

ADMINISTRATIVE PANEL DECISION

Virgin Enterprises Limited v. Kalu Tall
Case No. D2024-3792

1. The Parties

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

The Respondent is Kalu Tall, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <virginplusca.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 17, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 September 20, 2025.

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 September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2024.

The Center appointed Harini Narayanswamy as the sole panelist in this matter on October 22, 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 was founded by Sir Richard Branson, and has diverse business interests including financial services, health and wellness, music and entertainment, telecommunications, and travel and space. The Complainant owns the VIRGIN mark and has a portfolio of over 3,500 trademark applications and registrations in over 150 countries. The Complainant owns around 5,000 domain names and its official website has operated from the domain name <virgin.com> since the year 2000.

The Complainant's registered trademarks include:

United Kingdom trademark number UK00003163121 for the VIRGIN mark, filed on May 5, 2024, and registered on July 29, 2016 in classes 3, 5, 9, 11, 12, 44, and 45, among others, and also covering telecommunication services in class 38.

European Union Trade Mark number 000611459 for the VIRGIN mark, filed on September 25, 1997, and registered on January 26, 1999, in class 38, covering among others telecommunication services in class 38.

Canadian trademark registration No. TMA1012657, for VIRGIN signature design, filed on August 3, 2016, and registered on January 10, 2019, in classes 9, 35, 36, and 38, covering telecommunication services.

The Respondent registered the disputed domain name on August 16, 2024. The disputed domain name resolves to a website that substantially imitates the Complainant's VIRGIN PLUS website, which the Complainant operates from the domain name <virginplus.ca>. The Respondent's website displays banners that are replicated from the Complainant's website such as "Get a mobile plan and home internet plan for \$ 75/mo" and "Everyone benefits with Member Benefits", and even uses the red color background that is used on the Complainant's VIRGIN PLUS website.

Besides displaying copied content from the Complainant's website, the Respondent's website also displays the VIRGIN PLUS trademark on each page and reproduces the entire footer. Mobile phones and accessories are offered for sale on the Respondent's website, however the links are only dummy links, as the "shop now" buttons do not work.

5. Parties' Contentions

A. Complainant

The Complainant states that its VIRGIN mark has acquired goodwill and world-wide reputation due to extensive use. The Complainant contends that the mark is used across all its operations, with more than 40 VIRGIN branded businesses such as Virgin Active, Virgin Money, and Virgin Media. The Complainant alleges that it has over 50 million customers worldwide and employs over 60,000 people. It has a robust social media presence and collectively receive over 37 million views each year for its social media pages, that prominently features the VIRGIN mark.

The Complainant states that in the year 2005 it launched Virgin Mobile Canada for pre-paid and post-paid wireless telecommunication services. In 2021 Virgin Mobile Canada was rebranded as VIRGIN PLUS and started offering bundle plans with home Internet and television subscription. The Complainant contends that the disputed domain name which comprises of the terms "virgin", "plus", and letters "ca" is confusingly similar to its marks VIRGIN and VIRGIN PLUS. Furthermore, the disputed domain name is also similar to the

Complainant's domain name <virginplus.ca>. The Complainant alleges that letters "ca" in the disputed domain name is likely to be inferred by Internet users as referring to Canada, since Virgin Plus operates primarily in Canada.

Notably, the Complainant contends that the website linked to the disputed domain name substantially reproduces and imitates the official website of its Virgin Plus business. The Complainant contends that the direct copying of its website, including the footer and the trademark, which are copyright protected works, does not indicate the Respondent has rights or legitimate interest in the disputed domain name. Further, there is no evidence that the Respondent is known by the disputed domain name or is making any legitimate noncommercial or fair use of the disputed domain name but is misleadingly diverting consumers away from the Complainant's business by taking advantage of its trademark. The Complainant contends that the disputed domain name has been registered and used in bad faith and that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant in these proceedings is required to establish three elements under paragraph 4 (a) of the Policy for transfer of the disputed domain name, these are:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent lacks rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith by the Respondent.

