

ADMINISTRATIVE PANEL DECISION

VFS Global Services PLC v. Saim ali, saim11122
Case No. DCO2023-0020

1. The Parties

The Complainant is VFS Global Services PLC, United Kingdom, represented by Aditya & Associates, India.

The Respondent is Saim ali, saim11122, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <vfsglobalservices.co> 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 March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On March 6, 2023, the Respondent sent an email communication to the Center indicating that he had bought the disputed domain name by mistake and was not using it. The Complainant filed an amended Complaint on March 8, 2023.

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 March 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2023. The Respondent did not submit any formal response. On April 13, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Mladen Vukmir as the sole panelist in this matter on April 28, 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 Panel has determined the following non-contested facts:

- (i) The Complainant is VFS Global Services PLC, a company incorporated under the laws of the United Kingdom, and is part of the VFS Group of Companies. The VFS Group of Companies was originally incorporated as Fastrac Visa Facilitation Services Pvt. Ltd. in 2001, and underwent several name changes before becoming VFS Global Services Private Limited in 2007 and further underwent amalgamation with another company of the group;
- (ii) The Complainant has been using the trademark VFS since 2003, which is also used as part of its corporate name/trading name for its services. The Complainant has registered the trademarks VFS and VFS GLOBAL in numerous countries around the world including India, China, Brazil, Colombia, New Zealand, Nigeria, Bangladesh, Uganda, Ukraine, Singapore, and Albania. For present purposes, it is sufficient to identify by way of example only International Registration No 1250991, VFS (in a circle) VFS.GLOBAL EST. 2001, which was registered on September 5, 2014 and Indian Registration No 1726901 VFS GLOBAL, which was registered on August 29, 2008;
- (iii) The disputed domain name was registered on October 26, 2022 and was used for sending at least one fraudulent email seemingly requesting payments from a Complainant's client for processing a visa application;
- (iv) The Complainant's domain name <vfsglobal.com> was registered on February 23, 2005.

5. Parties' Contentions

A. Complainant

The Complainant essentially, asserts the following:

- (i) The Complainant provides global business process outsourcing and technology services to foreign embassies and diplomatic missions, particularly in relation to visa application services. The Complainant is involved in administrative and non-judgmental tasks related to visa applications, including accepting visa applications at its visa application centers, forwarding them to the relevant embassy or diplomatic mission, and performing other related services. The VFS Group of Companies has a strong reputation for the services it provides. Currently, the Complainant serves the diplomatic missions of 65 sovereign governments in 143 countries across five continents worldwide. They have processed over 240 million applications since 2001 and over 105.97 million biometric enrolments since 2007, and operate 3541 Visa Application Centers located in Asia, Africa, Middle East, and Europe. The Complainant's offices and operations across the world are certified with ISO 9001:2008 for Quality Management System by TUV SUD, one of the world's leading external and independent certification bodies;
- (ii) it holds a number of earlier trademarks registrations that consist of or contain terms "VFS" or "VFS GLOBAL" ("VFS GLOBAL trademarks") that enjoy protection worldwide. The Complainant and its group companies are using VFS GLOBAL trademarks continuously, extensively, openly, and exclusively since 2003 in relation to their business and upon or in relation to the services that they provide;
- (iii) apart from VFS GLOBAL trademarks, the Complainant is also the registrant of the domain name <vfsglobal.com>. The Complainant operates its business via their main website created under this domain name;
- (iv) the disputed domain name is confusingly similar to the Complainant's VFS GLOBAL Trademarks. "Vfsglobal" is a distinctive term and in no way the Respondent could adopt the same as the part of its email address ([...]@vfsglobalservices.co) unless having prior knowledge of the Complainant and its services. It is

clear that the Respondent has adopted the disputed domain name comprising terms “vfsglobal” and “services” in order to create confusion in the minds of general public. The disputed domain name suggests that the website is operated by the Complainant;

(v) the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never granted, licensed or authorized the Respondent to use its VFS GLOBAL trademark or any of its variation. The Respondent does not own any trademark registration reflecting “vfs global”, has not acquired any reputation and/or goodwill in “vfs/vfsglobal”;

(vi) the Respondent must have been aware of the Complainant’s services, prior rights, and interest with respect to the Complainant’s domain name, trademarks and trade name. People in general are getting confused and believing that the disputed domain name is related to the Complainant and are sharing their personal information with the Respondent, and the Respondent is taking undue advantage of such information, which is ultimately affecting the reputation and goodwill of the Complainant. The disputed domain name was registered and being used by the Respondent in bad faith whereby the various applicants are deceived and cheated by causing loss to their money. The Complainant received a query from a person wherein this person referred to an email received from an email address “[...]@vfsglobalservices.co” wherein this person was asked to make a payment for certain kind of visa application. The Respondent’s knowledge of the Complainant’s reputation and goodwill with respect to VFS GLOBAL trademark and trade name, and the unique services offered and rendered under VFS GLOBAL trademarks undoubtedly leads to the assumption that the Respondent registered the disputed domain name for the purpose of financial gain and/ or otherwise for the purpose of taking a free ride on the Complainant’s reputation all over the world.

B. Respondent

The Respondent did not substantively reply to the Complainant’s contentions.

