

ADMINISTRATIVE PANEL DECISION

Ovintiv Trademarks Inc. v. Ahkey key
Case No. D2024-0596

1. The Parties

The Complainant is Ovintiv Trademarks Inc., United States of America (“United States”), represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is Ahkey key, United States.

2. The Domain Name and Registrar

The disputed domain name <ovintiv.vip> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2024. On February 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 12, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 12, 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 amendment to the Complaint on the same date.

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 February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on March 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 an oil and natural gas exploration and production company. It owns the mark OVINTIV, for which it enjoys the benefits of registration in the United States (Reg. No. 7108219, registered on July 11, 2023). According to the Whois records, the disputed domain name was registered on October 30, 2023, and it currently does not resolve to any active page. The Complainant asserts that the Respondent has used the disputed domain name to resolve to a website promoting an application designed to create the commercial impression that it was the Complainant's official application by misappropriating the Complainant's OVINTIV trademark and copyrighted works (including a design mark that the Complainant uses on its official website "www.ovintiv.com").

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. 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. *Id.* This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the OVINTIV mark by providing evidence of its trademark registration.

The disputed domain name incorporates the mark in its entirety. Disregarding the ".vip" Top Level Domain – which is appropriate to do in situations such as this ([WIPO Overview 3.0](#), section 1.11.1.) – the Panel finds that the disputed domain name is identical to the Complainant's mark.

Accordingly, the Panel finds that the Complainant has satisfied this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) there has never been any relationship between the Complainant and the Respondent, (2) the Respondent is not licensed, or otherwise authorized, be it directly or indirectly, to register or use, the OVINTIV mark in any manner whatsoever, including in, or as part of, a domain name, and (3) there is no evidence to suggest that the Respondent has ever used, or demonstrated preparations to use, the disputed domain name, or a name corresponding to same, in connection with a bona fide offering of goods or services. Instead, the Respondent has used the disputed domain name to resolve to a website promoting an application designed to create the commercial impression that it was the Complainant's official application by misappropriating the Complainant's OVINTIV trademark and copyrighted works (including a design mark that the Complainant uses).

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing, and nothing in the record otherwise tilts the balance in the Respondent's favor.

The Panel further notes the composition of the disputed domain name, which carries a high risk of implied affiliation. This is further supported by the evidence in the Complaint that the website at the disputed domain name displayed the Complainant's design mark.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith use and registration. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location."

The Panel finds, based on the available record, that the Respondent registered and is using the disputed domain name in bad faith. Registering the disputed domain name that targets the Complainant's mark and establishing a website and app to imitate the Complainant are a clear example of bad faith registration and use under the Policy. See *Consumer Reports, Inc. v. WhoisGuard, Inc. / Semalee Bilbrey*, WIPO Case No. [D2020-2989](#).

It should be noted that the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. In the present case, the Panel notes (i) the distinctiveness of the Complainant's mark, (ii) the composition of the disputed domain name, (iii) the absence of a response and the Respondent's failure to come forward with any explanation for the registration and use of the disputed domain name and, (iv) the use of a privacy service to conceal the

Respondent's contact details, and finds that the overall circumstances of the case indicate that the disputed domain name was registered and used in bad faith. [WIPO Overview 3.0](#), section 3.3.

The Complainant has established the third element under 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 <ovintiv.vip> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: March 27, 2024