

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Jude Ogbonna
Case No. D2024-3147

1. The Parties

The Complainant is Virgin Enterprises Limited, United Kingdom (“UK”), represented by AA Thornton IP LLP, UK.

The Respondent is Jude Ogbonna, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2024. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on August 5, 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 August 8, 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 August 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on September 3, 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, operating in many different sectors, including finance, health and wellness, music and entertainment, people and planet, telecommunications and media, travel and leisure, and space. The Complainant has over 50 million customers worldwide and employs more than 60,000 people across five business sectors and five continents.

The Complainant is the owner of several trademarks, including:

- International Registration No. 1141309 VIRGIN in classes, 9, 35, 36, 38, and 41, since May 21, 2012;
- UK Registration No. UK00003281744 VIRGIN HOME in classes 36 and 41, since April 27, 2018.

The Complainant is also the owner of around 5,000 domain names including the trademark VIRGIN, such as the domain name <virgin.com>, registered in 2000.

The disputed domain name was registered on February 18, 2024.

The Complainant has provided evidence showing that the disputed domain name resolves to an active website characterized by several inconsistencies and publicizing trading services for properties or oil and gas.

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 affirms that the disputed domain name is confusingly similar to the Complainant's VIRGIN HOME and VIRGIN trademarks, as it entirely reproduces both of them.

The Complainant submits that the Respondent is neither a licensee of the Complainant nor is it affiliated with the Complainant in any way. The Complainant says that it has not authorized the Respondent to make any use of its VIRGIN HOME and VIRGIN trademarks, whether in a domain name, in the use of its logos on the website, or otherwise. The Complainant says that there is no evidence to suggest that the Respondent is commonly known by the disputed domain name, as intended under paragraph 4(c)(ii) of the Policy.

The Complainant lastly asserts that the Respondent registered and used the disputed domain name in bad faith, as the website connected to the disputed domain name has been set up in order to be used for phishing purposes. Indeed, the website itself falsely suggests there is a legitimate business activity behind the disputed domain name, even though (i) it contains inconsistent and suspicious information and (ii) it has been created to steal sensitive information from Internet users interested in the Complainant's services.

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.

The entirety of the VIRGIN HOME and VIRGIN trademarks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of letter "S" within the disputed domain name does not prevent a finding of confusing similarity, as the marks remain recognizable within the disputed domain name.

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 Panel notes that the disputed domain name is used in connection to a website that purports to be a platform for users to trade properties or oil and gas. The website appears to have contradictory information regarding the business allegedly carried out under the VIRGINS HOME brand; it should also be noted that a certain number of pages within such website are not accessible without providing personal information and creating an account, or they simply resolve to the homepage. The Panel further notes that the address used on the website is one of the office addresses of the Complainant. Therefore, the Panel is of the opinion that the Respondent had the intention to impersonate the Complainant or confuse Internet users into believing that the website under the disputed domain name was authorized by the Complainant.

Taking into account all the above and without an explanation from the Respondent, 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.

The registration of the Complainant's trademarks predates the disputed domain name. In the present case, the Panel notes it is more likely than not that the Respondent had the VIRGIN HOME and VIRGIN trademarks in mind while registering the disputed domain name.

Considering that many parts of the website connected to the disputed domain name are not accessible (even the ones containing relevant information regarding the business activity carried out under the website itself), the website appears to function as a tool used in an attempt to make Internet users subscribe to the website and provide their personal information; this circumstance raises strong suspicion of the Respondent using the disputed domain name in a phishing scam. The use of the Complainant's address on the website further supports Panel's finding and the Panel is of the opinion that it is a deliberate attempt to mislead Internet users into making them believe that the disputed domain name was affiliated to the Complainant.

Once again, the website connected to the disputed domain name contains inconsistent and suspicious information and, also bearing in mind the considerable notoriety of the Complainant's trademarks, the Panel believes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's earlier trademarks as to the source, sponsorship, affiliation, or endorsement of the website connected to the disputed domain name.

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 <virginshomes.com> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: September 17, 2024