

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Name Redacted
Case No. D2023-0899

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom, represented by A. A. Thornton & Co., United Kingdom.

The Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <virginmoney-uk.com> (the “Disputed Domain Name”) is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2023. On February 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 1, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 3, 2023. On March 7, 2023, a third party contacted the Center by email.

In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2023. The Respondent did not submit any response. Accordingly the Center notified the Respondent’s default on March 24, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on March 29, 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 a company incorporated in England and Wales that operates a multi-national branding business employing more than 60,000 people across five business sectors on five continents. The Complainant holds more than 3,500 registrations for the trademark VIRGIN and variations of it in more than 150 countries, including, for example, United Kingdom Registration No. UK00003163121 for the mark VIRGIN registered on July 29, 2016, in classes 03, 05, 09, 11, 12, 14, 16, 31, 32, 33, 35, 36, 38, 39, 41, 42, 43, 44, and 45 and United Kingdom Registration No. UK00003449484 for the device mark VIRGIN MONEY registered on March 27, 2020, in classes 9, 16, 35, and 36.

The Complainant owns numerous domain names that comprise or contain the trademark VIRGIN, including the domain names <virgin.com> and <virginmoney.com>. The latter is also used to resolve to a website located at "www.uk.virginmoney.com".

The Disputed Domain Name <virginmoney-uk.com> was registered on February 8, 2023. The Disputed Domain Name was used to resolve to a website bearing the Complainant's trademarks and images.

5. Parties' Contentions

A. Complainant

The Complainant cites several trademark registrations around the world for the marks VIRGIN and VIRGIN MONEY, as *prima facie* evidence of ownership.

The Complainant submits that its marks have acquired a significant reputation and goodwill in respect of financial and banking services and that its rights in those marks predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademarks, because the Disputed Domain Name incorporates in its entirety the VIRGIN MONEY trademark and that the confusing similarity is not affected by the addition of the hyphen and the letters "uk" or addition of the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that "the Respondent has copied without authorisation images from the Virgin Money UK Website, has copied sections of text from the websites of two different third-party businesses ..., as well as referred to the address and contact details of both the Virgin Money UK business and those third-party businesses strongly indicates that the Respondent lacks any legitimate rights or interest in the Disputed Domain Name".

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules. It submits that "[given] the Respondent has copied images from the webpages available at the Virgin Money UK Website, it is clear that the Respondent was aware of the Complainant and the Virgin Money UK business at the time of registering the Disputed Domain Name". It submits also that the website to which the Disputed Domain Name resolves and the email address on that website "are being used for phishing purposes, that is to obtain personal details of members of the public for fraudulent commercial gain".

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, in correspondence received by the Center on March 7, 2023, a party named as the Respondent stated, *inter alia*, that:

“To Whom It May Concern: I am in receipt of a letter dated 3/5/2023. I have reviewed the letter. I have not created any of the domain names listed in the letter nor has anyone in my household. In addition, I have no control or access to any of the domain names. I believe that I have been hacked. If there is anything further is needed fro[m] me, please do not hesitate to contact me.”

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Preliminary Procedural Issue. Respondent and Redaction of Respondent’s Identity

The Panel notes that the individual named Respondent appearing in the Whois record disclaims, in correspondence received by the Center on March 7, 2023, any knowledge of or interest in the Disputed Domain Name and appeared to claim, in effect, that the registration of the Disputed Domain Name had been made without that party’s knowledge or authorization by a third party using the correspondent’s identity.

This Panel finds it likely that the individual named Respondent in this proceeding was not party to registration of the Disputed Domain Name, and that registration of the Disputed Domain Name may very well have been secured fraudulently by a third-party. The Panel has therefore determined that it is appropriate to redact the registrant’s name and information from the Panel’s decision (see: *Accenture Global Services Limited v. Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2013-2099](#); and *Lutosa v. Name Redacted*, WIPO Case No. [D2021-0809](#)).

B. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark VIRGIN MONEY. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the VIRGIN MONEY trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant’s trademark VIRGIN MONEY; (b) followed by a hyphen; (c) followed by the letters “uk”; (d) followed by the gTLD “.com”.

It is well established that the gTLD used as part of a domain name is generally disregarded. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: “virginmoney-uk”.

