

ADMINISTRATIVE PANEL DECISION

Vente-privee.com v. boushib brahim

Case No. D2023-2354

1. The Parties

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

The Respondent is boushib brahim, Morocco.

2. The Domain Name and Registrar

The disputed domain name <vepee.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2023. On June 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 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 (Redacted for Privacy, Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 1, 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 amended Complaint on June 9, 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”).

On June 9, 2023, the Respondent sent an informal communication to the Center.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on July 7, 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 sells discounted products through online platforms and has been operating for nearly 21 years in France and other countries. It changed its trademark to VEEPEE in 2019 and owns many trademark registrations for VEEPEE (the “Complainant’s trademark”), such as:

- VEEPEE European Union registration No. 017442245 registered on March 29, 2018; and
- VEEPEE International registration No. 1409721 registered on November 8, 2017.

The disputed domain name has been registered on October 24, 2022 and resolves to a website which offers for sale products which are similar to the Complainant’s products and reproduces its trademark and logo..

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s trademark. The disputed domain name is quasi-identical to the Complainant’s trademark as it only differs by a letter. The generic Top-Level Domain (“gTLD”) “.shop” is not likely to eliminate the confusing similarity. On the contrary, it reinforces it because the Complainant operates in the e-commerce sector.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The disputed domain name was created after the rebranding of the Complainant in 2019. The Respondent never reacted to the Complainant’s registration and use of the trademark VEEPEE. The Complainant did not authorize the Respondent to use its trademark in the disputed domain name nor is the Complainant affiliated with the Respondent. The Respondent is not using the disputed domain name in connection with a legitimate noncommercial or fair use as the disputed domain name redirects to a website, which competes with the Complainant’s activities and reproduces its trademark and logo. The MX-records have been activated, which means potentially that the disputed domain name could be used for sending phishing emails.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have been aware of the Complainant’s trademark when registering the disputed domain name as the VEEPEE trademark is well-known, especially amongst French consumers, and a mere online search would have revealed the Complainant’s trademark. Also, VEEPEE is distinctive. The disputed domain name associates the word “vepee” with the Complainant’s logo of the pink butterfly. The use of a privacy shield is often an indication of bad faith. The disputed domain name could be used for phishing purposes and it competes with the Complainant’s activities. Lastly, bad faith is aggravated when the disputed domain name is close to prior rights that are actively defended.

B. Respondent

The Respondent sent an email on June 9, 2023 stating that his email had been hacked and that he does not want the disputed domain name nor uses it.

6. Preliminary Issue: Respondent’s informal email

In its email of June 9, 2023, the Respondent states that he does not want the disputed domain name nor uses it. This is the scenario envisaged under section 4.10 of the WIPO Overview of WIPO Panel Views on

Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)). The parties to this proceeding have not been able to settle the dispute using the “standard settlement process”. Instead, the Respondent contends that he does not want the disputed domain name nor uses it. In such instances, a panel may still proceed with an assessment of the three elements of paragraph 4(a) of the Policy. Considering all the circumstances of the present case, e.g. the brevity of the Respondent’s reply which renders it rather ambiguous, the absence of the Complainant’s consent to simply record a decision of transfer, the Panel will proceed to review the facts of the case and subsequently decide on the merits.

7. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for VEEPEE. The Panel is satisfied that the Complainant has established its ownership of the trademark VEEPEE.

The disputed domain name incorporates the Complainant’s trademark VEEPEE with a typo by removing the letter “e”. This is a typical case of typosquatting, which is designed to confuse users (*Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#)). The gTLD “.shop” can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied 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. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, and the Respondent is not commonly known by the disputed domain name. Therefore, the Complainant has established a *prima facie* case, and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. On the contrary, the Respondent claimed that his email has been hacked and indicated that he does not want nor uses the disputed domain name. In addition, given that the disputed domain name is a classic example of typosquatting, whereby the Respondent has intentionally sought to mislead Internet users unaware of the one-letter difference between the disputed domain name and the Complainant’s trademark, the Respondent cannot be said to have rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied 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 the disputed domain name was registered few years after the use and registration of the Complainant’s trademark, the Complainant’s trademark is not a dictionary word in English or French, the disputed domain name resolves to a website for online commerce, which is the exact same activity the Complainant conducts and the said website shows the Complainant’s pink butterfly logo.

The use of the Complainant’s pink butterfly logo clearly indicates that the Respondent is trying to pass off as being connected with the Complainant. Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy.

Also, typosquatting may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)). In the present case, the typosquatting indicates that the Respondent was aware of the Complainant's trademark and has deleted the letter "e" in order to confuse Internet users and attract Internet traffic.

Accordingly, the Panel finds that the Complainant has satisfied 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, <vepee.shop>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: July 11, 2023