

ADMINISTRATIVE PANEL DECISION

Visteon Corporation v. D.J.
Case No. D2024-1497

1. The Parties

The Complainant is Visteon Corporation, United States of America (“United States”), represented by DePenning & DePenning, India.

The Respondent is D.J., Czech Republic.

2. The Domain Name and Registrar

The disputed domain name <visteon.org> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2024. On April 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Data Protected) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 10, 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 amended Complaint on April 12, 2024.

The Center verified that the Complaint 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 Respondent of the Complaint, and the proceedings commenced on April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Response was filed with the Center on April 30, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 8, 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.

On May 9, 2024, the Respondent sent a communication by which he reiterated his request that the proceeding be held in the Czech language. As this communication did not raise any new issues or arguments, the Panel will not consider it within the context of this Decision.

4. Factual Background

The Complainant is a leader in cockpit electronic products including digital instrument clusters, information displays, infotainment, head up displays, telematics, smart core cockpit domain controllers, advanced safety platforms, and battery management systems.

The Complainant is the owner of a number of trademark registrations for VISTEON (the "VISTEON trademark"), including the following:

- the Czech Republic trademark VISTEON with registration No. 213296, registered on October 29, 1998, for goods and services in International Classes 7, 9, 11, 12, and 42;
- the United States trademark VISTEON with registration No. 2360510, registered on June 20, 2000, for goods in International Classes 7, 11, and 12; and
- the European Union trademark VISTEON (word and design) with registration No. 001410596, registered on April 17, 2001, for goods in International Class 7.

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

The disputed domain name was registered on September 7, 2023. It resolves to a parking webpage with the text "This page does not exist" in several languages. The webpage contains five flag icons with the flags of the United Kingdom, the Czech Republic, Slovakia, Poland, and Hungary, and these redirect to the Czech, Slovakian, Polish, and Hungarian language versions of the website of the company listed as the billing and technical contact for the disputed domain name, where various Internet-related services, including domain name registration, website development, hosting and cloud services, are offered.

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 states that the disputed domain name is identical to its VISTEON trademark. According to it, the use by the Respondent of the VISTEON trademark in the disputed domain name is likely to induce Internet users to believe that the Respondent is somehow connected to the Complainant.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has not been licensed to use the VISTEON trademark or to register a domain name incorporating the same trademark. The Complainant states that the Respondent is not making a legitimate offering of goods or services through the disputed domain name, and there is no plausible explanation for the use of the disputed domain name by the Respondent other than to misappropriate the reputation of the Complainant's VISTEON trademark and to divert traffic away from the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent must have known of the Complainant's rights in the VISTEON trademark when registering the disputed domain name, and has made no legitimate offering of goods or services through the disputed domain name, but is trying to exploit the well-known trademark of the Complainant.

B. Respondent

The Response included a few statements in English, such as accusing the Complainant of “trying to abuse [its] dominant position”, of threatening the Respondent through the “agencies [Complainant] hired”, stating that the “normal human approach is to try to settle down any dispute prior to escalation”, and finally that the Respondent was “waiting for [Complainant’s] direct normal counter proposal prior to further unnecessary escalation from my side e.g. going public”.

The Response also includes a longer section in the Czech language, in which the Respondent makes similar statements. The Respondent adds that the Complainant had an opportunity to register the disputed domain name when it was freely available, but chose not to do so, so the Respondent registered it as a freely available product that was available to the public. The Respondent adds that there are many other freely available domain names containing the VISTEON trademark which the Complainant has not acquired. According to the Respondent, the filing of the Complaint is an attempt by the Complainant to abuse its dominant market position.

The Respondent adds that, as a gesture of good will, for a limited time he is not offering the disputed domain name for sale.

6. Discussion and Findings

6.1. Procedural issue – Language of the proceeding

In accordance with paragraph 11(a) of the Rules unless otherwise agreed by the Parties, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Registrar confirmed that the language of the Registration Agreement for the disputed domain name is English. The Complainant has filed the Complaint in English and requests that English be the language of this proceeding. According to the Complainant, the Respondent has no problem in conducting its business in English and it will not prejudice the Respondent if English is adopted as language for the instant proceeding.

The Respondent submits that he is a resident of the Czech Republic, which entitles him to require that all communication in the proceeding be conducted in his native Czech language. On this basis, the Respondent requires that all communications and documents in the case be translated and provided to him in the Czech language.

The Complainant is a company from the United States and its representative is from India. The Complainant and its representative do not appear as being able to understand and to communicate in Czech and the translation of the Complaint would result in additional expenses and delay of the proceeding. The Respondent has submitted his Response partly in English and partly in Czech. Paragraph 10(c) of the Rules directs the Panel to ensure that the administrative proceeding takes place with due expedition.

Having considered all circumstances of this case, the Panel concludes that a departure from the default rule of paragraph 11(a) of the Rules is not justified and that English shall be the language of the 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 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 the VISTEON trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

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 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 main argument raised by the Respondent is that the disputed domain name was freely available to the public and was legitimately acquired by the Respondent after the Complainant chose not to register it. However, a trademark owner cannot be required to register to itself the domain names that are identical to its trademark in all possible gTLDs and ccTLDs in order to protect its trademark, and the fact that it has not done so cannot be interpreted as meaning that it has allowed third parties to obtain such domain names. There is also a consensus view among UDRP panels that the mere registration a domain name as such is not sufficient to give rise to rights or legitimate interests in the domain name under the Policy. In addition, paragraph 2 of the Policy requires all domain name registrants to represent and warrant that to their knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party. The Respondent does not claim that it has no knowledge of the Complaint and of its VISTEON trademark. It acknowledges in the Response that the Complainant is a “global giant” in the “automotive world”. The Panel interprets this as a confirmation that the Respondent is well aware of the Complainant and of its VISTEON trademark.

The Respondent has not provided any explanation as to how and why it decided to register the disputed domain name and how he intends to use it. The evidence shows that the disputed domain name resolves to a parking webpage that contains flag icons redirecting visitors to the website of the company listed as billing and technical contact for the disputed domain name, where various Internet-related services are offered. Internet users may be attracted to the disputed domain name because it is identical to the VISTEON trademark and thus carries a high risk of implied affiliation with the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)), and then they may be redirected to the website of the company listed as billing and technical contact for the disputed domain name where they would be exposed to the commercial offers contained there. In result, the company offering these services may benefit from the popularity of the Complainant’s trademark by attracting traffic to its website and selling its services for commercial gain.

Taking all the above into consideration, the Panel accepts as more likely than not that the Respondent, being well aware of the goodwill of the Complainant, has registered and used the disputed domain name targeting the Complainant in an attempt to obtain a commercial advantage for himself or for the company listed as the billing and technical contact of the disputed domain name. Such conduct cannot give rise to rights or legitimate interests of the Respondent in the disputed domain name.

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 discussed in the section on rights and legitimate interests above, it appears as more likely than not that the Respondent has registered and used the disputed domain name with knowledge of the Complainant and its trademark and targeting them in an attempt to obtain a commercial advantage for himself or for the company listed as billing and technical contact for the disputed domain name by confusing Internet users that the disputed domain name are associated with the Complainant and attracting them to it and to the website to which it redirects. Such conduct supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy.

The Panel therefore 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 <visteon.org> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: May 31, 2024