

ADMINISTRATIVE PANEL DECISION

Rugvista AB v. Yavuz Özdemir, Diva Teppich Center
Case No. D2023-2803

1. The Parties

The Complainant is Rugvista AB, Sweden, represented by Ports Group AB, Sweden.

The Respondent is Yavuz Özdemir, Diva Teppich Center, Germany, represented by Navigation Recht Rechtsanwälte Steuerberater, Germany.

2. The Domain Names and Registrar

The disputed domain names <carpetvista.shopping> and <carpetvista.store> are registered with united-domains AG (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2023. On June 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 4, 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 sent an email communication in English and German to the parties on July 4, 2023, regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain names is German. The Complainant sent an email to the Center requesting English to be the language of the proceeding on July 4, 2023. On July 6, 2023, the Respondent objected to the Complainant’s request and requested German to be the language of the proceeding.

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 in both English and German, and the proceedings commenced on August 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2023. The Respondent sent an informal communication to the Center on August 11, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the parties that it would proceed to panel appointment on August 22, 2023.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on August 25, 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 one of Europe's largest online carpet retailers. Founded in 2005, the Complainant markets rugs and carpets through its web shop ("www.carpetvista.com"), available in 20 different languages, using the brands RUGVISTA and CARPETVISTA.

The Complainant owns trademark registrations in multiple jurisdictions, including the European Union trademark CARPETVISTA (Reg. No. 017045808, applied on July 28, 2017, and registered on March 28, 2018) and the International trademark CARPETVISTA (Reg. No. 1503936, registered on October 21, 2019).

The disputed domain names were registered on June 14, 2016 (<carpetvista.store>) and September 28, 2016 (<carpetvista.shopping>). They redirected to the website "www.rug24.co.uk", an online store for carpets and rugs, and are currently resolving to the Registrar's website where they are listed as being for sale.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

As to the fact that the registrations of the disputed domain names (on June 14 and September 28, 2016) predate the registration of the Complainant's European Union trademark No. 017045808 (March 28, 2018), the Complainant points out that it had been the owner of the European Union trademark CARPETVISTA (Reg. No. 005339932) which was registered on December 7, 2007, had expired on September 27, 2016.

According to the Complainant, the expired trademark registration subsequently was in a so-called grace period. Pursuant to the rules of European Union Intellectual Property Office ("EUIPO"), if a European Union trademark is not renewed within the basic period, a request may still be submitted within a further period of six months.

The European Union trademark No. 005339932 was however not renewed by the Complainant within the grace period. Instead, the Complainant filed a new application (No. 017045808) for the same trademark on July 28, 2017. The Complainant contends that it has been using the name "carpetvista" since 2005, and has been operating its online store in many different languages and jurisdictions since 2011. Moreover, between expiration and new application, the CARPETVISTA trademark had continuously been used commercially. The Complainant has submitted evidence for the corresponding use of the name and trademark CARPETVISTA as Annexes 13 and 14 to the Complaint.

B. Respondent

The Respondent argues that it primarily trades in carpets via e-commerce. Therefore, the use of the domain extensions “shopping” and “store” was permissible. Furthermore, the element “carpet” described the core business of the Respondent, and “vista” was a common term for looking at something. The word combination “carpetvista” was thus directly related to the Respondent’s core business, which is looking at carpets in a store with a view to purchasing them.

Moreover, the Respondent claims that, at the time of registering the disputed domain names in 2016, it was not aware of the existence of the Complainant. The Respondent considers it questionable whether the trademark CARPETVISTA was in a grace period at the time the disputed domain names were registered.

6. Discussion and Findings

A. Language of the Proceedings

While the Registration Agreement for the disputed domain names is in German, the Complaint has been submitted in English.

By email to the Center of July 4, 2023, the Complainant submitted a request for English to be the language of the administrative proceedings, based on the following arguments: (1) The disputed domain names were originally redirected to a website in English, selling competitor products in the United Kingdom. (2) The Respondent and the Complainant had communicated in English. (3) The Respondent’s website has an English version as well. (4) According to statistics, more than 50% of the population in Germany speaks English.

