

## **ADMINISTRATIVE PANEL DECISION**

VKR Holding A/S v. kuli, kuli  
Case No. D2023-0469

### **1. The Parties**

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

The Respondent is kuli, kuli, China.

### **2. The Domain Name and Registrar**

The disputed domain name <veluxs.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2023. On February 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 2023, 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 (Redacted for Privacy (DT), Dynadot Privacy Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2023, 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 February 3, 2023.

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 February 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 1, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 8, 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 headquartered in Denmark and is the parent company of the VELUX Group. The Complainant and its subsidiaries offer, since the Complainant's founding in 1941, a range of products including roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products. The Complainant and its subsidiaries have large, international business operations, e.g. the group employs a total of 15,400 people in 40 countries and in 2020, the VKR Group reported DKK 22.6 billion in revenue and DKK 3.7 billion in net profit.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for VELUX, including, but not limited to, Chinese trademark registration number 211705 for the mark VELUX, registered on August 15, 1984, and European Union Trade Mark registration number 000955609 for the word mark VELUX, registered on March 31, 2000. The Panel notes that the Complainant also has an extensive online presence and that it hosts its main website under the domain name <velux.com>, registered on April 19, 1999.

The disputed domain name was registered on May 15, 2022, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant provides evidence that the disputed domain name was linked to an active webpage containing gambling and pornographic content and links. However, on the date of this Decision, the Panel notes that the disputed domain name resolves to an inactive webpage.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to its trademark for VELUX, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith to divert Internet users to the Respondent's webpage containing pornographic material.

The Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's trademarks as it incorporates the Complainant's VELUX trademark in its entirety, with the only differing element being the addition of the letter "s" to the disputed domain name. The Complainant alleges that this amounts to deliberate misspelling of its trademarks in the disputed domain name by the Respondent or "typosquatting". The Complainant also provides evidence that the disputed domain name is linked to an active webpage containing pornographic content, which, the Complainant argues, confers no legitimate interest in the disputed domain name on the Respondent, and which means that the Respondent is tarnishing the Complainant's trademarks and gaining a commercial benefit through such use of the Complainant's marks. The Complainant also argues that the Respondent had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain name was registered, since the Complainant registered its trademarks for VELUX many years prior to the registration of the disputed domain name. The Complainant finally also claims in its amended Complaint that the Respondent has engaged in a pattern of trademark-abusive registrations, by registering various domain names incorporating famous third-party brands. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

## B. Respondent

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

## 6. Discussion and Findings

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

### A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the mark VELUX, based on its use and registration of the same as a trademark in multiple jurisdictions.

Moreover, as to confusing similarity of the disputed domain name with the Complainant's trademarks, the Panel considers that the disputed domain name consists of the Complainant's VELUX trademark, whereby the Respondent merely added the letter "s" at the end of the Complainant's VELUX trademark. The Panel concludes that such addition of the letter "s" constitutes an intentional and obvious misspelling of the Complainant's trademark (this practice is also called "typosquatting"), which moreover preserves the conceptual, aural and visual similarity with the Complainant's VELUX trademarks. In this regard, the Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)"), section 1.9, which states: "a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark for VELUX, and concludes that the Complainant has satisfied the requirements of the first element under the Policy.

### B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence, the Panel notes that the disputed domain name resolved to an active webpage containing gambling and pornographic content and links. In the Panel's view, no rights or legitimate interests derive from using a third-party trademark to divert Internet users for commercial gain to a pornographic and gambling website, see in this regard also several prior UDRP decisions such as *Barnes*

*Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#), *Seintec Norte, S.L. v. Yu Liu, wangluochuanmei* WIPO Case No. [D2021-1815](#); *Andrey Ternovskiy dba Chatroulette v. Protection of Private Person / Aleksandr Katkov*, WIPO Case No. [D2017-0381](#); and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#).

However, the Panel notes that on the date of this decision, the disputed domain name directs to an inactive webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollere SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#) and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

### **C. Registered and Used in Bad Faith**

The Panel considers that by registering the disputed domain name, which the Panel sees as a clear attempt to typosquat a domain name confusingly similar to the Complainant's internationally famous trademarks, the Respondent deliberately and consciously targeted the Complainant's prior trademarks for VELUX. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anelists have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." Furthermore, the Panel also notes that the Complainant's trademarks for VELUX were registered many decades before the registration date of the disputed domain name. The Panel deduces from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. The Panel also notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for VELUX. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the website linked to the disputed domain name displayed gambling and pornographic content and links, which shows that the Respondent was abusing the Complainant's trademark to mislead and divert Internet users for commercial gain to such website, and thereby also tarnished the Complainant's marks (see in this regard also previous UDRP decisions such as *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#), *Seintec Norte, S.L. v. Yu Liu, wangluochuanmei*, WIPO Case No. [D2021-1815](#) and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#)). However, on the date of this decision, the disputed domain name links to an inactive website. In this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding". The Panel has reviewed all elements of this case, and attributes particular relevance to the following elements: the fact that the disputed domain name contains the entirety of the Complainant's trademark, the high degree of distinctiveness, fame and intensive use of the Complainant's trademark and the unlikelihood of any good faith use to which the disputed domain name might be put by the Respondent. Moreover, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Reverse Whois results provided by the Complainant, from which it appears that the Respondent has also registered a number of domain names incorporating globally famous third party brands such as GOOGLE, GARNIER, and POKEMON. In these circumstances, the Panel considers that the passive holding of the disputed domain name by the Respondent constitutes use of the

disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element 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 disputed domain name, <veluxs.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: March 16, 2023