

ADMINISTRATIVE PANEL DECISION

VeriFone, Inc. v. Yang Zhi Chao (杨智超)
Case No. D2022-2449

1. The Parties

The Complainant is VeriFone, Inc., United States of America (“USA”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Yang Zhi Chao (杨智超), China.

2. The Domain Names and Registrar

The disputed domain names <berifone.com>, <cerifone.com>, <comverifone.com>, <veeifone.com>, <veerifone.com>, <veirfone.com>, <veriffone.com>, <verifnoe.com>, <verifoen.com>, <verifonne.com>, <verifoone.com>, <verigone.com>, <veriofne.com>, <verrifone.com>, <vetifone.com>, <vreifone.com>, <vrrifone.com>, <vverifone.com>, and <vwrifone.com> are registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2022. On July 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 7, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On July 7, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. The Complainant filed an amended Complaint on July 12, 2022, including its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 5, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on August 15, 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 in this proceeding is a multinational financial services company headquartered in the USA. The Complainant particularly provides technology for electronic payment transactions and value-added services at the point of sale, including cashless payments and securing checks and credit cards through digitization. The Complainant claims that its services enable over 10 billion secure transactions per year, are used in over 150 countries (including in the Respondent's jurisdiction China) and account for around 50% of the world's non-cash transactions. The Complainant states that it employs approximately 4,300 people worldwide and that in the fiscal year ending on October 31, 2017, its net revenues were USD 1.87 billion.

The Complainant owns an international portfolio of trademark registrations for VERIFONE, for instance, Chinese trademark registration number 5955998, registered on December 28, 2009, and USA trademark registration number 1229416, registered on March 8, 1983. The Complainant also maintains a strong internet presence, predominantly through its primary official website located at its domain name <verifone.com>, as well as via its social media profiles.

The disputed domain names were all registered on the same date, namely April 17, 2022, and are currently linked to active websites, each displaying what are presumed to be pay-per-click hyperlinks to purported products and services of the Complainant as well as to third party providers of similar products and services.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain names are confusingly similar to its prior trademarks for VERIFONE, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names were registered, and are being used in bad faith.

The Complainant claims that its trademarks are distinctive and well regarded in the financial services sector, and provides evidence of its marketing materials, website analytics, and printouts of its social media profiles. The Complainant essentially contends that the Respondent chose to register the disputed domain names by willfully misspelling (also known as typosquatting) the Complainant's trademarks for VERIFONE to create consumer confusion and to obtain unlawful financial gains through placing pay-per-click hyperlinks at the websites connected to the disputed domain names. The Complainant contends that such use does not grant the Respondent any rights or legitimate interests in the disputed domain names. The Complainant also contends that the Respondent was involved in a number of previous domain name disputes where bad faith use and registration was found by the panels in those cases, and argues that the Respondent has engaged in a pattern of abusive conduct by registering other domain names which encompass the marks of well-known third-party brands, and therefore argues, on the basis of the previous elements, that the Respondent has engaged in a pattern of cybersquatting. The Complainant essentially contends that the registration and use of the disputed domain names in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the administrative proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreements, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreements for the disputed domain names is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comments on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited in a timely manner by the Center by email in both Chinese and English to present its comments and response in either English or Chinese, but chose not to do so); the fact that the websites hosted at the disputed domain names contain links in English and that the disputed domain names are written in Latin letters and not in Chinese characters; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays and costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this administrative proceeding shall be English.

6.2. Discussion and Findings on the merits

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown sufficient evidence that it has valid rights in the mark VERIFONE, based on its intensive use and registration of the same as a trademark in several jurisdictions.

Moreover, as to confusing similarity, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9, states: "[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." In this case, the Panel considers that all of the disputed domain names, except for <comverifone.com>, were clearly selected by intentionally misspelling

the Complainant's trademark for VERIFONE, incorporating such trademark in its entirety, except that in each such disputed domain name, a letter is either added, inverted or replaced from such trademark, but whereby such trademark nevertheless still remains clearly recognizable. According to the Panel, this is a clear case of intentional misspelling of the Complainant's trademark, also known as typosquatting. Furthermore, as regards the disputed domain name <comverifone.com>, the Panel refers to the [WIPO Overview 3.0](#), section 1.7 and finds that this particular disputed domain name incorporates the entirety of the Complainant's trademark for VERIFONE combined with non-distinctive elements. The Panel also notes that each of the applicable generic Top-Level Domains ("gTLDs") (".com" in this case) is viewed as a standard registration requirement for the disputed domain names, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel concludes that the disputed domain names are all confusingly similar to the Complainant's trademark and finds that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain names and is not making legitimate noncommercial use or fair use of the Complainant's disputed domain names. The Panel also notes that the Respondent is not commonly known by the disputed domain names. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, the Respondent did not provide any Response or evidence in this administrative proceeding.

