

ADMINISTRATIVE PANEL DECISION

Vitol Holding B.V. v. Chidire Nwankwo
Case No. D2024-1372

1. The Parties

The Complainant is Vitol Holding B.V., Netherlands (Kingdom of the), represented by NLO Shieldmark B. V., Netherlands (Kingdom of the).

The Respondent is Chidire Nwankwo, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <vitol-finance.com> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 April 7, 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 April 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2024.

The Center appointed Andrew F. Christie as the sole panelist in this matter on May 22, 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 a Netherlands (Kingdom of the) energy trading company whose main office is located in Switzerland. It is the owner of numerous registrations for the word trademark VITOL, including European Union Trademark No. 017865708 (filed February 26, 2018; registered January 24, 2019) and United States Trademark No. 6376098 (filed May 15, 2020; registered June 8, 2021).

The disputed domain name was registered on May 27, 2023. The Complainant provided screenshots, taken on February 21, 2024, showing the disputed domain name resolved to a website which, under the heading "About Us", stated: "We are professionally engaged in finances and trading, and have a large experience of the investment industry. Vitofinance was established in 2018, we has (sic) become one of Switzerland's leading real estate organizations and, cryptocurrency trading and other forms or part (sic) of a Group of Companies heavily involved in the property sector, property management and property investments with crypto currency." The website provides an address in Geneva, Switzerland, as "Our Office Location", and provides a form to "Get in touch with us". The Complainant also provided screenshots of Trustpilot reviews of that website, at which one reviewer states they lost USD200 to a fraud, and another reviewer asserts the website is a scam. As of the date of this decision, the disputed domain name resolves to a webpage stating: "This account has been suspended."

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.

The Complainant contends that the disputed domain name is confusingly similar to a trademark in which it has rights because it consists of the Complainant's VITOL trademark followed by a hyphen and the descriptive word "finance", which refers to a service in class 36 for which the trademark is registered.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name because it does not own prior trademarks for VITOL in any jurisdiction, it is not commonly known by this name, and it is not actually offering any services under this name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith on the following grounds, among others. The disputed domain name registration was updated by the Respondent after the Complainant send a cease and desist letter, but the Respondent provided no response to the cease and desist letter. The fact that the disputed domain name refers to investment services is a clear indication that the Respondent is trying to have consumers make financial investments, which will lead to direct financial gain for the Respondent. By using the disputed domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.

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. It is the owner a number of trademark registrations for the word trademark VITOL.

The entirety of the Complainant's trademark is reproduced within the disputed domain name, succeeded by a hyphen and the word "finance". Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of a hyphen and the word "finance" 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.

The evidence shows that the Respondent has used the disputed domain name to resolve to a website which falsely gives the impression of being associated with the Complainant. The evidence also shows that the Respondent's website apparently has been used to execute fraud. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 registered the disputed domain name some years after the Complainant first registered its trademark, that the disputed domain name wholly incorporates the Complainant's trademark along with a term which is descriptive of an activity undertaken by the Complainant using its trademark, and that the Respondent used the disputed domain name to resolve to a website associating itself with the Complainant. Given these circumstances, it is clear the Respondent registered the disputed domain name with knowledge of the Complainant's trademark.

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 evidence shows that the Respondent has used the disputed domain name to associate itself with the Complainant, apparently in pursuit of fraud. Panels have held that the use of a domain name for such an illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The fact that the disputed domain name does not currently resolve to an active location does not prevent a finding of bad faith.

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 <vitofinance.com> be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: June 10, 2024