

## **ADMINISTRATIVE PANEL DECISION**

Lirenn Diffusion, Vanessa Wu, Xianqin Weng, Xiang Wu v. Zhang Qiang  
Case No. D2024-3610

### **1. The Parties**

The Complainants are Lirenn Diffusion, Vanessa Wu, Xianqin Weng and Xiang Wu, France, represented by SELARL Havard Duclos & Associés, France.

The Respondent is Zhang Qiang, China.

### **2. The Domain Names and Registrars**

The disputed domain names <vanessawubruelles.com> and <vanessawunl.com> are registered with Paknic (Private) Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 7, 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 verified that 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 September 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2024.

The Center appointed David Stone as the sole panelist in this matter on October 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.

#### **4. Factual Background**

The Complainants operate the “VANESSA WU” group, a family-owned business specializing in the design, manufacture, and distribution of shoes and handbags.

The second, third and fourth Complainants jointly own the following registered trademarks (the “Marks”):

- VANESSA WU: French Trademark registration no. 4053983, registered on April 4, 2014 in International classes 18 and 25;
- VANESSA WU VW (Figurative): French Trademark registration no. 4662260, registered on December 18, 2020 in International classes 18 and 25; and
- VANESSA WU VW (Figurative): International Trademark registration no. 1575070, registered on December 14, 2020 in International classes 18 and 25.

The second, third, and fourth Complainants license the Marks to the first Complainant, the company Lirenn Diffusion, for the purposes of the VANESSA WU group’s business. Lirenn Diffusion itself owns the domain name <vanessawu.fr> registered on January 23, 2017, which hosts the VANESSA WU group’s official website where Internet users can purchase VANESSA WU shoes and handbags.

The disputed domain names were created on June 27, 2023. At the date of this decision, the Respondent is maintaining websites at the disputed domain names which: (i) use the Marks prominently in the top left-hand corner; (ii) use the Marks numerous within product names of shoes advertised for sale; and (iii) use a similar design to the Complainants’ official website.

#### **5. Parties’ Contentions**

##### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainants contend that, under the first element, the disputed domain names reproduce the Marks. The differences between the Marks and the disputed domain names comprise geographical designations (namely, “nl” denoting the Netherlands and “Bruxelles” denoting the Belgian capital, Brussels, in French) and that these do not differentiate the disputed domain names from the Marks. Further, the Complainants contend that the use of these geographical designations is likely to increase the risk of confusion as Internet users may be led to believe, wrongly, that the disputed domain names refer to websites approved by the Complainants and dedicated to the sale of VANESSA WU shoes and handbags in the Netherlands and Belgium (and, more specifically, Brussels).

Under the second element, the Complainants contend that the Respondent must have been aware of the existence of the Complainants and their activities under the Marks because of the notoriety of the VANESSA WU group and the content of the websites hosted at the disputed domain names. The Respondent is not authorized by or affiliated with the Complainants.

Under the third element, the Complainants contend that the websites hosted at the disputed domain names offer for sale copies of VANESSA WU products bearing the Marks and use official photographs of these products from the Complainants’ official website. The Respondent registered the disputed domain names with the sole aim of profiting the reputation of the Complainants and their Marks by marketing infringing products.

##### **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

## 6. Discussion and Findings

### Consolidation: Multiple Complainants

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

In addressing the Complainants' request, the Panel will consider whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1.

The Panel notes that the Complainants together operate the VANESSA WU group and between them own the Marks and the official website of the VANESSA WU group. As such, the Panel finds that the Complainants have a specific common grievance against the Respondent, namely the Respondent's registration and use of the disputed domain names.

As regards equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any party. The Panel also finds that the consolidation of the disputes would be procedurally efficient.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Complainants in a single 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 3.0](#), section 1.7.

The Complainants have 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 Marks is reproduced within the disputed domain name. Accordingly, the disputed domain names are confusingly similar to the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "bruxelles" and "nl", and the generic Top-Level Domain ("gTLD") ".com", 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 names and the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8 and 1.11.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Further, the websites to which the disputed domain names resolve do not appear to fall under the safeguards of fair use envisioned under section 2.8 of the [WIPO Overview 3.0](#), given there is no prominent disclaimer on either website as to the lack of association with the Complainants – to the contrary, the websites use the Marks in the top left corner where consumers would expect to find the name of the website operator.

Furthermore, panels have held that the use of a domain name for illegitimate activity, here, claimed sale of counterfeit goods, impersonation/passing off, or other types of fraud, 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 two confusingly similar disputed domain names and is maintaining websites at the disputed domain names which: (i) use the Marks prominently in the top left-hand corner; (ii) use the Marks numerous within product names of shoes advertised for sale; and (iii) use a similar design to the Complainants' official website.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that evidence of a respondent seeking to cause confusion supports a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the content of the websites hosted at the disputed domain names is strongly suggestive of bad faith because it is evidence of the Respondent seeking to cause confusion. The prominent and frequent use of the Marks (including in the top left of the websites where consumers would expect to find the name of the website operator) to sell products identical to those of the Complainants shows an intention of the Respondent to confuse and thereby attract users to its website for commercial gain.

Further, panels have held that the use of a domain name for illegitimate activity, here, claimed sale of counterfeit goods, impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Furthermore, the Respondent has not attempted to refute any of the Complainants' contentions, which casts additional doubt on the nature of its conduct. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel concludes that the actions of the Respondent in choosing the disputed domain names were aimed at attracting, for commercial gain, Internet users by creating a likelihood

of confusion with the Complainants' Marks. The Panel therefore concludes that the disputed domain names were registered and are being used in bad faith.

The Panel finds that the Complainants have 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 names <vanessawubruelles.com> and <vanessawunl.com> be transferred to the first Complainant, Lirenn Diffusion.

*/David Stone/*

**David Stone**

Sole Panelist

Date: October 18, 2024