

ADMINISTRATIVE PANEL DECISION

Vente-privee.com v. lei lei
Case No. DCC2023-0010

1. The Parties

The Complainant is Vente-privee.com, France, represented by Cabinet Degret, France.

The Respondent is lei lei, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <veepee.cc> 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 July 27, 2023. On July 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 2023, 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 July 31, 2023, 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 August 4, 2023.

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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 4, 2023.

The Center appointed Mireille Buydens as the sole panelist in this matter on September 18, 2023. 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 a leading e-commerce company incorporated in France that for 20 years has operated the Vente-Privée website, a shopping club for all kind of goods and services. At the beginning of 2019, the Complainant started to rebrand itself under the VEEPEE mark with significant international media attention.

The Complainant is the owner of several trademark registrations for VEEPEE (“the Trademark”), including:

- European Union Trade Mark Registration No.17442245 VEEPEE, registered on March 29, 2018; and
- International Trademark Registration No.1409721 VEEPEE, registered on November 8, 2017.

The Complainant operates its business under the website “www.veepee.com”. In 2019, the Veepee group counted 72 million members (mostly in Europe), with a turnover over almost EUR 4 billion. The Complainant’s website has been operated in France first, and then, in several European countries and the United States of America (since 2011 until 2014).

The Respondent registered the disputed domain name on June 28, 2023.

According to the Complainant, the disputed domain name directed towards a website where its word and figurative trademarks were reproduced. The website also included photographs copied from the Twitter account of the Complainant and offered products and services similar to those offered on the Complainant’s website.

At the present time, the disputed domain name does not resolve to an active website. It resolves to a page mentioning “Access to the web page you were trying to visit has been blocked in accordance with company policy. Please contact your system administrator if you believe this is in error (...) Category: malware”.

5. Parties’ Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant is the owner of rights in the Trademark. The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s Trademark as it reproduces it in the disputed domain name. The disputed domain name only differs from the Complainant’s Trademark by the use of the country code Top-Level Domain (“ccTLD”) “.cc” which plays a technical role and is not likely to differentiate the disputed domain from the Complainant’s Trademark.

The Respondent lacks rights or legitimate interests in the disputed domain name because: (1) the Respondent is not known under the denomination “veepee”; (2) the disputed domain name has been registered on June 28, 2023, thus way after the rebranding of the Complainant in January 2019; (3) the Respondent has never reacted against the Complainant’s filing, registration and use of the Trademark; (4) the Respondent is in no way related with the Trademark or with the Complainant; (5) the Complainant has not authorized the Respondent to register and to use the disputed domain name (through a license agreement or any other kind of agreement); (6) the Respondent makes neither a legitimate noncommercial use nor fair use of the disputed domain name, which redirected (at the time of the Complaint) towards a merchant website where the Trademark is identically reproduced; hence, it appears that the Respondent is using the disputed domain name in order to pass himself as off the Complainant and benefit from the reputation of the Trademark. Besides, redirection has been blocked by the antivirus software Bitdefender on July 19, 2023, because of a phishing attempt, which means that the [...]@veepee.cc email address figuring on the litigious website might be used for phishing purposes.

The Complainant further contends that the Respondent was registered and is being used in bad faith. Firstly, when the Respondent registered the disputed domain name, the Respondent had necessarily the Complainant's names and rights in mind since the Trademark is well-known and its website reproduces identically the Trademark and logo of the Complainant. Secondly, by using the Trademark, the logo and photographs copied from the Twitter account of the Complainant, the Respondent tries obviously to pass itself as off the Complainant, which is a clear indication of the Respondent's bad faith. Thirdly, the disputed domain name is used for illicit purposes as its landing page has been blocked by the antivirus software Bitdefender. Lastly, it is settled case-law that bad faith is aggravated when the disputed domain name is close to prior rights which are actively defended.

B. Respondent

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

6. Discussion and Findings

Dealing with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant has provided evidence of its rights in the Trademark. A trademark registration *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1).

The disputed domain name is composed of the Complainant's Trademark as it incorporates the Trademark VEEPEE. A domain name which wholly incorporates a complainant's registered trademark is sufficient to establish confusingly similarity for the purposes of the Policy when, as here, the Trademark is clearly recognizable within the disputed domain name (see [WIPO Overview 3.0](#), section 1.7). The Respondent's incorporation of the Complainant's Trademark in full in the disputed domain name is evidence that the disputed domain name is identical to the Complainant's Trademark.

The ccTLD of the disputed domain name, in this case ".cc", is viewed as a standard registration requirement and is as such disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1.).

As a result, the Panel finds that the Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such

showing is made, the burden of production shifts to the respondent. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

There is no evidence that the Respondent is affiliated with or authorized by the Complainant in any way. The disputed domain name has been registered on June 28, 2023, thus after the rebranding of the Complainant in January 2019 and the media campaign echoing this rebranding. There is also no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of products or services. Rather, the disputed domain name directed (at the time of the Complaint) towards a merchant website reproducing the Complainant's Trademark, the logo and pictures from the Complainant's Twitter/X account. This suggests that the Respondent had no *bona fide* intention behind the use of the disputed domain name other than to mislead Internet users by passing itself off as the Complainant and benefit from the reputation of the Trademark. Furthermore, the Panel notes the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

The Complainant has established a *prima facie* case in its favor, which shifts the burden of production of evidence on this point to the Respondent. The absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have been aware of the Complainant's Trademark as it is well known and it predates the registration of the disputed domain name. A simple Internet search, which may be undertaken before registering a domain name, would have quickly disclosed the Trademark. It strains credulity to believe that the Respondent never heard of the Trademark and innocently utilized the Complainant's Trademark when registering the disputed domain name.

Prior UDRP panels have recognized that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#), which states that "the mere registration of a domain name that is identical or confusingly similar (particularly domain name comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith"). The Complainant has filed evidence of the well-known character of its prior Trademark and it has been stated above that the disputed domain name is identical to the Trademark.

The Respondent's bad faith registration and use is further evidenced by the fact that the disputed domain name originally directed to a website which reproduced the Complainant's logo as well as photographs copied from the Twitter/X account of the Complainant. Such use constitutes bad faith in accordance with the paragraph 4(b)(iv) of the Policy. The Complainant further provides evidence that on July 19, 2023, the website has been blocked by the antivirus software Bitdefender, because of a phishing attempt. Besides, the website currently resolves to a page mentioning "Access to the web page you were trying to visit has been blocked in accordance with company policy. Please contact your system administrator if you believe this is in error (...) Category: malware". These circumstances reinforce the Panel's finding of bad faith.

Based on the evidence and circumstances of this case, the Panel concludes that the requirement of registration and use of the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy has been fulfilled.

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 <veepee.cc> be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: September 26, 2023