

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Virgin Galactic
Case No. D2024-0999

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom, represented by AA Thornton IP LLP, United Kingdom.

The Respondent is Virgin Galactic, India.

2. The Domain Name and Registrar

The disputed domain name <thevirinalgalactic.com> is registered with BigRock Solutions Pvt Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 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 8, 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 (Privacy Protect LLC, (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 11, 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 14, 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 10, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on April 18, 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 following facts are undisputed.

The Complainant is a part of the Virgin Group, a British multinational founded in 1970. The Complainant's business spans a diverse range of sectors covering financial services, health and wellness, music and entertainment, people and planet, telecommunications and media, travel and leisure, and space. The Complainant has over 50 million customers worldwide and employs more than 60,000 people across five business sectors and five continents.

The Complainant established Virgin Galactic, a company to develop space vehicles, promote space tourism and undertake space science exploration, in 2004. The Complainant has also registered the domain name <virgingalactic.com>. The Complainant operates a website to which this domain name resolves since around 2002.

The trademark VIRGIN GALACTIC of the Complainant is protected as a registered trademark in a multitude of countries worldwide, e.g., the European Union trademark registration No. 004756921 for the word mark VIRGIN GALACTIC with registration date January 18, 2007, registered for products and services in classes 12, 16, 25, 28, 39.

The trademark of Complainant was registered before the disputed domain name, which was registered on February 7, 2024.

The disputed domain name resolves to a website that purports to provide energy related services such as space mining, solar energy, electric car batteries, wind energy and atomic waste management.

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 the following.

The disputed domain name is comprised of the terms "THE", "VIRGIN" and "GALACTIC" and therefore incorporates the Complainant's trademark in its entirety. The addition of the definite article "the" before the Complainant's trademark within the disputed domain name is an insignificant and generic addition which would be overlooked by the consumer.

On the website the disputed domain name resolves to, the trademark of the Complainant is used throughout. Also, on this website the "contact" page and "request a quote" buttons are not active. However, there is potential for these buttons to be used in the future to resolve to pages which ask consumers to provide personal data. The website also incorporates a number of errors which are not typical for a legitimate business, such as inactive links and spelling errors. Furthermore, the website uses stock images. As the Complainant's trademark is well-known, the website is likely to be a phishing scam. There is no other evidence that the Respondent is using, or has made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods and services.

The disputed domain name is used intentionally to take advantage of the Complainant's reputation and to confuse Internet users into believing the disputed domain name is operated by, connected to, endorsed by or otherwise associated with the Complainant. This is very likely for the purpose of deceiving the public into providing sensitive and personal information via the contact us or request a quote pages in order to defraud them out of money. This does not represent a good faith use of the disputed domain name.

It is clear that the Respondent was aware of the business of the Complainant at the time the disputed domain name was registered because of the reputation of the Complainant's trademark. The use of the disputed domain name can harm the reputation of the Complainant if the public suffers harm or loss as a result of the Respondent's activity.

B. Respondent

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

6. Discussion and Findings

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms, here the word "the", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Certainly, lacking a response and the facts of the record before it, the Panel finds that there is no (i) use of the disputed domain name (or demonstrable plans for such use) with a bona fide offering; (ii) the Respondent is not being commonly known by the disputed domain name and there is (iii) no legitimate noncommercial or fair use.

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.

The disputed domain name resolves to a website that purports to provide energy related services such as space mining, solar energy, electric car batteries, wind energy and atomic waste management. The website describes the alleged business as aiming to be “the world’s first profitable space resources business”. However, none of the links on the website appear to function.

It seems that Internet users use the “Request for a quote” function, where they need to submit their personal data. This is likely a phishing scam to obtain customers personal details.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant’s Trademark.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy. This is also reinforced by the fact that the Respondent for the registration details of the disputed domain name used the name of what could be a subsidiary of the Complainant.

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 <thevirgingalactic.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: April 24, 2024.