The Panel finds the use of the Complainant’s trademark, in combination with the hyphen and the letters “uk”, does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

As the relevant mark is incorporated in its entirety in the Disputed Domain Name, in line with previous UDRP decisions, this Panel finds the Disputed Domain Name is confusingly similar to the Complainant’s VIRGIN MONEY trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden of proof on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the “[t]he Disputed Domain Name has not been authorized by the Complainant or the Virgin Money UK business. There is also no evidence that the Respondent has ever been commonly known by the Disputed Domain Name or Virgin Money UK, ever used or has plans to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Given the fact the Disputed Domain Name incorporates the Complainant's Registered Marks VIRGIN and VIRGIN MONEY in their entirety and the nature of the use of the Disputed Domain Name ... it is hard to conceive of a legitimate use to which the Disputed Domain Name could be put”.

The Panel accepts the Complainant's uncontested submission that the Respondent is not an authorized reseller with rights or legitimate interests in the Disputed Domain Name incorporating the Complainant's mark and that nor is the Respondent commonly known by the Disputed Domain Name. The Panel accepts the Complainant's uncontested submission that the Disputed Domain Name is “likely to be used for phishing purposes to obtain sensitive or personal information for fraudulent commercial gain”.

This Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it is engaging in an illegitimate commercial use of the Disputed Domain Name by suggesting some association with the Complainant for the purpose of misleading consumers based on users seeking out the Complainant's mark VIRGIN MONEY and opportunistically using the Complainant's trademark to divert Internet traffic to its web page.

The Panel finds for the Complainant on the second element of the Policy.

D. Registered and Used in Bad Faith

The third element of the Policy that a complainant must also demonstrate is that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both.

The evidence is that the Respondent has registered and used the Disputed Domain Name in bad faith. In line with numerous other Panel decisions, this Panel finds that there is evidence in this proceeding that supports a finding that the Respondent has registered the Disputed Domain Name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark. These are as follows: (i) seeking to cause confusion for the Respondent's commercial benefit, even if unsuccessful, having regard to the uncontradicted evidence of record that the Disputed Domain Name was used to resolve to a website bearing the same trademarks, images, and artwork from the Complainant's own websites, (ii) a lack of the Respondent's own rights to or legitimate interests in the Disputed Domain Name, (iii) redirecting the Disputed Domain Name to two different Respondent-owned websites that, at different times, copied the Complainant's own trademarks and images, and (iv) the absence of any conceivable good faith use, which certainly calls for an explanation where none has been forthcoming (see [WIPO Overview 3.0](#), section 3.1.4).

On the issue of use, the Panel notes that the Disputed Domain Name was used to resolve to an online website, offered in two different versions at different times, that purportedly copied the Complainant's own trademarks and copyright works. In line with prior UDRP panel decisions, the Panel finds that given the Disputed Domain name incorporates the Complainant's widely known mark plus an additional geographic term "uk", the choice of financial services content corresponding to the Complainant's area of business activity in financial services and the clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the Disputed Domain Name suggests that the Respondent had plainly targeted the Complainant (see [WIPO Overview 3.0](#), section 3.2.1).

There is also evidence that the Disputed Domain Name has been used to impersonate a legitimate website of the Complainant. In support of this contention is a copy of a web-form soliciting information in a potentially fraudulent attempt to impersonate the Complainant to extract personal or financial data from the Internet user. Past panels have held that the use of a domain name for *per se* illegitimate activity such as phishing is considered to be evidence of bad faith (see [WIPO Overview 3.0](#) at Section 3.1.4).

This Panel also views the provision of false Registrant information as an additional and separate indication of bad faith.

This Panel finds that the Respondent has taken the Complainant's trademark VIRGIN MONEY and incorporated it in the Disputed Domain Name without the Complainant's consent or authorization, along with the hyphen, and the letters "uk", for the purpose of capitalizing on the reputation of the trademark by diverting Internet users for commercial gain to its website which falls into the meaning of bad faith under paragraph 4(b)(iv) of the Policy.

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, <virginmoney-uk.com> be transferred to the Complainant.

The Panel also directs the Registrar's attention to the Annex of this decision that identifies the person listed as registrant of the Disputed Domain Name in the formal record of registration, and orders that the Disputed Domain Name, <virginmoney-uk.com>, be transferred from the person so named to the Complainant. The Panel also directs the Center that the Annex shall not be published along with this Decision.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: April 12, 2023