Furthermore, upon review of the facts, the Panel notes that the disputed domain names direct to active webpages containing what are presumed to be pay-per-click hyperlinks to purported products and services of the Complainant as well as to third party providers of similar products and services. The Panel concludes that this shows the Respondent's intention to compete with, or capitalize on the reputation and goodwill of the Complainant's trademark for VERIFONE (see also [WIPO Overview 3.0](#), section 2.9, and previous UDRP decisions in this sense such as *Maker Studios, Inc. v. ORM LTD / Contact Privacy Inc. Customer 0137258808*, WIPO Case No. [D2014-0918](#), and *Comerica Incorporated v. Balticsea LLC / Contact Privacy Inc. Customer 0131519121*, WIPO Case No. [D2013-0932](#)).

Additionally, the Panel notes that the typographical nature of the disputed domain names itself reflects an intent on part of the Respondent to target the Complainant and mislead unsuspecting Internet users otherwise unaware of the slight misspellings reflected in the disputed domain names (see [WIPO Overview 3.0](#), section 1.9). As regards the disputed domain name <comverifone.com>, the Panel agrees with the Complainant that the nature of the disputed domain name, containing the Complainant's trademark for VERIFONE in its entirety, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant (see also [WIPO Overview 3.0](#), section 2.5.1).

On the basis of the foregoing, the Panel finds that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the registration of the disputed domain names, containing the intentional misspelling of the Complainant's mark (*i.e.*, typosquatting) by the Respondent, who is entirely unaffiliated with the Complainant, is, by itself, sufficient to create a presumption of bad faith of the Respondent (see in this regard also *Alain Affielou Franchiseur v. Lihongbo, Lihongbo*, WIPO Case No. [D2020-2075](#), and *Randstad Holding nv v. Pinaki Kar*, WIPO Case No. [D2013-1796](#)). Furthermore, the Panel also considers that the Respondent

clearly and consciously targeted the Complainant's prior registered trademarks for VERIFONE by registering the disputed domain names, which are all confusingly similar to such trademarks. The Panel also notes that the Complainant's VERIFONE mark is distinctive, has acquired a strong international reputation and that the Complainant also owns trademark registrations for this mark in China, where the Respondent is located, and where the Complainant also received a number of industry awards. The Panel deducts from the Respondent's efforts to consciously target the Complainant's famous registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain names. In the Panel's view, the preceding elements clearly indicate the bad faith of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the websites linked to the disputed domain names currently display pay-per-click hyperlinks to purported products and services of the Complainant as well as to third party providers of similar products and services. This shows that the Respondent is misleading and diverting consumers for commercial gain to such websites. Moreover, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel notes that beyond the 19 disputed domain names in this case, the Complainant has also referred to a number of prior UDRP decisions involving the Respondent, showing that the Respondent has engaged in similar acts of cybersquatting, see for instance *TEVA Pharmaceuticals International GmbH v. 杨智超 (Yang Zhi Chao aka Zhi Chao Yang)*, WIPO Case No. [D2022-1158](#), and *Blackbaud, Inc. v. 杨智超 (Yang Zhi Chao aka Zhi Chao Yang)*, WIPO Case No. [D2022-0641](#). The Panel further refers to the reverse Whois evidence submitted by the Complainant, from which the Panel concludes that the Respondent has registered several domain names containing well-known third party trademarks (or clearly typosquatted versions thereof) such as <facebookbluepmit.com>, <insagran.com>, and <michelinan.com>. The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain names in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 names, <berifone.com>, <cerifone.com>, <comverifone.com>, <veeifone.com>, <veerifone.com>, <veirifone.com>, <veriffone.com>, <verifnoe.com>, <verifoen.com>, <verifonne.com>, <verifoone.com>, <verigone.com>, <veriofne.com>, <verrifone.com>, <vetifone.com>, <vreifone.com>, <vrrifone.com>, <vverifone.com>, and <vwrifone.com>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: August 29, 2022