

## **ADMINISTRATIVE PANEL DECISION**

British American Tobacco (Brands) Limited v. weingang dong  
Case No. D2024-3820

### **1. The Parties**

The Complainant is British American Tobacco (Brands) Limited, United Kingdom (“UK”), represented by Demys Limited, UK.

The Respondent is weingang dong, UK.

### **2. The Domain Name and Registrar**

The disputed domain name <snus-velo.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 19, 2024. On September 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 24, 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 26, 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 October 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 22, 2024.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on November 1, 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 British American Tobacco Group of Companies (“BAT”), a British multinational tobacco and nicotine products manufacturing company headquartered in London, UK, is the largest publicly traded tobacco company in the world. The Complainant is a member of BAT and is the entity that holds the BAT corporate trademarks and domain names. It will be appropriate for BAT or the Complainant to be referred to hereafter as “the Complainant”.

The Complainant dates back to 1902. As an indication of the present scale of the Complainant, it operates in about 160 countries, employs over 50,000 staff, and reported revenues for 2023 of over GBP 27,283 million.

The Complainant has manufactured a tobacco-free snus product since 2019 under the name and trademark VELO. In general terms, snus is a tobacco product of Nordic origin that enables nicotine to be absorbed by a person through the oral mucosa.

The Complainant holds a number of trademarks for VELO of which the following are representative:

VELO, UK Intellectual Property Office, registered August 16, 2019, registration number 3385832, in class 34;

VELO, International Trademark, registered October 16, 2019, registration number 1519358, in classes 5 and 30;

VELO, stylized, European Union trademark, registered June 9, 2023, registration number 18840583, in class 34.

The Complainant also operates a website at the URL “www.bat.com”.

Little is known about the Respondent except for the contact details and London address supplied to the Registrar at the time of registration of the disputed domain name on August 8, 2024. The disputed domain name has resolved to a website (the “Respondent’s website”) of multiple pages offering for sale a wide variety of tobacco or nicotine products labelled variously VELO or with the names or trademarks of other companies than the Complainant, accompanied by a page for the opening of an account, requiring the disclosure of potentially personal or private information, and a page for making payments in cryptocurrency.

A cease, desist, and transfer letter was sent by the Complainant to the Respondent on August 30, 2024, by email to the address “postmaster” at the disputed domain name. There has been no reply.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant’s detailed contentions may be summarized as follows.

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 identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant’s registered trademark VELO is clearly

recognizable in the disputed domain name. The term preceding and hyphenated to the Complainant's trademark is "snus-" which is closely related to the Complainant's products.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular, the Complainant can find no evidence that the Respondent is commonly known by the disputed domain name or that the disputed domain name is used by the Respondent for a legitimate noncommercial or fair purpose. The Respondent is not an authorized reseller or distributor of the Complainant's products. The disputed domain name is not in use for a bona fide supply of goods or services. The Respondent's website offers for sale products under the Complainant's trademark without any disclaimer to the effect that it has no connection with the Complainant. The Respondent's website also sells third-party products under trademarks competing with the Complainant. The Respondent does not display any valid business name or address and appears to accept payment only in cryptocurrency.

The Complainant says the disputed domain name was registered and is being used in bad faith. The prominent incorporation of the Complainant's trademark in the disputed domain name renders it likely to confuse Internet users into assuming a connection with or endorsement by the Complainant, at least initially. The additional preceding term "snus-" does not dispel the confusion. The Complainant submits that the disputed domain name is sufficiently confusing with the Complainant's trademark as to itself create a presumption of bad faith by the Respondent.

As further evidence of registration and use of the disputed domain name in bad faith, the Complainant reiterates that the Respondent's website lacks any disclaimer of association with the Complainant, and further submits that where there is evidence of registration and use in bad faith, the existence of a disclaimer would not in any case cure the bad faith. The Respondent's website displays and offers for sale goods of other manufacturers competing with the Complainant's products.

The Complainant has cited several previous relevant decisions under the Policy.

The Complainant requests the transfer of the disputed domain name.

## **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 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, "snus-") 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.

In particular, according to the Complainant’s enquiries, there is no evidence of use of the disputed domain name (or demonstrable plans for such use) with a bona fide offering of goods or services since the Respondent’s website offers products under the Complainant’s trademark without the Complainant’s authorization or any disclaimer as to its lack of relationship with the Complainant, as well as products competing to those of the Complainant. [WIPO Overview 3.0](#), section 2.8.1. There is no evidence that the Respondent is or has been commonly known by the disputed domain name or similar. There is no evidence of any legitimate noncommercial or fair use of the disputed domain name.

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.

Paragraph 4(b)(iv) of the Policy reads:

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Complainant has produced evidence in the form of screen captures of the Respondent’s website, which runs to several pages. A page headed “New Arrivals” displays pictures of 16 canisters of assorted products with prices, such as “Fox Gn Tobacco2 / \$35 - \$188”, with a shopping cart icon, or “ZYN Cool Mint” similarly portrayed. Six of the items display the Complainant’s trademark VELO, one of which also displays the Complainant’s logo comprising a complex rendering of the letter “V”. On another page, part of a canister purportedly containing “VELO Caribbean Spirit” is shown in closeup such as to emphasize the name and address of “British American Tobacco Sweden AB”.

A page on the Respondent’s website provides login facilities and a facility to create an account, requiring the applicant’s email address and a password, and requesting their full name and phone number. The website states that payment can be made through the cryptocurrency “Tron Usdft Trc20” or “Other Payment Method”,

although the Complainant has ascertained that the “only payment method the Respondent appears to accept is [the cryptocurrency]”.

On the evidence, the Panel finds on the balance of probabilities that the disputed domain name has been registered and used by the Respondent with intent to attract Internet users to the corresponding website for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark as to the source or endorsement of that website and of the products offered there for sale. The disputed domain name is found to have been registered and used in bad faith in the terms of paragraph 4(b)(iv) of 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 <snus-velo.com> be transferred to the Complainant.

*/Dr. Clive N.A. Trotman/*

**Dr. Clive N.A. Trotman**

Sole Panelist

Date: November 11, 2024