

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Neo Soso
Case No. D2024-1935

1. The Parties

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

The Respondent is Neo Soso, Bosnia and Herzegovina.

2. The Domain Name and Registrar

The disputed domain name <virgingalacticstock.bond> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 8, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 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 (REDACTED FOR PRIVACY, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 14, 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 May 16, 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 May 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 10, 2024.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on June 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, Virgin Enterprises Limited, is the IP holding company of the Virgin Group, which is a diversified group with activities in sectors such as financial services, health, music and entertainment, telecommunications and media, travel and leisure, gaming and space.

The Complainant has rights in a series of trademarks incorporating the word “Virgin” registered in many jurisdictions, with a focus on Europe, North America, Asia and Australia, for example:

- United Kingdom trademark registration no. UK00003163121, “VIRGIN”, registered on July 29, 2016;
- European Union trademark registration no. 015255235, “VIRGIN”, registered on March 21, 2016;
- European Union trademark registration no. 004756921, “VIRGIN GALACTICS”, registered on January 18, 2007; and
- International trademark registration no. 1489392, “VIRGIN GALACTICS”, registered on July 10, 2019 and designating Australia, the European Union, Japan, Singapore and the United States of America.

The Complainant holds various domain names, its main website being operated at the address “www.virgin.com”.

The disputed domain name <virgingalacticstock.bond>, registered on April 7, 2024, resolved at the time of filing the Complaint to a gaming related website, displaying the Complainant’s VIRGIN trademark.

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 that the disputed domain name <virgingalacticstock.bond> is confusingly similar to the VIRGIN trademarks and that VIRGIN is a trademark with a significant reputation.

Furthermore, the Complainant states that the Respondent has not at any time been commonly known by the disputed domain name, that he has no legitimate interest in it and that he is not making any legitimate use of it. Therefore, the Respondent has no rights or legitimate interests in the disputed domain name.

Lastly, the Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The disputed domain name <virgingalacticstock.bond> resolves to a website with gaming related contents. The Complainant contends that the Respondent uses the domain name to deceive consumers into thinking that the disputed domain name is operated by or connected to the Complainant, its Virgin Galactic business and its Virgin Games business, and to divert consumers away from these businesses.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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

The trademarks put forward by the Complainant demonstrate that the Complainant has rights in relevant trademarks.

Under the UDRP, the requirement under paragraph 4(a)(i) of the Policy requires the disputed domain name to be identical or confusingly similar to the complainant's trademarks. There is no requirement of similarity of goods and/or services.

The existence of confusing similarity within the meaning of paragraph 4(a)(i) of the Policy is not in doubt in the present case, given that the main element in the disputed domain name, i.e., "virgin" is identical with the Complainant's trademark VIRGIN, and that the second element of the disputed domain name, "galactic", is the secondary element of another trademark of the Complainant, namely VIRGIN GALACTIC, which refers to the activities of the Virgin Group in the fields of space vehicles, space tourism and space science exploration. The incorporation of a trademark in its entirety is typically sufficient to establish that a disputed domain name is identical or confusingly similar to a trademark.

The other element of the disputed domain name, i.e., the descriptive element "stock", does not avoid confusing similarity. As far as the generic Top Level-Domain ".bond" is concerned, this element has a technical function and therefore is typically not taken into account when assessing the issue of identity or confusing similarity.

The Panel thus finds that the disputed domain name is confusingly similar to the Complainant's trademarks VIRGIN and VIRGIN GALACTIC.

B. Rights or Legitimate Interests

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name, in particular that the Respondent is not making legitimate use of the disputed domain name. The Complainant has contested having granted the Respondent any rights to use its trademarks.

Furthermore, by not submitting any response to the Complaint, the Respondent failed to invoke any circumstance that might demonstrate, pursuant to paragraph 4(c) of the Policy, that it holds any rights or legitimate interests in the disputed domain name (*Ahead Software AG. v. Leduc Jean*, WIPO Case No. [D2004-0323](#); see also, *Nintendo of America, Inc. v. Tasc, Inc. and Ken Lewis*, WIPO Case No. [D2000-1563](#)).

Regarding the Respondent's use of the disputed domain name for a website displaying articles about gambling and online gaming as well as promotional material relating to a number of businesses in the hotel, gambling, and fitness sectors, it should be noted that such use of the disputed domain name does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark (*Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright*, WIPO Case No. [D2007-0267](#)).

The Panel finds that the Complainant has made an un rebutted prima facie showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Panel thus finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must, in addition to the matters set out above, demonstrate that the disputed domain name has been registered and is being used in bad faith.

The undisputed prima facie evidence establishes that the Respondent is not affiliated with the Complainant and has no license or other authorisation to use the Complainant's trademarks.

The Respondent acquired the disputed domain name well after the VIRGIN trademarks were in use and became known. The Panel finds that the Respondent must have known about the Complainant's trademarks and businesses when registering the disputed domain name. It seems strictly impossible to the Panel that given the obvious notoriety of the VIRGIN trademark and of the VIRGIN GALACTIC trademark and given the repeated use of these trademarks on his website in connection with both the gaming and the space activities of the Virgin group, the Respondent was unaware of it at the time it registered the disputed domain name.

Furthermore, based on the record, the Panel finds that the use to which the disputed domain name has been put to, as discussed above, evidences the Respondent's bad faith. The Complainant rightly points out that the Respondent clearly relies on the significant reputation of and consumer trust in the Complainant's trademarks to create an aura of trust and legitimacy around the disputed domain name and the related website. Internet users may indeed believe that the disputed domain name is part of the Virgin Galactic business, the Virgin Games business, or any of the other various businesses owned by the Complainant. Also, it seems very likely that the Respondent aims at deriving gains from its use of the disputed domain name.

In light of the above, the Panel holds that by using the domain name, the Respondent intentionally attempts to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website (paragraph 4(b)(iv)).

Based on the above, the Panel finds that the Respondent both registered and is using the disputed domain name in 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 <virgingalacticstock.bond> be transferred to the Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: July 8, 2024