

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Henry Williams
Case No. D2024-2930

1. The Parties

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

The Respondent is Henry Williams, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <virgin-cargo.com> (the “Disputed Domain Name”) is registered with Spaceship, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 17, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 19, 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 Purposes / Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 23, 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 July 26, 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 July 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2024.

The Center appointed Enrique Bardales Mendoza as the sole panelist in this matter on August 21, 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 part of the Virgin Group and is the owner of the VIRGIN brand and associated trademarks. Virgin branded businesses span 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. Also, the Complainant has over 50 million customers worldwide and employs more than 60,000 people across five business sectors and five continents. Also, the Virgin name and Virgin signature logo have all been consistently and intensively used across all Virgin operations since the company was founded.

The Complainant's social media platforms receive over 37 million views each year. The considerable online public following would demonstrate the widespread exposure of the Virgin brand to people all over the world and its significant global reputation.

The Complainant is the owner of numerous VIRGIN trademarks, including:

- International trademark VIRGIN registered under registration No. 1290574 on February 3, 2015 for services in international classes 39, 41 and 43.
- United Kingdom trademark VIRGIN ATLANTIC registered under registration No. UK00003107248 on November 27, 2015 for goods and services in international classes 9, 35, 39, 41, 43, and 44.
- European Union trademark VIRGIN ATLANTIC registered under registration No. 014030589 on October 12, 2015 for goods and services in international classes 9, 35, 39, 41, 43, and 44.
- United States trademark VIRGIN ATLANTIC registered under registration No. 2808270 on January 27, 2004 for services in international class 39.

According to the complaint, in 1984, the Complainant launched its first passenger and cargo airlines under the brand Virgin Atlantic with the aim of providing a high quality and value for money service. The Complainant provides information about its Virgin Atlantic passenger and cargo services and booking facilities on its websites at "www.virginatlantic.com", registered on October 22, 1998, and "www.virginatlanticcargo.com", registered on June 13, 2010.

The Virgin Atlantic cargo service began between London and New York, and now offers daily flights to India, China, Africa, America, and the Caribbean connecting more than 350 destinations worldwide. The Complainant mentions that the Virgin Atlantic cargo business is committed to and known for providing exceptional customer service as well as implementing innovative solutions to constantly improve its service.

The Disputed Domain Name was registered on June 11, 2024 and resolves to a fully operative website that offers a host of logistic management services and supply chain solutions.

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 is confusingly similar to the VIRGIN registered trademark, and the addition of the hyphen and the term “cargo” to the Complainant’s trademark does not prevent a finding of confusingly similarity. Also, the Complainant states that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and the Disputed Domain Name has been registered and is being used in bad faith by the Respondent.

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. As mentioned in the complaint and proved by the annexes submitted, the Complainant has demonstrated the ownership of several VIRGIN trademarks in different regions.

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, “-cargo”) 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.

The Respondent has not submitted any response and has not claimed any rights or legitimate interests with respect to the Disputed Domain Name. As per the Complaint, the Respondent was not authorized to register the Disputed Domain Name.

Panels have held that the use of a domain name for activity such as claimed passing off would not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The website contains several elements that disbelieve its legitimacy such as numerous misspellings and grammatical errors, stock images of people not related to an actual staff, placeholder email addresses, a request for personal information to ask a quote, among others.

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 may have registered the Disputed Domain Name to sell it to the Complainant at a profit, or more likely to have intentionally attempted to attract Internet users by creating a likelihood of confusion with the complainant's mark so the website appears trustable for them to give their personal information.

Panels have held that the use of a domain name for such 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 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 <virgin-cargo.com> be transferred to the Complainant.

/Enrique Bardales Mendoza/

Enrique Bardales Mendoza

Sole Panelist

Date: September 4, 2024