The Respondent did sent an email message to the Center on March 6, 2023, only stating that he had bought the disputed domain name by mistake and was not using it. The Respondent also stated that he would remove and delete the disputed domain name from his side. Such communication could not be considered as the response to the Complaint, however, the Panel took it into consideration when analyzing the merit of the case.

6. Discussion and Findings

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the formal Response, the Policy, the Rules, the Supplemental Rules, and other applicable legal authority pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

- (i) the disputed domain name is confusingly similar to a trademark 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

In section 1.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) it is generally accepted that ownership of a registered trademark by a complainant is sufficient to satisfy the threshold requirement of having the trademark rights for purposes of standing to file a UDRP case.

The Complainant has submitted sufficient evidence to show that it is the holder of a number of VFS GLOBAL trademarks registered before the competent authorities worldwide. As such, these trademarks provide to the Complainant all the exclusive rights that are granted with such trademark registrations.

After performing a side-by-side comparison of the disputed domain name and the Complainant's VFS GLOBAL trademark, it is evident to this Panel that the disputed domain name incorporates the Complainant's VFS GLOBAL trademark in its entirety. The difference between the disputed domain name and the Complainant's VFS GLOBAL trademark is the addition of the term "services" in the disputed domain name.

Prior UDRP Panels have found confusing similarity in a number of cases based on the circumstances involving domain names comprised of a well-known trademark and a descriptive term (section 1.8. of [WIPO Overview 3.0](#)). Where the trademark in question is recognizable within the disputed domain name, the addition of other terms (whether descriptive, etc.) does not prevent a finding of confusing similarity between the disputed domain name and the trademark in question. In this particular case, the added term "services" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's VFS GLOBAL trademark.

The applicable Top Level Domain ("TLD") in a domain name (".co") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (section 1.11.1 of [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's VFS GLOBAL trademark under paragraph 4(a)(i) of the Policy

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a number of circumstances which, without limitation, may be effective for the Respondent to demonstrate that it has the rights to, or legitimate interests in, the disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy. Those circumstances are:

"(i) Before any notice to [the respondent] of the dispute, [use by the respondent] of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
(ii) [Where the respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or
(iii) [Where the respondent is] making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

As noted by the previous UDRP panels on the onus of proof under paragraph 4(a)(ii) of the Policy, and as summarized in section 2.1 of the [WIPO Overview 3.0](#): "[...] While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In the present case, the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, with the Respondent failing to provide any substantive response to the Complaint which would prove his rights or legitimate interests in the disputed domain name.

The Complainant has established that it is the holder of a number of VFS GLOBAL trademarks in various jurisdictions, as well as that it has used the same trademarks worldwide. The Complainant submitted sufficient evidence proving extensive and long lasting use of its VFS GLOBAL trademarks.

The Panel concludes that there is neither any relation, disclosed to the Panel, nor otherwise apparent from the records, between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its VFS GLOBAL trademarks or to apply for or use any domain name incorporating the same trademarks.

Furthermore, there is no evidence that the Respondent has been commonly known by the disputed domain name. Also, there is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent in his email of March 6, 2023 simply stated that he had bought the disputed domain name by mistake and was not using it so he would remove and delete it from his side. In other words, the Respondent has failed to provide any substantive reply to the Complaint and accordingly failed to rebut the Complainant's *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the requirements set forth in paragraph 4(a)(ii) of the Policy have been fulfilled by the Complainant's making the *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and by the Respondent's failing to produce any arguments or evidence to the contrary.

C. Registered and Used in Bad Faith

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the 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 the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder 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 holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder'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 holder's website or location or of a product or service on the holder's website or location.

The Panel accepts the Complainant's arguments that the Respondent has registered and used the disputed domain name in bad faith.

Previous UDRP panels have found that the incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)). This Panel's view is that the Complainant's VFS GROUP trademarks are well known and distinctive, the Complainant has a worldwide reputation, and it is

highly unlikely that the Respondent was unaware of the Complainant and its well-known VFS GROUP trademarks when it registered the disputed domain name. The Respondent did not provide any evidence that it has rights and/or legitimate interests in a disputed domain name, nor did it present a credible evidence for registering and using the disputed domain name. Based on the evidence submitted by the Complainant, the Panel concludes that the Respondent registered the disputed domain name based on the goodwill and reputation of the Complainant's VFS GROUP trademarks. It is more likely than not that the Respondent's motive in relation to the registration and use of the disputed domain name was to take advantage from the Complainant's well-known trademark rights.

According to section 3.4. of [WIPO Overview 3.0.](#), the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, etc. Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g. to solicit payment by the complainant's actual or prospective customers. The Complainant submitted evidence proving that the Respondent is using the disputed domain name in connection with a phishing scam impersonating the Complainant with the attempt to fraudulently obtain payment (email sent from an address using the disputed domain name which falsely identifies the sender as the Complainant and asking the customer to make payment for certain kind of visa application).

In this Panel's view, the Respondent has registered the disputed domain name to intentionally attract, for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation or endorsement of the Respondent's website.

Given the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has fulfilled the third element under paragraph 4(a)(iii) 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, <vfsglobalservices.co>, be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: May 12, 2023