

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC. v. Ajay Kumar
Case No. D2022-4378

1. The Parties

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

The Respondent is Ajay Kumar, United States of America.

2. The Domain Name and Registrar

The disputed domain name <vfs-helpline.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 17, 2022. On November 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 November 25, 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 December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 29, 2022.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on January 12, 2023. 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 VFS Global Group comprises VFS Global Services PLC of London, England as one of its companies. The latter is in the business of providing services relating to outsourcing and technology supporting visa processing procedures for many countries. The Complainant serves diplomatic missions of 66 sovereign governments in 144 countries.

The Complainant has registered the marks VFS and VFS Global in numerous jurisdictions, including India, New Zealand, Nigeria, Bangladesh, Uganda, Ukraine, Sri Lanka, China, Australia, Ghana, Kenya, and Japan. The Complainant has supplied the registration numbers for these registered trade marks. In 2001 the Complainant adopted the distinctive trademark VFS, which it has used, with or without the word “global”, as part of its corporate name/trading name in respect of the services mentioned above. For example, Indian Trademark Registration VFS No. 1126304, registered on August 14, 2002, and a number of registrations for the VFS GLOBAL device mark for goods and services in classes 9, 16, 35, 38, 39 and 42.

The Complainant operates a website at “www.vfsglobal.com”.

The disputed domain name was registered on July 31, 2022. The disputed domain name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant says that due to its continuous, extensive, uninterrupted and exclusive global use of the trademark VFS/ VFS GLOBAL, that mark has become absolutely distinctive. It says that VFS and VFS GLOBAL has acquired very extensive goodwill in respect of its unique services. It maintains that the public at large associates the term, “VFS” exclusively with the visa processing services provided by the Complainant, not only in India but in several countries.

Not only is the Complainant the registered owner and proprietor of the trademarks VFS and VFS GLOBAL, it is also the Registrant of domain name <vfsglobal.com>, registered on February 23, 2005.

The Complainant points out that it wrote to the Registrar for the disputed domain name twice with a complaint about fraudulent activity at the website to which the disputed domain name resolved, but without reply, which compelled it to initiate the present proceedings.

The Complainant submits that the essential and significant part of the disputed domain name “VFS-helpline” is “vfs” and “helpline” which is confusingly similar to the Complainant’s domain names <vfsglobal.com> and <vfshelpline.com> and/or the trade name “VFS GLOBAL Services” and/or the trademarks in which the Complainant has rights on the basis of prior adoption, continuous and extensive use, and registrations.

The term “VFS” is the most dominant and important element of Complainant’s trademarks and trade name and website, and even the most attentive or cautious user can get confused due to the presence of the term “VFS” in the disputed domain name, according to the Complainant. Moreover, while searching for the Complainant’s genuine helpline number, the user may be diverted towards the disputed domain name due to the presence of terms like “VFS” and “Helpline”. Further, the addition of the hyphen between “VFS” and “Helpline” does not lessen confusion, and users may think that the disputed domain name is nothing but some interconnected website of the Complainant, says the Complainant.

Further, the Complainant asserts that the disputed domain name’s essential, influential and most dominant part is “VFS”, which is identical to the Complainant’s domain names and registered trademarks VFS and VFS GLOBAL. The Complainant also points out that it keeps watch very vigilantly given the nature of its

confidential services and has brought numerous proceedings under the UDRP as a result. It lists eight such matters. The use and registration of the trademarks VFS and VFS GLOBAL and registration of the domain names <vfsglobal.com> and <vfshelpline.com> predate the Respondent's registration of the disputed domain name by more than 20 years.

The Complainant further states that the term "VFS" is distinctive and that there is no way the Respondent could adopt "VFS" as a part of the disputed domain name unless having prior knowledge of the Complainant and the nature of its services.

Further the Complainant points out that "VFS" does not in any way reflect the Respondent's name. The latter, to the best of the Complainant's knowledge, does not own any trademark registrations reflecting "VFS" (the predominant component of the disputed domain name) in any country; and the Respondent has not acquired any reputation and/or goodwill in relation to the term "VFS" in any country. The Complainant also confirms that it has never granted the Respondent any right, license, authorization or consent to use the trademark or trade name VFS or any variation thereof anywhere in the world.

