

ADMINISTRATIVE PANEL DECISION

Vente-privee.com v. II II, 01221544

Case No. D2023-4996

1. The Parties

The Complainant is Vente-privee.com, France, represented by Cabinet Degret, France.

The Respondent is II II, 01221544, Hong Kong, China.

2. The Domain Names and Registrar

The disputed domain names <veepeefr.com> and <veepeepro.com> are registered with GoDaddy.com, LLC the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2023. On November 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 1, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 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 amendment to the Complaint on December 8, 2023.

The Center verified that the Complaint together with the amendment to 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 December 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on January 12, 2024. 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 leading e-commerce company incorporated in France. It operates under the trademarks VENTE-PRIVEE and VEEPEE. The Complainant has operated a shopping platform via the domain name <vente-privee.com> for nearly 21 years.

At the beginning of 2019, the Complainant rebranded and started to use the VEEPEE trademark.

The Complainant is the owner of several trademark registrations for VEEPEE in different jurisdictions, including:

- European Union Trademark Registration No. 017442245, VEEPEE, registered on March 29, 2018, for goods and services in classes 9, 16, 35, 36, 38, 39, 41, 42, 43, and 45; and
- International Trademark Registration No. 1409721, VEEPEE, registered on November 8, 2017, for goods and services in classes 9, 16, 35, 36, 38, 39, 41, 42, 43, and 45 and designating Switzerland, Norway, China, Monaco, and Mexico.

The Complainant operates its business via the website located at the domain name <veepee.com>.

The disputed domain names were registered:

- <veepeeepro.com> – on September 4, 2023; and
- <veepeeefr.com> – on October 13, 2021.

At the time of filing the Complaint, both disputed domain names redirected towards similar websites redacted in French purported to provide offer of products and services similar to the Complainant's ones and where the Complainant's trademark was reproduced. At the present time, the disputed domain names do not resolve to active websites.

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 names.

Notably, the Complainant contends that:

- (i) The disputed domain names are confusingly similar to the Complainant's trademark, since they incorporate the Complainant's VEEPEE trademark in its entirety. In addition, the only difference between the trademark VEEPEE and the disputed domain names is the addition of the letters "fr", which is the ISO code for France, the main country where the Complainant operates, and "pro", which is the common abbreviation for professional. Obviously, these elements are not likely to prevent Internet users from immediately perceiving the VEEPEE trademarks of the Complainant within the disputed domain names. The generic Top-Level Domain ("gTLD") ".com" plays a technical role, and, as such, is not likely to differentiate the disputed domain names from the Complainant's trademark;

(ii) the Respondent has no rights or legitimate interests in the disputed domain names since it is not commercially linked to the Complainant, the latter has never authorized nor given its consent to the Respondent for registering and using the disputed domain names. The Respondent's contact details in its record of registration of the disputed domain names are manifestly false and incomplete. There is no evidence of any use of the disputed domain names by the Respondent in connection to a *bona fide* offering of goods or services; and

(iii) the Respondent both registered and used the disputed domain names in bad faith since the Respondent was clearly aware of the Complainant's rights. The VEEPEE trademark is well known at an international level and especially among French consumers. The Respondent has reproduced the VEEPEE trademark on the headers of the websites to which the disputed domain names resolve. By using the logo and photographs copied from the Twitter account of the Complainant, the Respondent is obviously trying to pass itself off the Complainant, which is a clear indication of its bad faith.

Finally, the Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

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.

The Complainant has shown rights in respect of the trademark VEEPEE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trademark VEEPEE is reproduced within the disputed domain names, with mere adding of certain elements (see below). Accordingly, the disputed domain names are confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms, “fr” and “pro”, 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD “.com” which mainly plays a technical role, and, as such, is typically disregarded when determining whether a domain name is confusingly similar to a complainant’s trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Thus, the disputed domain names are confusingly similar to the Complainant’s VEEPEE trademark.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent is not commonly known by the disputed domain names, whereas the Complainant has prior rights in its trademarks, which precede the Respondent’s registration of the disputed domain names by several years.

Moreover, the Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the disputed domain names or to seek the registration of any domain name incorporating the Complainant’s mark. The Complainant has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register the disputed domain names incorporating its trademarks.

Furthermore, the Panel finds that the composition of disputed domain names, including the Complainant’s trademark and the geographical term “fr” for France where the Complainant expands its activities and the term “pro” shortened for “professional”, carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent has not submitted any evidence showing that it has used or made demonstrable preparations to use the disputed domain names in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services in connection with the disputed domain names.

The Panel 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.

Paragraph 4(b) of the Policy states that “for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith”. These include that, “(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location”.

The Complainant’s VEEPEE trademark was well established when the disputed domain names were registered and used by the Respondent, especially among French consumers, who seem to be the target of the disputed domain names, since they direct towards websites fully redacted in French. Furthermore, the Respondent has reproduced the Complainant’s VEEPEE trademark on the headers of the websites to which the disputed domain names resolve. As noted by the Complainant, by using the logo and photographs copied from the Twitter account of the Complainant, the Respondent is obviously fraudulently trying to pass itself off as the Complainant or a company related to the Complainant. This is a clear indication of bad faith. Having carefully reviewed all the submissions in the present proceeding, the Panel reaches the conclusion that the Respondent registered the disputed domain names in order to take advantage of the goodwill associated with the Complainant’s trademarks, and has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark pursuant to paragraph 4(b)(iv) of the Policy.

In addition, the current non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Furthermore, the Respondent’s bad faith is further evidenced by the provision of false or incomplete registrant contact details. The Respondent has not attempted to justify its conduct. For the reasons set out above, the Panel concludes that the disputed domain names were registered and used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The Panel finds that the Complainant has established the third element 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, <veepeefr.com> and <veepeepro.com>, be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: January 18, 2024