

ADMINISTRATIVE PANEL DECISION

VKR Holding A/S v. Privacy service provided by Withheld for Privacy ehf / lion heart

Case No. D2022-0005

1. The Parties

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / lion heart, United States of America.

2. The Domain Name and Registrar

The disputed domain name <rooflitesiol.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2022. On January 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 4, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 5, 2022, 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 January 5, 2022.

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 January 12, 2022. On January 14 and 19, 2022, third parties sent email communications to the Center claiming that they had received the Written Notice for the Complaint, but that they were not the registrant of the domain. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2022. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on February 2, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on February 10, 2022. 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 the parent company of the VKR Group. Through its subsidiaries, the Complainant offers roof windows, skylights, vertical windows and systems, thermal solar energy systems, decoration and sun screening products, ventilation, and indoor climate products. One of the Complainant's subsidiaries, Altarera Ltd. ("Altarera") was founded in 2001 and sells roof windows under the "Rooflite" brand in over 29 countries.

Thus, the Complainant has obtained an exclusive right to the trademark ROOFLITE through extensive use. The Complainant is also the owner of a number of trademark registrations for the ROOFLITE mark, *inter alia*, Danish Trademark Registration No. VR 200103644 for ROOFLITE, registered on September 3, 2001, European Union Trade Mark Registration No. 002140499 for ROOFLITE, registered on September 14, 2004 and United Kingdom Trade Mark Registration No. UK00902140499 for ROOFLITE, registered on September 14, 2004 (the "Complainant's Trademark"). The Complainant also holds registrations for the domains <rooflite.com> and <roofliteplus.com>. The domain <rooflite.com> redirects visitors to <roofliteplus.com>, which resolves to the Complainant's website. During the period of December 2020 – November 2021, <rooflite.com> received an average of 148,555 visits per month; <roofliteplus.com> received an average of 93,436 visits per month for the same period.

The Disputed Domain Name was registered on July 20, 2021. The Disputed Domain Name resolved to a website with multiple pay-per-click links, one of which directly references another Complainant-owned brand, and currently resolves to inactive page.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarised as follows:

(a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The only element which differentiates the Complainant's Trademark from the Disputed Domain Name is the addition of the generic term "siol" to the end of "rooflite" to read "rooflitesiol".

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Complainant has never authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. There is also no evidence of the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

(c) The Respondent's registration of the Disputed Domain Name, which is confusingly similar to the Complainant's Trademark, is in itself an act of bad faith by someone with no legal connection to the Complainant's business. The Respondent has used parked pages at the Disputed Domain Name containing a variety of pay-per-click links in order to generate revenue in respect of "click-through" traffic. Such online traffic has been generated by creating an impression of an association between the Disputed Domain Name

and the Complainant's Trademark. Therefore, given these factors, the Respondent has registered and is using the Disputed Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations such as, *inter alia*, the trademarks listed above in Section 4. It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "siol". UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not alter the fact that the domain name at issue is confusingly similar to the mark in question. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the suffix "siol" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie case* in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorised the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie case* has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The fact that the Respondent has not submitted a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel will assess the case based on the reasonable inferences that can be drawn from the Complainant's evidence.

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if he has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use as the Respondent appears to have registered the Disputed Domain Name solely for the purpose of misleadingly diverting consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its business, or that the Respondent's activities are approved or endorsed by the Complainant when in fact this is not the case. Moreover, as stated in section 2.9 of the [WIPO Overview 3.0](#), the pay-per-click links at issue do not represent a *bona fide* offering since such links compete with or capitalize on the reputation and goodwill of the Complainant's Trademark or otherwise mislead Internet users.

In addition, no evidence has been provided to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has been commonly known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity (particularly domain names which incorporate a mark plus a descriptive term) can already by itself create a presumption of bad faith. See paragraph 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be fairly well known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "rooflite" are the Complainant's websites and third party websites providing information relating to the Complainant's

products. Therefore, taking this into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "siol", and that the website to which the Disputed Domain Name resolved included pay-per-click links capitalizing on the Complainant's Trademark, the Respondent must have been aware of the Complainant and the Complainant's Trademark rights when registering and using the Disputed Domain Name.

In addition, regardless of the use or passive holding of the Disputed Domain Name, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.

(ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of the term "siol"). The Respondent used the Disputed Domain Name to earn click-through revenue from the misdirection of Internet users to its website caused by the confusing similarity of Disputed Domain Name to the Complainant's Trademark. Also, as discussed above, the Respondent lacks rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).

(iii) The Respondent registered the Disputed Domain Name using a privacy shield to conceal its identity (see *Primonial v. Domain Administrator, PrivacyGuardian.org / Parla Turkmenoglu*, WIPO Case No. [D2019-0193](#)).

(iv) The Respondent provided false information to the Registrar for purposes of registering the Disputed Domain Name, evidenced by the third parties' emails claiming the use of their details without their authorization.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been 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 <rooflitesiol.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: February 23, 2022