

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Anders Gotuaco
Case No. D2024-0965

1. The Parties

The Complainant is VFS Global Services PLC, United Kingdom, represented by Aditya & Associates, India.

The Respondent is Anders Gotuaco, Germany.

2. The Domain Name and Registrar

The disputed domain name <immgts-vfsglobal.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 5, 2024. On March 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 March 12, 2024.

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 March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 17, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on April 24, 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 part of the VFS Group of companies. The origins of the group can be traced to a company originally incorporated under the name Fastrac Visa Facilitation Services Pvt Ltd in July 2001, but which has been incorporated under a name beginning with “VFS” since November 2003.

The focus of the VFS Group is the provision of services relating to the filing and processing of visa applications. It has invested heavily in developing proprietary software and systems for the provision of these services. Currently, the VFS Group provides its services to the diplomatic missions of 67 sovereign governments in 149 countries across five continents worldwide. The VFS Group operates out of 3553 Visa Application Centers located in Asia, Africa, Middle East and Europe. Since 2001, the VFS Group has processed over 278 million visa applications and undertaken almost 106 million biometric enrollments since 2007.

The Complaint includes evidence that the Complainant and its group companies have registered numerous trademarks for VFS or VFS GLOBAL in numerous jurisdictions.

For present purposes, it is sufficient to identify by way of example only: (a) India Registered Trademark No. 1555892, VFS GLOBAL, which was registered on May 7, 2007, in respect of computer software related to visa applications in International Class 9; (b) International Registration No 1250991, VFS.GLOBAL EST. 2001 (VFS in a circle), which was registered on September 5, 2014, in respect of a range of goods and services in International Classes 9, 16, 35, 38, 39, and 42; (c) United States of America Registration No. 5,694,062, VFS.GLOBAL EST. 2001 (VFS in a circle), which was registered on March 12, 2019, in respect of a wide range of goods and services in International Classes 9, 16, 35, 38, 39, and 42. The text “EST. 2001” in the trademarks is presented in much smaller type underneath the central “vfs.global” element of the sign. The International Registration is the source of many of the registrations in the jurisdictions referred to above. The Complaint also states that there are numerous registrations in other countries.

The disputed domain name was registered on January 19, 2024. According to the undisputed evidence, the disputed domain name was used to send fraudulent emails.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is identical or confusingly similar to the Complainant's VFS GLOBAL trademarks.

The expression “Vfsglobal” being the predominant, essential, and only relevant component of the disputed domain name. The presence of the word or combination of letters i.e. “imgts” followed by hyphen “-” before the term “vfsglobal” does not alleviate the confusion and the users may think that the disputed domain name is nothing but some interconnected website of the Complainant only.

The Respondent does not, to the best of the Complainant's knowledge, own any trademark registrations reflecting the term “vfsglobal” and has not acquired any reputation and/or goodwill in the terms “vfs” and “vfsglobal” in any country.

At the outset, the Complainant confirms that it has not, nor has it ever, granted the Respondent any right, license, authorization or consent to use its VFS and VFS GLOBAL trademarks.

The Complainant asserts that considering its extensive worldwide reputation on the VFS GLOBAL trademarks, the Respondent must have known about the Complainant's rights and its services at the time of registering the disputed domain name.

The Respondent's registration of the disputed domain name cannot be bona fide in circumstances where the registration was made in the full knowledge of the Complainant's prior rights and in circumstances where the Respondent did not seek permission from the Complainant to such registration.

The disputed domain name was registered and being used by the Respondent in bad faith whereby the various visa applicants were deceived and cheated by causing loss to their hard-earned money.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true, see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that: (i) the disputed domain name is 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 name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the VFS GLOBAL trademarks on the basis of its multiple trademark registrations in several countries.

A trademark registration prima facie satisfies that the rights in the trademark belong to the Complainant, see [WIPO Overview 3.0](#), section 1.2.1. It has also been established by prior UDRP panels that when a domain name incorporates a trademark in its entirety, it will normally be considered that the domain name is confusingly similar to that trademark. Such finding is confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#). The Respondent's incorporation of the Complainant's mark in full in the disputed domain name is sufficient to establish that the disputed domain name is confusingly similar to the Complainant's marks. Mere fact of the addition of the term "immgts", and a hyphen, to the Complainant's trademark VFS GLOBAL do not prevent a finding of confusing similarity with the Complainant's marks. Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" does not prevent a finding of confusing similarity either. The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a prima facie case which, if not rebutted by relevant evidence from the Respondent will lead to this ground being set forth.

The Panel finds that the Complainant has made a prima facie case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name, is not affiliated with the Complainant in any way and that the Complainant never authorized the Respondent to use its trademark as part of the disputed domain name, given the alleged use of the disputed domain name to send fraudulent emails to some of the Complainant's clients.

The Panel notes that the Respondent has not filed any Response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "vfsglobal" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated has rights. The disputed domain name reproduces, without any authorization or approval, the Complainant's registered trademarks.

Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant's VFS GLOBAL trademark together with the term "immgts", which in abbreviated form might refer to "immigrants", and a hyphen. In addition, owing to the substantial presence established worldwide, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering a domain name that entirely reproduces the Complainant's trademark together with the term "immgts" likely an acronym for "immigrants", an expression connected to the Complainant's visa business. Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the VSF GLOBAL trademark.

Furthermore, the Panel finds that the disputed domain name does not resolve to any active website. However, based on the evidence provided by the Complainant, the disputed domain name was still actively used for email services, i.e., for sending emails which impersonate the Complainant. Moreover, the Respondent's fraudulent emails included some of the details of the Complainant. Such use of the disputed domain name can only be observed as clear evidence of the Respondent's bad faith, see, in particular, [WIPO Overview 3.0](#), sections 3.4. Considering all of the above circumstances, the Panel concludes that the Respondent has used the disputed domain name in an unlawful attempt to impersonate the Complainant, by way of an email fraud. This clearly constitutes evidence of bad faith registration and use.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 <imgts-vfsglobal.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: May 9, 2024