

ADMINISTRATIVE PANEL DECISION

VKR Holding A/S v. Marlon Wood

Case No. D2022-4593

1. The Parties

Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Marlon Wood, United States of America.

2. The Domain Name and Registrar

The disputed domain name <veluxdigital.com> (the “Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent (Whois Agent (835055971), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on December 15, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 20, 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 Respondent of the Complaint, and the proceedings commenced on December 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 12, 2023.

The Center appointed Clive L. Elliott, K.C., as the sole panelist in this matter on February 7, 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

Complainant is the parent company of the VELUX Group. Through its subsidiaries, it offers roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products.

Complainant was founded in 1941, with the first roof window patented in 1942. The name VELUX was created from “ve” from the word ventilation and “lux” from the Latin word for light. Today Complainant consists primarily of the VELUX Group and the DOVISTA Group. The VELUX Group is based in Denmark and is an international company with a presence in 40 countries.

Complainant is the owner of the VELUX trade mark registrations in many jurisdictions, including, but not limited to the following (“Complainant’s Mark”):

Jurisdiction	Registration No	Registration Date	Class
Denmark	1986 02340	August 29, 1986	06, 19, 20, 24
European Union	000651869	July 16, 2004	06, 09, 16, 19, 20, 22, 24, 37, 41, 42
China	211705	August 15, 1984	06
Australia	295005	March 11, 1976	19
United States of America	1091446	May 16, 1978	19
United States of America	1492904	June 21, 1988	06, 19, 20
United States of America	1507176	October 4, 1988	19
International	928560	March 28, 2007	19, 20, 24, 37

Complainant promotes and provides information about its VELUX brand and products at “www.velux.com” (Complainant’s website).

According to the publicly available WhoIs, the Domain Name was registered on June 16, 2022. The Domain Name currently resolves to an active website displaying pay-per-click links.

5. Parties’ Contentions

A. Complainant

Complainant asserts that the Domain Name is confusingly similar to Complainant’s Mark as it includes Complainant’s Mark in its entirety, with the addition of the descriptive term “digital”. Complainant states that the term “digital” is closely linked and associated with Complainant’s Mark and serves to underscore and increase the confusing similarity between the Domain Name and Complainant’s Mark. More specifically, Complainant states that it provides “digital” tools to help professionals with data and performance evaluation to assist in building design which can be found at “https://www.velux.com/what-we-do/digital-tools”.

Complainant states that it has not granted Respondent permission to use Complainant's Marks in any manner, and notes that Respondent is using the Domain Name to redirect Internet users to a website featuring links to third-party websites, some of which directly compete with Complainant's business. Complainant also asserts that Respondent's website features a link that directly references Complainant and its business. Complainant submits that Respondent is not using the Domain Name to provide a *bona fide* offering of goods or services and as such is trying to capitalize on Complainant's fame and goodwill.

Complainant asserts that the Domain Name significantly postdates the registration of Complainant's Mark and Complainant's website. Complainant claims that the Domain Name has been registered and is being used in bad faith for Respondent's own commercial gain by creating a likelihood of confusion.

Finally, Complainant states that it received no reply to its cease and desist letter dated September 21, 2022.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant is the owner of number of trade mark registrations, including in the United States of America, as set out above and referred to as Complainant's Mark.

The Domain Name reproduces Complainant's Mark, VELUX in its entirety. The Domain Name also includes the English word "digital". The inclusion or addition of the word "digital" does not prevent a finding of confusing similarity. See section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Further, Complainant's Mark is recognizable in the Domain Name. See section 1.7 of [WIPO Overview 3.0](#).

The Domain Name is therefore confusingly similar to Complainant's Mark. The first ground under the Policy is made out.

B. Rights or Legitimate Interests

Complainant contends that Respondent is using the Domain Name in an improper manner. In particular, Complainant asserts that Respondent is using the Domain Name to redirect Internet users to a website featuring links to third-party websites. Complainant states that certain of these websites compete with Complainant's business and that to compound matters, Respondent's website features a link that directly references Complainant and its business.

On the face of it, this does not represent a *bona fide* offering of goods or services. Instead, it appears to be an attempt to both reference and draw on Complainant's good name and reputation. Given the profile and reputation of Complainant, including in the United States of America, these allegations call for a response. In the absence of any response to Complainant's contentions, the Panel considers that the allegations have merit and infers that Respondent has used the Domain Name to potentially mislead Internet users.

Further, the Panel finds that Respondent's activities do not constitute a *bona fide* offering of goods and/or services and that Respondent does not have rights or legitimate interests in the Domain Name.

Accordingly, the second ground under the Policy is established.

C. Registered and Used in Bad Faith

In terms of assessing bad faith, the Panel again notes that Respondent has failed to respond or explain himself, when it was incumbent on him to do so. The Panel takes into account the following factors: that the Domain Name is confusingly similar to Complainant's Mark, that Complainant has been using and trading under Complainant's Mark for number of years before the Domain Name was registered, and that the Domain Name was registered with the requisite knowledge on Respondent's part and has since been used in a manner likely to mislead members of the public.

Having done so, the Panel concludes that the Domain Name was registered and used in bad faith.

Complainant has therefore established the third ground under 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 Domain Name, <veluxdigital.com>, be transferred to the Complainant.

/Clive L. Elliott, K.C./

Clive L. Elliott, K.C.

Sole Panelist

Date: February 21, 2023