A. Identical or Confusingly Similar

The first element requires the Complainant to establish the disputed domain name is confusingly similar to a trademark or a service mark in which it has rights. 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 provided evidence of its registered trademarks and 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 Panel also concurs with other UDRP panels that have recognized the Complainant's established rights in the VIRGIN mark. See *Virgin Enterprises Limited v. alpha tech*, WIPO Case No. [D2023-3157](#).

The Panel finds the mark is reproduced within the disputed domain name. The disputed domain name has the VIRGIN mark and the term "plus" along with letters "ca". Although the addition of other terms "plus" and letters "ca" may bear on assessment of the second and third elements, the Panel finds the addition of terms or letters 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

Where the mark is recognizable within the disputed domain name, additional terms, letters or words will not prevent a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

For the reasons discussed, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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.

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. The Respondent did not respond in these proceedings and has not provided any explanation for choosing the disputed domain name.

Having reviewed the available record, the Panel finds the Respondent is not known by the disputed domain name, nor has it demonstrated any legitimate reasons for the registration of the disputed domain name. The Panel notes that no permission, authorization, or license to use the mark or variants of the mark has been given to the Respondent. Therefore, the Respondent has made unauthorized use of the Complainant’s registered trademark in the disputed domain name. The Respondent has acquired the disputed domain name, which carries an implied affiliation to the Complainant’s mark, which is not indicative of the Respondent rights or legitimate interests in the disputed domain name.

The website to which the disputed domain name resolves has lifted and copied a substantial portion of the content from the Complainant’s Virgin Plus official site. The disputed domain name is being used to imitate the Complainant’s website and is therefore likely to confuse and mislead Internet users regarding its sponsorship or affiliation. Trying to impersonate the Complainant or show false association with the Complainant coupled with the unauthorized use of the Complainant’s mark in the disputed domain name is not indicative of bona fide activity or noncommercial fair use.

For the reasons discussed, 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 finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The third element under paragraph 4(a)(iii) of the Policy requires the Complainant to establish the disputed domain name has been registered and used in bad faith by the Respondent. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy specifies circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicate that the respondent has registered or acquired the domain name primarily for purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The above-mentioned circumstances may indicate that a domain name was registered and used in bad faith, but other circumstances may also 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.

The disputed domain name which contains the VIRGIN mark and the term "plus" along with letters "ca, is confusingly similar to the VIRGIN and the VIRGIN PLUS marks. Furthermore, as argued by the Complainant, the disputed domain name closely resembles the official domain name of the Complainant's business for services it offers under the VIRGIN PLUS mark. The website to which the disputed domain name resolves imitates and copies the Complainant's website to a substantial extent. Many of the links in the footer of the Respondent's website redirect to the genuine Virgin Plus website hosted by the Complainant. The entire set of circumstances clearly indicates that the Respondent's use of the disputed domain name is an attempt to deliberately impersonate, confuse, and mislead online users.

Panels have held that the use of a domain name for illegitimate activity, such as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the registration and use of the disputed domain name as discussed indicates the Respondent's intent to attract online users based on the reputation associated with the mark.

Paragraph 4(b)(iv) of the Policy, clearly states that if a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the respondent's website, it amounts to bad faith registration and use. The Respondent has no connection with the trademark owner but uses the mark in a deceptive and inherently misleading manner, which constitutes bad faith as described under paragraph 4(b)(iv) of the Policy.

The Panel finds for all the reasons discussed, that the Respondent has used the disputed domain name in a manner that is described as bad faith registration and use under the Policy. The Complainant has established the third element of the Policy that the disputed domain name has been registered and is being used 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 <virginplusca.com> be transferred to the Complainant.

/Harini Narayanswamy/

Harini Narayanswamy

Sole Panelist

Date: November 5, 2024