

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Obi Frank
Case No. D2023-2297

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom, represented by AA Thornton IP LLP, United Kingdom.

The Respondent is Obi Frank, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <virgincruisesships.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2023. On May 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 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 June 5, 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 June 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on July 21, 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 under the laws of England and Wales. The Complainant is part of the Virgin Group and the owner of the VIRGIN brand and associated trademarks. At present, VIRGIN branded businesses span a diverse range of sectors covering financial services, health and wellness, music and entertainment, people and planet, telecommunications and media, travel and leisure, and space. There are currently more than 40 VIRGIN branded businesses which have over 50 million customers worldwide and employ more than 60,000 people across five business sectors and five continents.

The Complainant is responsible for registering and maintaining registrations for trademarks containing the VIRGIN name and VIRGIN signature logo and licensing these rights to the VIRGIN businesses. The Complainant owns a substantial portfolio of approximately 3,500 trademark applications and registrations in over 150 countries. The Complainant owns, among others, the following trademarks:

- European Union Registration for VIRGIN No. 1290574, registered on February 3, 2015;
- United Kingdom Registration for VIRGIN No. UK00003163121, registered on July 29, 2016;
- European Union Registration for VIRGIN CRUISES No. 015528847, registered on January 31, 2017; and
- United Kingdom Registration for VIRGIN CRUISES No. UK00915528847, registered on January 31, 2017.

The Complainant is the registered proprietor of over 5,000 domain names consisting of or incorporating the VIRGIN mark. The Complainant has operated a website at "www.virgin.com" since 2000 to promote the activities of the VIRGIN Group and its businesses, ventures, and foundations.

One of the VIRGIN Group companies, Virgin Cruises Intermediate Limited, is doing cruise line business under the Virgin brand as Virgin Voyages. The company uses the domain name <virgincruises.com>, which resolves to the website at the domain name <virginvoyages.com> to promote its businesses under the Virgin Voyages brand (the "Virgin Voyages" website).

The disputed domain name was registered on April 27, 2023. It resolves to a website similar to the Virgin Voyages website by copying a substantial amount of the text and images from the homepage at the Virgin Voyages website.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its trademarks, since the disputed domain name is comprised of the terms "virgin", "cruises", and "ships" and therefore incorporates the VIRGIN trademark and VIRGIN CRUISES trademark in their entirety. According to the Complainant, the remaining term "ships" is an ordinary English word referring to large vessels that transport people by water, and this term is related with the field of business of Virgin Cruises Intermediate Limited using trademarks incorporating the VIRGIN mark, registration and licensing of which is the business of the Complainant. Therefore, such term should not prevent a finding of confusing similarity.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant confirms that the registration and use of the disputed domain name has not been authorized by the Complainant or Virgin Cruises Intermediate Limited. The Complainant contends that there is also no evidence that the Respondent has ever been commonly known by the disputed domain name, or has ever used or has plans to use the disputed domain name in connection with a *bona fide* offering of goods or services. Furthermore, the Complainant points out that prior UDRP cases for

the domain names <virginihotels.com> (*Virgin Enterprises Limited v. Obi Frank*, WIPO Case No. [D2023-0080](#)) and <virginiunite.net> (*Virgin Enterprises Limited v. Obi Frank*, WIPO Case No. [D2022-2647](#)) are identical to the present case, and the Respondent in the present case is also the person responsible for these domain names.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. With regard to the bad faith registration, considering the significant reputation of the VIRGIN and VIRGIN CRUISES brands, the Complainant contends that the Respondent should be clearly aware of the Complainant's VIRGIN and VIRGIN CRUISES trademarks. On the other hand, with regard to the bad faith use, the Complainant contends that Internet users would be frustrated with the webpage resolved by the disputed domain name, because they are unable to obtain legitimate information about or make bookings for Virgin Voyages cruises run by Virgin Cruises Intermediate Limited. In addition, the Complainant contends that no *bona fide* offering of goods or services or other fair or legitimate use of the disputed domain name can be found.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (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 Panel finds that the Complainant has rights in the VIRGIN and VIRGIN CRUISES trademarks.

The disputed domain name incorporates the VIRGIN trademark and VIRGIN CRUISES trademark in their entirety. Such incorporation is by itself enough to have the disputed domain name to be confusingly similar to the Complainant's VIRGIN and VIRGIN CRUISES trademarks.

The additional term "ships" would not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Incidentally, the last part of the disputed domain name ".com" represents one of the generic Top-Level Domains, which is irrelevant in the determination of the confusing similarity. See section 1.11 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

The Panel finds no evidence that shows the Respondent is commonly known by the disputed domain name and that the Respondent is authorized to use the Complainant's VIRGIN or VIRGIN CRUISES trademarks. The disputed domain name resolves to a website similar to the Virgin Voyages website by copying a substantial amount of the text and images from the homepage at the Virgin Voyages website. Further, the evidence provided by the Complainant shows that "Book", "Book Now" and "Plan Voyage" buttons on the website at the disputed domain name either do not resolve to a webpage or resolve to a 404 Not Found error page. Such use of the disputed domain name cannot be determined to be a *bona fide* offering of goods or services or other fair or legitimate use.

Since the Respondent did not reply to the Complainant's contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

Moreover, the composition of the disputed domain name, which incorporates the Complainant's trademarks together with a term related to the Complainant's business, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.1.5 of the [WIPO Overview 3.0](#).

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

Since the Complainant is the owner of the VIRGIN brand and associated trademarks, including VIRGIN and VIRGIN CRUISES trademarks, and the VIRGIN Group is very popular worldwide. Therefore, it is highly unlikely that the Respondent would not have known of the Complainant's rights in these trademarks at the time of registration of the disputed domain name. And, the website resolved by the disputed domain name also suggests the Respondent's knowledge of the Complainant's trademarks. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, the fact that the disputed domain name resolves to a website copying a substantial amount of the text and images from the homepage at the Virgin Voyages website shows that the disputed domain name is being used in bad faith by the Respondent.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith.

Furthermore, the Panel finds that the Respondent's involvement in other UDRP cases (*Virgin Enterprises Limited v. Obi Frank*, WIPO Case No. [D2023-0080](#), and *Virgin Enterprises Limited v. Obi Frank*, WIPO Case No. [D2022-2647](#)) indicates that the Respondent has engaged in a pattern of trademark-abusive domain name registrations.

The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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 <virgincruisesships.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: August 4, 2023