

ADMINISTRATIVE PANEL DECISION

VIOOH Limited v. Jessie Larson

Case No. DME2023-0011

1. The Parties

Complainant is VIOOH Limited, United Kingdom, represented by Nameshield, France.

Respondent is Jessie Larson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <viooh.me> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2023. On August 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 31, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to Complainant on September 5, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 6, 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 Respondent of the Complaint, and the proceedings commenced on September 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 29, 2023.


The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on October 24, 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

Complainant is a global digital out-of-home marketplace launched in 2018.

Complainant operates a primary website using the domain name <viooh.com> and owns numerous domain names consisting of or incorporating its VIOOH marks, including but not limited to <viooh.net>; <viooh.fr>; and <viooh.us>.

Complainant owns a wide portfolio of trademark registrations around the world containing the word mark VIOOH. Some examples of Complainant's trademark registrations can be found below:

Registration No.	Trademark	Jurisdictions	International Classes	Registration Date
1434610		International Trademark	09, 35, 36, 38, 41, 42	May 14, 2018
1436571	VIOOH	International Trademark	09, 35, 36, 38, 41, 42	May 14, 2018
4404784	VIOOH	France	09, 35, 36, 38, 41, 42	November 15, 2017

The disputed domain name <viooh.me> was registered on August 30, 2023, and currently redirects to a page where it is offered for sale, as per the evidence submitted by Complainant (annex 6 of the Complaint).

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is identical to Complainant's registered trademark VIOOH, creating a risk of association, fulfilling paragraph 4(a)(i) of the Policy and paragraph 3(b)(viii) and 3(b)(ix)(1) of the Rules.

Complainant affirms that Respondent has never been authorized by Complainant to use Complainant's VIOOH registered trademark or to apply for any domain name incorporating such trademark. According to Complainant, Respondent has no rights or legitimate interests in respect of the disputed domain name. At the time of filing the Complaint, the disputed domain redirected to a page where it was offered for sale (Annex 6 of the Complaint). This way, Complainant states that no rights or legitimate interests in respect of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules has been fulfilled.

In addition, Complainant states that Respondent is not commonly known by the disputed domain name. Further, Respondent is not associated with Complainant. Complainant contends that Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets cost as it fails to make an active use of the disputed domain name.

Thus, the requirement for the registration and use of the disputed domain name in bad faith is fulfilled .

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior trademark rights for VIOOH, and that the disputed domain name <viooh.me> reproduces entirely the trademark VIOOH in association with a country-code Top-Level Domain ("ccTLD") ".me".

According to the section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the ccTLD ".me" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. *IMC B.V. v. Traoley Joe*, WIPO Case No. [D2022-3539](#).

Once the ccLTD ".me" is disregarded under the first element confusing similarity test, it is noted that the disputed domain reproduces entirely the trademark VIOOH without any additions.

Thus, the Panel finds that the disputed domain name is identical to Complainant's trademark VIOOH, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of [WIPO Overview 3.0](#) as follows: "[w]hile 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 this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* use that could demonstrate rights or legitimate interests, since the evidence shows that the inherently misleading

disputed domain name currently redirects to a website offering the disputed domain name for sale, as duly proven by the Annex 6 to the Complaint. Moreover, the composition of the disputed domain name itself carries a high risk of implied affiliation and Respondent's use of Complainant's mark to redirect users would not support a claim to rights or legitimate interests.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

The circumstances the Panel has to analyze to verify Respondent's intent to profit on registering the disputed domain name are summarized in section 3.1.1 of [WIPO Overview 3.0](#) as follows:

"If on the other hand circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include:

- (i) the respondent's likely knowledge of the complainant's rights,
- (ii) the distinctiveness of the complainant's mark,
- (iii) a pattern of abusive registrations by the respondent,
- (iv) website content targeting the complainant's trademark, e.g., through links to the complainant's competitors,
- (v) threats to point or actually pointing the domain name to trademark-abusive content,
- (vi) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party,
- (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name,
- (viii) a respondent's request for goods or services in exchange for the domain name,
- (ix) a respondent's attempt to force the complainant into an unwanted business arrangement,
- (x) a respondent's past conduct or business dealings, or
- (xi) a respondent's registration of additional domain names corresponding to the complainant's mark subsequent to being put on notice of its potentially abusive activity.

Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner."

Considering all of the items listed above, the Panel finds that at least items (i), (ii), (vi) and (vii) are present in this case, since (i) Complainant enjoys a well-known reputation for the trademark VIOOH; (ii) Complainant holds VIOOH trademark being distinctive, owning several trademark registrations and other domain names; (vi) the disputed domain name redirects to a website offering it for sale; (vii) Respondent has not responded to Complainant's contentions, failing to provide credible rationale for registering the disputed domain name. Thus, the circumstances of the present case support a finding of bad faith.

Moreover, it should be noted that, in the circumstances, Respondent's lack of response further reinforces the finding that the disputed domain name most likely was registered and is being used in bad faith. In this sense, the panel found in *Instagram, LLC v. Registration Private, Domains By Proxy, LLC / Alexis Kane*, WIPO Case No. [D2021-0912](#) that:

"The following factors were also considered by the Panel as indicative of bad faith registration and use of the disputed domain name: (i) the Respondent's lack of response to the Complaint. See, *Awesome Kids LLC and/or Awesome Kids L.L.C. v. Selavy Communications*, WIPO Case No. [D2001-0210](#); [] (iii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name as per paragraph 4(b) of the Policy."

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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, <viooh.me>, be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: November 7, 2023