered on February 23, 2005, and resolves to its official website at "www.vfsglobal.com".

On November 2, 2022, the Complainant sent a notice by email to the Registrar and the Respondent of the Disputed Domain Name. An acknowledgement was received from the Registrar, although no reply was received from the Respondent.

The Disputed Domain Name was registered on April 23, 2022. The Respondent used the Disputed Domain Name to create email addresses to deceive the public into thinking that the emails incorporating the Disputed Domain Name belonged to Complainant. As of the writing of this Decision, the Disputed Domain Name resolves to an error landing page that states: "This site can't be reached. [the] server IP address could not be found."

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's VFS GLOBAL Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- the Disputed Domain Name was registered and is being used in bad faith.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent did not file a substantive response, but sent informal emails on November 14, 15, 22, and 25, 2022 stating things like “Who are you anyway? I don’t need this domain. I can remove it. What are the questions?” and “I am deleting a domain name. I don’t need it”.

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry, a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the VFS GLOBAL Mark.

It is uncontroverted that the Complainant has established rights in the VFS GLOBAL Mark based on its fame as well as its numerous registered trademarks for the VFS GLOBAL Mark in jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case”. Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the VFS GLOBAL Mark.

The Disputed Domain Name consists of the VFS GLOBAL Mark in its entirety followed by the number “2”, and then followed by the generic Top-Level Domain (“gTLD”) “.com”. It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of [WIPO Overview 3.0](#), “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”. The mere addition of a single digit number, such as 2, to the Complainant’s VFS GLOBAL Mark to create the Disputed Domain Name <vsglobal2.com> cannot prevent confusing similarity. See *e.g.*, *Government Employees Insurance Company v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-1401](#) (finding confusing similarity for <1geico.com> with GEICO, stating that “[t]he addition of a number to a trademark does not prevent the confusing similarity that exists between the disputed domain name and the Complainant’s trademark”).

Finally, the addition of a gTLD such as “.com” in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Disputed Domain Name is confusingly similar to the Complainant’s VFS GLOBAL Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its VFS GLOBAL Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c). Rather, the Respondent used the VFS GLOBAL Mark for commercial gain and to deceive Internet users who mistakenly believed that they arrived at the Complainant's official website.

Moreover, the composition of the Disputed Domain Name, comprising the entirety of the VFS GLOBAL Mark, carries a risk of implied affiliation and cannot constitute fair use here, as it effectively suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by defrauding the Complainant's customers. Such use cannot conceivably constitute a *bona fide* offering of a product/service within the meaning of paragraph 4(c)(i) of the Policy.

In sum, the Panel finds that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, the Panel finds that the Respondent's registration and use of the Disputed Domain Name indicate that such registration and use has been done for the specific purpose of trading on the name and reputation of the Complainant and its VFS GLOBAL Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark").

Second, the Disputed Domain Name was registered more than 20 years after the Complainant first used and registered its VFS GLOBAL Mark. Therefore, the Panel finds that the Respondent had the Complainant's trademark in mind when registering the Disputed Domain Name, an indication of bad faith. Moreover, the Panel finds that the Respondent had actual knowledge of the Complainant's VFS GLOBAL Mark and targeted the Complainant when it registered the Disputed Domain Name, demonstrating the Respondent's bad faith. Considering the strong reputation of the Complainant in the visa administration industry, the Panel

finds that the Respondent was aware of the Complainant, the VFS GLOBAL Mark, and the Complainant's official website at "www.vfsglobal.com". Thus, the Respondent's knowledge of the foregoing demonstrates that the Disputed Domain Name was registered and is used in bad faith.

Third, the Panel concludes that the Respondent registered the Disputed Domain Name for the purpose of trading on the Disputed Domain Name for financial gain and/or for the purpose of taking a free ride on the Complainant's reputation worldwide and disrupting the Complainant's business

Finally, Internet users have used the email addresses created by the Respondent consisting of the Disputed Domain Name, believing that that the email was the official email address of the Complainant. By registering a confusingly similar domain name and by using email addresses incorporating the Disputed Domain Name, the Respondent has misrepresented to third parties that its business is an authorized service provider and/or is associated with the business carried on by the Complainant. Such conduct demonstrates that the Respondent was acting in bad faith.

Accordingly, in the absence of a Response or any evidence to the contrary, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <vfsglobal2.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: January 4, 2023