

ADMINISTRATIVE PANEL DECISION

Veja Fair Trade, Sarl v. Name Redacted

Case No. D2023-2901

1. The Parties

The Complainant is Veja Fair Trade, Sarl, France, represented by SafeBrands, France.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <tenisvejacolombia.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 July 21, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2023. The Respondent did not submit any response. The Center received an email communication from a third party on August 7, 2023. Accordingly, the Center notified the Parties that it would proceed to panel appointment on August 23, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on August 24, 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 French shoe producer, established in 2005.

The Complainant is the owner of the following trademark registrations (the “VEJA trademark”):

- the European Union trademark VEJA with registration No. 9075003, registered on November 30, 2012, for goods in classes 18 and 25; and
- the International trademark V VEJA with registration No. 1415444, registered on May 23, 2018, for goods in class 25.

The Complainant is also the owner of the domain name <veja-store.com> registered on March 21, 2007, which resolves to the Complainant’s official website.

The disputed domain name was registered on July 12, 2021. It is currently inactive. At the time of filing of the Complaint, the disputed domain name directed to a website that reproduced the Complainant’s VEJA trademark and logo and offered for sale shoes at discounted prices.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that the disputed domain name is confusingly similar to its VEJA trademark, because it represents a combination of this trademark, the dictionary word “tenis”, and the geographic term “Colombia”, which creates a risk of confusion with the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not related to the Complainant or commonly known under the disputed domain name, and has not been authorized by the Complainant to use its VEJA trademark. In the Complainant’s view, considering the nature of the disputed domain name, which refers to the Complainant products and business, the reputation of the Complainant, and the use of the disputed domain name in reference of the VEJA trademark, the Respondent could not have ignored the Complainant and its trademark.

According to the Complainant, the Respondent intends for commercial gain to mislead Internet users into believing that the website at the disputed domain name is somehow connected with the Complainant, and to divert Internet users looking for the Complainant’s products to the Respondent’s website. The Complainant points out that the disputed domain name redirects to a website that reproduces the VEJA trademark, logos and copyrighted photos, and offers for sale discounted goods supposedly coming from the Complainant.

Considering their significantly discounted prices, the Complainant suspects the products offered on the Respondent's website to be counterfeit, given that the website at the disputed domain name does not accurately disclose the relationship between the Respondent and the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It maintains that considering the reputation of the VEJA trademark after its use for over 15 years, and the nature of the disputed domain name which refers to the Complainant's products and business, the Respondent could not have ignored the existence of the VEJA trademark at the time of the registration of the disputed domain name. In the Complainant's view, the Respondent has registered and is using the disputed domain name in order to pass off its website as belonging to or licensed by the Complainant for fraudulent purposes. The Complainant notes that this website uses the Complainant's trademark and redirects to an unauthorized and misleading website that offers for sale products supposedly coming from the Complainant at discounted prices. It points out that the Complainant's trademarks, logos, copyrighted photos and graphic charter are also reproduced on this website. According to the Complainant, Internet users are therefore likely to mistakenly believe that the website at the disputed domain name either belongs to the Complainant or to an official authorized agent of it.

B. Respondent

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

In email from August 7, 2023, a third party submitted that its identity was stolen for the purposes of the registration of the disputed domain name, and that it did not register and did not control the disputed domain name or have any information about it.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the VEJA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, "tenis" and "Colombia") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the VEJA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

As discussed in section 2.8.1 of the [WIPO Overview 3.0](#), panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant’s trademark to undertake sales or repairs related to the complainant’s goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the “Oki Data test”, the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and
- (iv) the respondent must not try to “corner the market” in domain names that reflect the trademark.

In the present case, the Respondent has not complied with the third condition of the Oki Data test, as the website at the disputed domain name has not accurately and prominently disclosed the registrant’s relationship with the trademark holder or the lack of such relationship. The evidence shows that the Respondent has used the disputed domain name for a website displaying the Complainant’s VEJA trademark and offering for sale shoes at discounted prices, without including any disclaimer for the lack of relationship with the Complainant or identifying the entity operating the website. The lack of proper disclosure, coupled with the confusing similarity of the disputed domain name with the VEJA trademark and the prominent use of the same trademark on the associated website, may confuse Internet users that the website belongs to the Complainant or has been authorized by it and thus attract traffic and business away from the Complainant and its authorized agents to the Respondent’s website. As also noted by the Complainant and not denied by the Respondent, the goods offered on the Respondent’s website may have been counterfeit, so there is also probability that the second condition of the Oki Data test is not complied with either.

Based on the available record, the Panel therefore finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the disputed domain name is confusingly similar to the VEJA trademark and has been used for a website that features this trademark and offers for sale goods marked with it, without including a

disclaimer for the lack of relationship with the Complainant. In the lack of any evidence to the contrary, this supports a conclusion that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name and the associated website by creating a likelihood of confusion with the Complainant's VEJA trademark as to the source or affiliation of the goods offered on it for commercial gain. It is also notable that the Respondent has not denied the Complainant's submission that the goods offered on the website at the disputed domain name are counterfeit. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The fact that the disputed domain name is currently inactive does preclude a finding of bad faith, as its deactivation has taken place following the Complainant's actions.

Having reviewed the record, the Panel therefore finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <tenisvejacolombia.com>, be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: August 31, 2023