

ADMINISTRATIVE PANEL DECISION

Vitesco Technologies GmbH v. buse kiyamcicek and buse cicek,
Case No. D2024-0684

1. The Parties

The Complainant is Vitesco Technologies GmbH, Germany, internally represented.

The Respondents are buse kiyamcicek, Türkiye (the “First Respondent”), and buse cicek, Türkiye (the “Second Respondent”).

2. The Domain Names and Registrars

The disputed domain name <vitescoo.com> is registered with Aerotek Bilisim Taahut Sanayi Ve Ticaret Ltd Sti (the “First Registrar”).

The disputed domain name <vitescoo.net> is registered with Wix.com Ltd. (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2024. On February 14, 2024, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On February 27, 2024, the Second Registrar transmitted by email to the Center its verification response confirming that the Second Respondent is listed as the registrant of the disputed domain name <vitescoo.net> and providing the contact details. On February 29, 2024, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <vitescoo.com> which differed from the named Respondent (unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 5, 2024, with the registrants and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on March 7, 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 Respondents of the Complaint, and the proceedings commenced on March 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on April 2, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on April 11, 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 Complaint is affiliated with Vitesco Technologies Group AG, headquartered in Germany, and listed on the Frankfurt stock exchange. Vitesco Technologies is a globally active automotive supplier with a strong focus on future technologies such as electrification, with about 38,000 employees and 50 production and development locations in Europe, North America, Asia, and India.

The Complainant is the owner of the following trademark registrations for the sign “VITESCO” (the “VITESCO trademark”):

- the International trademark VITESCO with registration No. 1543482, registered on February 5, 2019 for goods and services in International Classes 1, 4, 7, 9, 11, 12, 17, 35, 37, 38, 39, and 42 for multiple jurisdictions, including Türkiye;
- the United States trademark VITESCO with registration No. 6549874, registered on January 9, 2020 for goods and services in International Classes 1, 4, 7, 9, 12, 17, 35, 37, 38, and 42; and
- the European Union trademark VITESCO with registration No. 17989257, registered on January 9, 2020 for goods and services in International Classes 1, 4, 7, 9, 11, 12, 17, 35, 37, 38, and 42.

The Complainant is also the owner of the domain name <vitesco.com>, which resolves to its official website.

The disputed domain name <vitescoo.com> was registered on October 7, 2023, and the disputed domain name <vitescoo.net> was registered on October 27, 2023. They both resolve to websites that offer vehicle accessories for sale.

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.

The Complainant states that the disputed domain names are confusingly similar to its VITESCO trademark, because they only differ from the trademark by the addition of one more letter “o”, which is identical with the final letter of the trademark, and are thus a misspelling of the VITESCO trademark, the Complainant’s company name and its official domain name. In the Complainant’s view, the disputed domain names are therefore examples of typosquatting.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because there is no relation between the Complainant and them, and their use of

the disputed domain names does not represent a bona fide offering of goods or services, because it infringes the Complainant's trademark rights. The Complainant adds that the Respondents are not making a legitimate noncommercial or fair use of the disputed domain names, because the associated websites are operated for commercial gain in a misleading way to unlawfully exploit the company name, domain name and trademark of the Complainant.

The Complainant points out that the website at the disputed domain name <vitescoo.com> initially displays an image of a vehicle cockpit, which creates a connection to the automotive sector and to the business activity of the Complainant. The Complainant adds that the same applies to the website at the disputed domain name <vitescoo.net>, where initially a car gear shift cover is displayed, which also creates a link to the automotive sector. The Complainant points out that these two websites both offer car accessories, such as gear shift covers, which fall within the scope of protection of the Complainant's VITESCOO trademark, while having no legitimate relation to the Complainant. The Complainant points out that the design of the websites at the disputed domain names imitates the corporate design of the Complainant by using highly similar fonts and design elements, so Internet users are likely to believe that these websites are approved by the Complainant. The Complainant maintains that the goods offered by the Respondents are counterfeit goods that also infringe other well-known third-party trademarks, such as BMW, FORD, AUDI, or GALATASARAY, and that the Respondents' websites may damage the reputation and trusted image of the Complainant in its business partners.

The Complainant notes that there is a relation between the Respondents and Buse Ozgenoglu, the holder of the Turkish trademark application No. 2023/151634 for the sign VITESCOO (against which the Complainant has filed an opposition), because the registration details for the disputed domain names contain email addresses that incorporate the same name.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, by using the disputed domain names, the Respondents intentionally attempt to attract for commercial gain, Internet users to the websites at the disputed domain names by creating a likelihood of confusion with the Complainant's VITESCOO trademark as to the source, sponsorship, affiliation, or endorsement of the websites at the disputed domain names or of the products offered there.

