

ADMINISTRATIVE PANEL DECISION

Advance Magazine Publishers Inc. v. Sebastian King
Case No. D2024-2253

1. The Parties

The Complainant is Advance Magazine Publishers Inc., United States of America, represented by Stobbs IP Limited, United Kingdom.

The Respondent is Sebastian King, Norway.

2. The Domain Name and Registrar

The disputed domain name <vogue-scandinavia.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 May 31, 2024. On June 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 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 amended Complaint on June 4, 2024.

The Center verified that the Complaint together with the 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 June 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2024.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on July 5, 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, Advance Magazine Publishers Inc., is a highly successful magazine publisher. Through its unincorporated division, The Condé Nast Publications Inc. (hereinafter Condé Nast), the Complainant publishes renowned magazines such as Vogue, Glamour, The New Yorker, Self, Vanity Fair, and GQ. The Complainant's magazines have a significant internet presence and operate several popular websites that incorporate content from many of its magazines. Vogue, launched in 1892, is recognized as the leading fashion and style magazine for women globally.

The Complainant holds several trademark registrations for the trademark VOGUE in various jurisdictions, including the following:

- Norway trademark VOGUE Reg. No: 202117617 registered on March 8, 2023, in classes 9,35,41;
- European Union trademark VOGUE Reg. No: 3678828 registered on July 2, 2007, in classes 6,19,20.
- Denmark trademark VOGUE Reg. No: VR200102531 registered on June 14, 2001, in class 35,39,42.

These trademarks are extensively used in commerce, particularly in the fashion and lifestyle sectors.

The Complainant is also the owner of several domain names related to its trademarks, including <vogue.com>, <vogue.co.uk>, and <voguescandinavia.com>. These domain names host content directly associated with the Complainant's publications and are critical components of their digital strategy.

The disputed domain name was registered on September 7, 2023. The Respondent used the disputed domain name to redirect to the Complainant's official website and also employed it for unauthorized email communications, which aimed to mislead individuals into believing there was an official connection with the Complainant.

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 asserts that the disputed domain name, <vogue-scandinavia.com>, is confusingly similar to its registered trademarks, including the well-known VOGUE mark. The inclusion of the geographical term "Scandinavia" does not prevent a finding of confusing similarity. The term "vogue" is the dominant element in the disputed domain name, leading to confusion among consumers who might mistakenly believe that the disputed domain name is associated with the Complainant.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been commonly known by the disputed domain name and has not used the disputed domain name in connection with a bona fide offering of goods or services. Instead, the Respondent has used the disputed domain name to redirect to the Complainant's official website and for unauthorized email communications, indicating an attempt to impersonate the Complainant and mislead consumers for personal gain. This impersonation and passing off as associated with the Complainant demonstrate a lack of legitimate interest by the Respondent.

The Complainant maintains that the disputed domain name was registered and is being used in bad faith. The Respondent had actual knowledge of the Complainant's brand and registered the disputed domain name to take advantage of the Complainant's goodwill and reputation. The Respondent's actions, including redirecting the disputed domain name to the Complainant's official website and using it for deceptive email activities, further exemplify bad faith. The Complainant submits that the registration was a calculated attempt to prevent the Complainant from reflecting its trademark in the disputed domain name and to create confusion for commercial gain.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove 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 was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

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, "scandinavia," may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Complainant's trademark VOGUE is widely recognized and has been registered in numerous jurisdictions. The addition of the term "scandinavia" does not sufficiently distinguish the disputed domain name from the Complainant's trademark. Therefore, the disputed domain name <vogue-scandinavia.com> is confusingly similar to the Complainant's trademark VOGUE.

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 Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been commonly known by the disputed domain name and has not used the disputed domain name in connection with a bona fide offering of goods or services. Instead, the Respondent has used the disputed domain name to redirect to the Complainant’s official website and for unauthorized email communications, indicating an attempt to impersonate the Complainant and mislead consumers for personal gain. This impersonation and passing off as associated with the Complainant demonstrate a lack of legitimate interest by the Respondent.

Panels have held that the use of a domain name for illegal activity (here, impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 has registered and used the disputed domain name in bad faith.

The Respondent registered the disputed domain name <vogue-scandinavia.com> with knowledge of the Complainant’s well-known VOGUE trademark. The Respondent used the disputed domain name to redirect traffic to the Complainant’s official website and engaged in unauthorized email communications, aiming to mislead third parties, and exploit the Complainant’s reputation for personal gain. This intentional attempt to create confusion for commercial benefit is a clear indication of bad faith.

By using the disputed domain name to impersonate the Complainant and mislead consumers, the Respondent has disrupted the business operations of the Complainant. This disruption is further evidence of bad faith registration and use.

Panels have held that the use of a domain name for illegal activity (here, impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The fact that the Respondent has registered a domain name almost identical to one owned by the Complainant, <voguescandinavia.com>, further supports a finding of bad faith. 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 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 <vogue-scandinavia.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: July 19, 2024