

## **ADMINISTRATIVE PANEL DECISION**

Valeo v. xiao liang

Case No. D2023-1817

### **1. The Parties**

The Complainant is Valeo, France, represented by Tmark Conseils, France.

The Respondent is xiao liang, Philippines.

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

The disputed domain name <phc-valeo.net> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 24, 2023. On April 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 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 April 27, 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 May 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on June 6, 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 widely known French automotive supplier, operating worldwide in the field of automotive parts.

The Complainant owns numerous word and figurative trademarks for VALEO and PHC VALEO. Among others, the Complainant is the owner of the French Trademark Registration No. 1576649 for VALEO (a word mark, registered on February 21, 1990), the European Union Trade Mark Registration No. 005758412 for VALEO (a stylized mark, registered on July 2, 2007) and the Panamanian Trademark Registration No. 155592 for PHC VALEO (a stylized mark, registered on October 11, 2006), all of them mainly covering protection for goods related to the automotive sector (Annexes 5.1, 5.2, and 5.5 to the Complaint).

“PHC” is known for the consumers as being the abbreviation of the name of the Pyeong Hwa Corporation, which is a partner of VALEO through a joint venture known worldwide as “Valeo Pyeong Hwa Co. Ltd”.

The Complainant further owns and operates its official website at <valeo.com> (Annexes 7 to the Complaint).

The Respondent is reportedly located in the Philippines, whereas its true identity remains unclear due to seemingly false or at least incomplete contact information.

The disputed domain name was registered on April 29, 2010 and recently updated on April 30, 2023.

The disputed domain name resolves to a website with many promotional links particularly to online gambling and explicit adult content websites (Annex 8 to the Complaint).

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

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

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its VALEO and PHC VALEO trademarks.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

#### **A. Identical or Confusingly Similar**

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the VALEO and PHC VALEO trademarks, which were registered in numerous jurisdictions well before creation of the disputed domain name.

The Panel finds that the disputed domain name is identical to the Complainant's PHC VALEO trademark as it incorporates the Complainant's trademark in its entirety without any additions or amendments, except the replacement of the blank space between "phc" and "valeo" by a hyphen. Even when taking only the VALEO trademark into account, the Panel notes that the disputed domain name comprises the VALEO trademark in its entirety and, hence, is in any case confusingly similar. See section 1.7 of [WIPO Overview 3.0](#).

The Panel also notes that the applicable generic Top-Level Domain (".net" in this case) is assessed to be a standard registration requirement, and may as such be disregarded by the Panel. See section 1.11.1 of [WIPO Overview 3.0](#).

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's VALEO and/or PHC VALEO trademarks in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a response, the Respondent has particularly failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name.

The Panel is rather convinced that the Respondent deliberately chose the disputed domain name in order to target Internet users who are searching for the products and services offered by the Complainant. In the

Panel's view, there is a considerable risk that these Internet users end up on websites of the Respondent or other third parties with at least partly explicit adult content. The Panel believes that this cannot be sufficient basis for assessing a *bona fide* offering of goods or services by the Respondent.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

The Panel is convinced that the Respondent must have had the Complainant's trademarks in mind when registering the disputed domain name. In view of the Panel, the Respondent has registered the disputed domain name for the purpose of creating an association with the Complainant.

After having reviewed the screenshots of the website associated to the disputed domain name (Annex 8 to the Complaint), the Panel is convinced that the Respondent has intentionally registered the disputed domain name in order to generate traffic to its own website with many promotional links to mainly online gambling opportunities and explicit adult content. Such conduct is also known as "pornosquatting", the practice whereby confusion with a widely known trademark is used to divert Internet users to an adult content website for commercial purposes. See *Prada S.A. v. Roberto Baggio*, WIPO Case No. [D2009-1187](#).

Noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, the use of the disputed domain name incorporating the Complainant's VALEO and PHC VALEO trademarks and misleading Internet users to a website with links to explicit adult content for commercial gain, is in view of the Panel sufficient evidence of bad faith registration and use under paragraph 4(b)(iv) of the Policy.

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant has also satisfied the third element of the Policy, namely, 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 <phc-valeo.net> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: June 20, 2023