The Complainant contends that the use of the disputed domain name <vfs-helpline.com> in respect of visa services causes absolute confusion as to the source of the services rendered. The Complainant emphasises that it is exclusively authorized and appointed by the Governments of various countries to carry out their visa administration and management work in many countries (and centres). Further, the visa applications and issuances comprise highly confidential data and information. Thus, taking advantage of the popularity of the Complainant's said services, the Respondent's adoption of a confusingly similar domain name (<vfs-helpline.com>), means that the public in general can easily relate the disputed domain name with the Complainant's genuine services. The Complainant asserts that the registration and use of the disputed domain name is unjustified, unlawful, unauthorized, and dishonest. The unauthorized and fraudulent use also amounts to trading upon the reputation and goodwill of the Complainant's distinctive trademark and their services, which are mainly provided through their website "www.vfsglobal.com".

The Complainant says that by referring to the disputed domain name, people in general are getting confused and believing that it is related or connected to the Complainant and are sharing their valuable personal information with the Respondent. The Respondent is said to be taking undue advantage of such information which is ultimately affecting the painstakingly earned reputation and goodwill of the Complainant. In that context the Complainant says that on August 8, 2022, it received a query on its Customer Care ID *i.e.*, [...]@vfsglobal.com which revealed that the Respondent is using the email address ([...])@vfs-helpline.com) to misrepresent its association with the Complainant. Such queries clearly reflect the dishonest intentions of the Respondent, *i.e.* to use the disputed domain name for its own benefit by way of cheating people in the name of easy visa processing services or employment, so the Complainant maintains.

The Complainant also says that the fact that the Respondent has registered disputed domain name without having any right or legitimate interests in it constitutes clear evidence of bad faith on its part. This is particularly the case when the domain name reflects what the Complainant refers to as a famous trademark owned by a third party with whom the registrant has no relationship. The Complainant also submits that, in light of its extensive worldwide reputation vesting in VFS and VFSGLOBAL, the Respondent must have known about the Complainant's rights at the time of registering the disputed domain name. The Respondent's registration of the latter cannot be *bona fide* in circumstances where the registration was made in the full knowledge of the Complainant's prior rights in relation to the mark VFS and in circumstances where the Respondent did not seek permission from the Complainant to seek such registration.

In light of these facts, the Complainant says that the non-use or passive holding of the disputed domain name by the Respondent in future, must also amount to its use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is not identical to the VFS registered trademark of the Complainant. However, it includes that trademark in its entirety, in a manner that is both highly visible, separated as it is from the term 'helpline' by a hyphen, and immediately recognizable. The addition of the term 'helpline' and the hyphen does not prevent a finding of confusing similarity between the trademark and the disputed domain name. This is sufficient for the first element of the Policy to be satisfied.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the registered trademark VFS of the Complainant.

B. Rights or Legitimate Interests

The Respondent has not replied to any of the contentions of the Complainant. There is no evidence before the Panel that the Respondent is known by the disputed domain name, "VFS" or "VFS-helpline" or has legitimately acquired rights in those terms in any jurisdiction, for instance by registration or prior use. The Respondent has not been authorized to use the VFS trademark in any way by the Complainant. There is no evidence of non-commercial or *bona fide* use of the disputed domain name, and indeed the only active use the Respondent has made of it appears to be to masquerade as an officer of the Complainant by its misleading use in the email address [...]@vfs-helpline.com. This activity, *i.e.*, attempting to deceive recipients into disclosing confidential information, is not of a nature to vest rights or legitimate interests in the party that engages in it. On the contrary, it evidences a dishonest attempt to gain an advantage to the detriment of the Complainant, for whom confidentiality of personal information shared by genuine customers is of paramount importance.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

On the date the disputed domain name was registered, the Complainant had long acquired goodwill and a widespread reputation in the VFS trademarks, in relation to visa processing services. It is apparent from the composition of the mark that the Respondent was fully aware of the Complainant and its exclusive rights in the VFS marks. In any case, it is difficult to accept that the Respondent was unaware of the Complainant and its global reputation at the time, something a simple Google search would also have revealed immediately.

The disputed domain name does not resolve to an active website, but the Respondent seems to have attempted to deceive consumers by utilizing an email address incorporating the disputed domain name as an extension, in an attempt to obtain confidential data in a fraudulent manner. This is further evidence, if any was required, of bad faith use of the disputed domain name by the Respondent.

Therefore, the Panel holds that the disputed domain name was registered and used 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 the disputed domain name <vfs-helpline.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: January 26, 2023