

ADMINISTRATIVE PANEL DECISION

Hiten Vyas v. fla cheya
Case No. D2024-0303

1. The Parties

The Complainant is Hiten Vyas, United Kingdom, represented by Adlex Solicitors, United Kingdom.

The Respondent is fla cheya, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hitenvyas.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 2024, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2024, 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 January 25, 2024.

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 January 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 23, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on February 29, 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.

On March 11, 2024, the Panel issued a procedural order, requesting that the Complainant submit further evidence of the common law rights on which he relies for the purpose of paragraph 4(a)(i) of the Policy. The due date for the Complainant to provide further evidence was March 15, 2024, and for the Respondent to reply to the Complainant's evidence was March 20, 2024. The Complainant replied to the procedural order on March 14, 2024. The Respondent did not submit any response.

4. Factual Background

The Complainant is a natural person trained in neurolinguistic programming who, between July 2011 and December 2022, offered coaching services to people who stammer or stutter to help them overcome speaking related fears.

On July 20, 2011, the Complainant incorporated a UK private limited company, Stuttering Hub Limited, to provide his services, using his personal name, Hiten Vyas, as the trading name. Stuttering Hub Limited was dissolved by the Complainant in September 2017.

The Complainant provided its services under his personal name and registered the disputed domain name on January 21, 2012, to promote and provide his services. The Complainant then allowed the disputed domain name to lapse on January 21, 2023, and it was subsequently registered by the Respondent on January 23, 2023.

After registration by the Respondent, the disputed domain name resolved to a replica of the Complainant's former website. At the time of the decision, the disputed domain name is inactive.

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.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to a mark on which he has rights. The Complainant asserts that he owns trade mark rights over his name that he has acquired through extensive trading and marketing activities. For example, the Complainant asserts that there have been tens of thousands of visitors to its site, that it has published a number of books, and provides examples of press coverage. The Complainant asserts that he has acquired a substantial reputation and goodwill in his name and mark and that the disputed domain name is identical to it disregarding the domain suffix. While he ceased operating the business around 12 months ago, the Complainant submits that he nonetheless retains significant continuing and/or residual goodwill in the name given its previous longstanding use.

Then, the Complainant submits that the Respondent has no rights or legitimate interests regarding the disputed domain name since the Respondent has no association and has never been authorized nor licensed by the Complainant to register the disputed domain name. For the Complainant, the Respondent has clearly used the disputed domain name and the Complainant's trademark to attract, confuse, and profit from Internet users seeking the Complainant.

Finally, the Complainant asserts that the disputed domain name was registered and is used in bad faith since the Respondent has registered and used the disputed domain name to confuse, attract and somehow profit from the Complainant's customers by impersonating the Complainant. For the Complainant, the

Respondent's purpose when registering the disputed domain name was to somehow scam and defraud Internet users. Finally, the Complainant underlines that the Respondent did not answer the Complainant contentions.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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

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 Panel finds that the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

First of all, the Panel finds out that the claimed mark is composed of the Complainant's trading name. Then, based on the evidence described above the Panel considers that the Complainant has demonstrated that the claimed mark has been extensively used in the economic life. The Complainant has demonstrated that several press articles and other types of articles covered his activities conducted under his name. The Complainant also provided evidence on the number of sales of his books and visit of his website.

Finally, the Panel has conducted independent search on public search engines which results showed several coverages of the Complainant's activities.

In view of the above, and noting the use of the disputed domain name for a copycat website ([WIPO Overview 3.0](#), sections 1.3 and 1.15) this Panel finds that the personal name and mark HITEN VYAS has been used in commerce as a distinctive identifier of the Complainant's goods or services and also noting the claim and evidence to support continuing and residual rights that the Complainant has demonstrated trademark rights in that name for purposes of standing to file a UDRP case. [WIPO Overview 3.0](#), section 1.5.2. See also in this respect, *Haringey London Borough Council v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-1321](#).

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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.

Indeed, it appears that the Respondent is not commonly known by the disputed domain name and that the Respondent does not have the intent to use the disputed domain name with a bona fide offering of goods or services. On the contrary, the Respondent has used the disputed domain name to impersonate the Complainant by directing the disputed domain name to a replica of the Complainant’s original website. Finally, at the time of the decision, the disputed domain name is inactive.

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.

In the present case, the Panel notes that the Respondent has attempted to impersonate the Complainant by directing the disputed domain name to a replica of the Complainant’s original website. Furthermore, the Panel notes that at the time of the decision the disputed domain name is inactive.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Respondent has used the disputed domain name to impersonate the Complainant by directing the disputed domain name to a replica of the Complainant’s original website which is evidence of bad faith as described in paragraph 4(b)(iv) of the Policy. In the circumstances of this case, the current passive holding of the disputed domain name does not prevent a finding of bad faith under 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 name <hitenvyas.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: March 27, 2024