B. Respondents

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

6. Discussion and Findings

6.1. Procedural issue – Consolidation of multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

In support of its consolidation request, the Complainant submits that the names Buse Cicek and Buse Kiyamcicek refer to the same person, because the registrants of the two domain names use an identical telephone number and the last name Kiyamcicek of the First Respondent is also being used in the registration details of the Second Respondent. The Complainant also points out that the websites at the two disputed domain names contain overlapping content, such as product images, and the email addresses for both disputed domain names consist of identical elements combining the first name Buse and the last name Ozgenoglu. The Complainant adds that Buse Özgenoğlu is the holder of the Turkish trademark application with No. 2023/151634 for the sign "VITESCOO".

The registrants of the disputed domain names did not comment on the Complainant's consolidation request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Whois details of the registrants indeed share some identical elements, as the telephone number, while the last name Kiyamcicek of the First Respondent is also indicated as "kıyamçiçek" in the billing details of the Second Respondent, and the email addresses indicated for the two registrants both combine the first name Buse with the last name Ozgenoglu. The slight spelling differences between "Kiyamcicek" and "kıyamçiçek" and between "Ozgenoglu" and "Özgenoğlu" can be explained by the fact the Turkish alphabet contains several specific letters that are not included in the standard Latin alphabet. It is also notable that the websites at the disputed domain names contain similar offerings. This is sufficient for the Panel to conclude that the registrants of the disputed domain names are in fact the same person.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party (rather the opposite – this is more fair and efficient for all involved).

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below jointly as "the Respondent") in a single proceeding.

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 3.0](#), section 1.7.

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

The Panel finds that the VITESCO trademark is easily recognizable within the disputed domain names. Both of them contain as their second level the sequence "vitescoo" which fully incorporates the VITESCO trademark and doubles its last letter, and this makes them a misspelled version of the trademark. Accordingly, the disputed domain names are confusingly similar to the VITESCO trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

The Panel therefore 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 disputed domain names represent misspellings of the Complainant's VITESCO trademark, trade name and domain name. They have been used for websites whose content is related to the automotive sector and where car accessories are offered for sale. The Complainant operates in the same sector and car accessories are included in the scope of protection of its trademark, which was first registered four years earlier and is registered also in Türkiye, where the Respondent is located. The Complainant has also submitted evidence that a person, whose name contains elements included in the contact email addresses of the registrants of the disputed domain names and is thus likely the Respondent himself, has filed a trademark application in Türkiye for "VITESCOO", which is identical to the disputed domain names. In the absence of any allegation or evidence pointing to a different interpretation of the Respondent's conduct, these elements taken together support a conclusion that the Respondent has targeted the Complainant's VITESCO trademark and attempted to impersonate it for commercial gain with the registration and use of the disputed domain names, and has also made an attempt to strengthen its legal position vis-à-vis the Complainant and to evade the application of the Policy by obtaining a trademark registration for a misspelling of the VITESCOO trademark, which misspelling mirrors the disputed domain names. Such conduct cannot give rise to rights or legitimate interests of the Respondent in the disputed domain names.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit goods) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Here, the Complainant claims that the websites at the disputed domain names offer for sale counterfeit goods. The Respondent has not denied this and has not submitted any evidence that it is offering legitimate goods for sale. Therefore, and in light of the Respondent's conduct discussed above in this section, the Panel is prepared to accept as more likely than not that the goods offered by the Respondent are indeed counterfeit, which is an additional argument supporting the conclusion that the Respondent does not have rights or legitimate interests in the disputed domain names.

The Panel therefore finds that 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.

As already discussed in the previous section 6.2.B, the circumstances of this case support a conclusion that the Respondent has targeted the Complainant and its VITESCO trademark with the registration and use of the disputed domain names, which represent obvious misspellings of the Complainant's name and trademark. The Respondent has used the disputed domain names for websites offering goods that fall within the scope of protection of the Complainant's trademark. This supports a conclusion that, by registering and using the disputed domain names, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the websites at the disputed domain names by creating a likelihood of confusion with the Complainant's VITESCO trademark as to the source, sponsorship, affiliation, or endorsement of the websites at the disputed domain names and of the products offered there.

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.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit goods) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. As discussed in the previous section 6.2.B, in the circumstances of this case it is more likely that the Respondent has used the disputed domain names for websites offering counterfeit goods, which further supports a finding of bad faith registration and use of the disputed domain names.

On this basis, 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 <vitescoo.com> and <vitescoo.net> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: April 23, 2024