

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Apostle King

Case No. D2022-4989

1. The Parties

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

The Respondent is Apostle King, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <immgt-nzvfsglobal.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 December 26, 2022. On December 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 28, 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 December 29, 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 December 30, 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 January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 26, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on February 1, 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 Complainant is part of the VFS Global-Group and operates 3,539 Visa Application Centers located in Asia, Africa, Middle East, and Europe of which major operations are based in India. The Complainant e.g. provides global business process outsourcing and technology services as well as technological and logistics support services to various Foreign Embassies and Diplomatic Missions in India as well as in other parts of the world, including United States of America, Canada, UK, Australia, and New Zealand.

The Complainant and its VFS Global-Group companies are the owners of numerous trademarks for VFS and VFS GLOBAL (“VFS GLOBAL trademarks”), including, among others:

- Indian trademark registration VFS GLOBAL No. 1555893, registered on May 7, 2007
- New Zealand trademark registration VFS GLOBAL No. 801423, registered on January 16, 2009
- UK trademark registration VFS. GLOBAL EST. 2001 No. 00003045463, registered on July 11, 2014
- International trademark registration VFS. GLOBAL EST.2001 No. 1250991, registered on September 5, 2014

The VF Worldwide Holdings Limited, as part of the VFS Global-Group, is owner of the domain name <vfsglobal.com>, which was registered on February 23, 2005.

The Respondent registered the disputed domain name on November 2, 2022. Currently, an error page appears when accessing the website. Pursuant to the evidence provided by the Complainant, and as further described below, the disputed domain name has been used for a fraudulent email scheme.

5. Parties’ Contentions

A. Complainant

The arguments put forward by the Complainant can be summarized as follows:

On the first element of the Policy, the Complainant claims that the disputed domain name is identical or confusingly similar to the Complainant’s VFS GLOBAL trademarks and domain name. The Complainant having presence since several years, has gained reputation and goodwill as well as people’s trust. Moreover, while searching for the Complainant, the user may be diverted towards the disputed domain name due to presence of similar terms. As the Complainant is mandated by the Government of New Zealand to process and administer its visa-related services, use of the disputed domain name misleads or deceives any lay person or person interested to apply for visa for New Zealand for any purpose. The word “immgt” indicates immigration, “nz” indicates New Zealand Visa Services, and “vfsglobal” clearly seems the official site of the Complainant. Thus, the whole disputed domain name when read together misleads and confuses the people who intend to know about the Complainant or apply for visa for New Zealand.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant’s use and registration of the Complainant’s VFS GLOBAL trademarks and their domain name predates the Respondent’s registration of the disputed domain name by more than 20 years. “Vfsglobal” being the predominant, essential, and only relevant component of the disputed domain name as well as “nz” and “immgt” being suggestive of the Complainant’s business, does not in any way reflect the Respondent’s name. The Respondent does, to the best of the Complainant’s knowledge, not own any trademark registrations reflecting the terms “vfs” or

“vfsglobal” and has not acquired any reputation and/or goodwill in the terms “vfs” and “vfsglobal” in any country. At the outset, the Complainant confirms that it has not, nor has it ever, granted the Respondent any right, license, authorization or consent to use its VFS GLOBAL trademarks or trade name VFS and VFSGLOBAL in India or elsewhere.

On the third element of the Policy, the Complainant asserts that considering its extensive worldwide reputation on the VFS GLOBAL trademarks and trade name VFS or VFS GLOBAL, the Respondent must have known about the Complainant’s rights and its services at the time of registering the disputed domain name. The Respondent’s registration of the disputed domain name cannot be *bona fide* in circumstances where the registration was made in the full knowledge of the Complainant’s prior rights and in circumstances where the Respondent did not seek permission from the Complainant to such registration. Further, the Respondent must have been aware of the Complainant’s services, prior rights and interest with respect to the Complainant’s domain name and/or trademarks and/or trade name because the Respondent intentionally adopted the disputed domain name in order to deceive the public at large and to misguide them by sending fraudulent emails under the email address “[...]@immgt-nzvfsglobal.com” associated with the disputed domain name. The Respondent’s knowledge of the Complainant’s reputation and goodwill with respect to the VFS GLOBAL trademarks and the unique services offered and rendered thereunder for providing visa-related services undoubtedly leads to the assumption that the Respondent registered the disputed domain name for the purpose of trading the disputed domain name for financial gain and/or otherwise for the purpose of taking a free ride on, and leveraging off, the Complainant’s reputation all over the world.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

It has been a consensus view in previous UDRP decisions that a respondent’s default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant is registered as the owner of several trademarks containing the term “vfs global”. Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the VFS GLOBAL trademarks.

The disputed domain name contains the VFS GLOBAL trademarks entirely with the addition of the terms “nz” and “immgt” as well as a hyphen and the generic TLD (“gTLD”) “.com”. Section 1.8 of [WIPO Overview 3.0](#) states: “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 nature of such additional term(s) may however bear on assessment of the second and third elements”. Further, section 1.11.1 of [WIPO Overview 3.0](#) states: “The applicable TLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” The gTLD “.com” will therefore be discounted in the Panel’s consideration of confusing similarity. Furthermore, the addition of a hyphen does not prevent a finding of identity or confusing similarity (see *The Channel Tunnel Group Ltd. v. John Powell*, WIPO Case No. [D2000-0038](#)). The Panel finds that the relevant trademark “vfs global” within the disputed domain name is recognizable, so that the additional material does not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#), states, “where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

According to the Complainant, the Complainant has not authorized the Respondent to use the Complainant’s trademarks, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. In addition, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant given the addition of terms related to the Complainant’s visa-related services in New Zealand (see [WIPO Overview 3.0](#), section 2.5.1). Such risk was clearly the intent of the Respondent given the fraudulent email scheme behind the disputed domain name whereby the Respondent sought to impersonate the Complainant. Prior panels have held that the use of a domain name for illegal activity, such as fraud, can never confer rights or legitimate interests upon a respondent (see [WIPO Overview 3.0](#), section 2.13).

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered or is using the disputed domain name in bad faith. Section 3.1 of [WIPO Overview 3.0](#) states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair

advantage of or otherwise abuses a complainant's mark".

The Complainant gave evidence that the Respondent created and used the email address "[...].@immgt-nzvfsglobal.com" associated with the disputed domain for fraudulent purposes and to mislead the public. Evidently, given the impersonating nature of the use, the Respondent was aware of and intentionally registered the disputed domain name to target the Complainant. In light of the lack of any rights to or legitimate interests in the disputed domain name by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website or associated email address or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of 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 disputed domain name <immgt-nzvfsglobal.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: February 14, 2023