By letter to the Center of July 6, 2023, the Respondent insisted on German as the language of proceedings, pointing out that the Registration Agreement was in German and that the Respondent was a German company.

Paragraph 11(a) of the Rules stipulates that, “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”.

Paragraph 10(c) of the Rules provides that “the Panel shall ensure that the administrative proceeding takes place with due expedition”.

Taking into account the circumstances of this case, notably the fact that the Complainant has provided evidence that the Parties had communicated in English prior to the initiation of the UDRP proceeding and that the website under the disputed domain name has also an English version, the Panel does not consider it prejudicial to the Respondent if English were adopted as the language of the proceeding and notes that the Respondent is familiar with English. The Panel finds that substantial additional expense and delay would likely be incurred if the Complaint and annexes thereto had to be translated into German. In view of the Policy’s aim of facilitating a time and cost-efficient procedure for the resolution of domain name disputes, the Panel finds it appropriate to exercise its discretion according to paragraph 11(a) of the Rules and allow the proceeding to be conducted in English. The Panel accepts the Complaint as filed in English and the Respondent’s email communications as submitted in German and English and will proceed in its discretion to render its decision in English.

B. Identical or Confusingly Similar

The Complainant has shown that it has rights in the CARPETVISTA trademark, which is reproduced in its entirety in the disputed domain names.

As to the Top-Level Domains (“TLDs”) in the disputed domain names, it has become a consensus view among UDRP panels that the applicable TLDs in a domain name is a standard registration requirement and as such may be disregarded when assessing confusing similarity under the first element of the Policy. This practice also applies with regard to generic Top-Level Domains (“gTLDs”) such as “.shopping” and “store” (see [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2).

Therefore, the Panel concludes that the disputed domain names are identical to the Complainant’s CARPETVISTA trademark. Accordingly, the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain names. The Respondent has not been commonly known by the disputed domain names and is not making a legitimate noncommercial or fair use of them. In fact, the disputed domain names were used to redirect Internet users to a competitor’s website. Such use would not support a claim to rights or legitimate interests.

Based on the Complainant’s credible contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

With regard to bad faith registration, the Panel notes that the disputed domain names were registered before the Complainant’s trademark registrations. However, the case at hand has an interesting fact pattern in that the original trademark the Complainant refers to had been registered but not renewed and had thus expired on September 27, 2016, one day before the Respondent registered the disputed domain name <carpetvista.shopping> on September 28, 2016. The disputed domain name <carpetvista.store> had already been registered by the Respondent on June 14, 2016. The Complainant’s current trademark was only applied for on July 28, 2017, and registered on March 28, 2018 (see sections 4. and 5.A above).

While the Complainant has not submitted any evidence for its expired trademark registration (No. 005339932), the Respondent has not specifically contested that such registration existed. Furthermore, the Respondent has not contested the Complainant’s allegations (supported by evidence) that the name “Carpetvista” had been used since 2005 for the Complainant’s business and that the online store had been in operation since 2011 (under the domain name <carpetvista.com>). In the Panel’s view, the Complainant has thus submitted a plausible case that the trademark CARPETVISTA had been registered and used by the Complainant before the disputed domain names were registered in 2016.

Under the circumstances of this case, it can be inferred that the Respondent was aware of the Complainant’s trademark when registering the disputed domain names. The Respondent is in the same business as the Complainant (online shops for carpets) and must have been aware (when it registered the disputed domain names in 2016) of the Complainant’s online shop in various languages that had been operating since 2011.

By having redirected the disputed domain names to a competitor of the Complainant and currently offering them for sale, the Respondent has sought to capitalize on the Complainant’s trademark and reputation (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled 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 names <carpetvista.shopping> and <carpetvista.store> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: September 8, 2023