

## **ADMINISTRATIVE PANEL DECISION**

Velocity Electronics U.K. Limited v. Mayor Roland  
Case No. D2023-4160

### **1. The Parties**

The Complainant is Velocity Electronics U.K. Limited, United Kingdom, represented by Eversheds Sutherland (International) LLP, United Kingdom.

The Respondent is Mayor Roland, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <velocityelect.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 5, 2023. On October 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 6, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 October 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 21, 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, a company incorporated in the United Kingdom in July 2014, is part of the Velocity Electronics group of companies, which operates as a global electronic components distributor. The Complainant has registered and is using since 2014 the domain name <velocityelec.com> currently redirecting to the website “velocityelectronics.com” as its primary website.

The disputed domain name <velocityelect.com> was registered on May 2, 2023, and, at the time of filing the Complaint, it was used in relation to a commercial website promoting, *inter alia*, electronic components, and displaying, under the “About Us” section, the Complainant’s commercial name, company registration number and VAT number.

According to Annex 6 to the Complaint and unrebutted by the Respondent, the Respondent has used an email address corresponding to the disputed domain name, i.e. “[...]@velocityelect.com”, to communicate with a potential customer, in order to take orders and potentially to receive payments for goods at the disputed domain name and, at least, some such orders have not been fulfilled.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant alleges that it acquired substantial goodwill in the name Velocity particularly since, under this name, it generated a turnover in excess of USD 90 million during the period January 2018 to August 2023; and that in 2022 the Complainant’s group of companies has spent in excess of USD 800,000 in marketing the group, and the Complainant benefitted from such investment.

The registration and use of the disputed domain name is an obvious attempt to benefit from the attractive power of the VELOCITY brand, and the use of the disputed domain name, in particular to send fraudulent emails to customers, causes serious damages to the Complainant, both in form of lost sales and serious reputational damages.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in 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**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Complainant has provided unrefuted evidence that since 2014, it holds, uses in commerce and invests in promoting the name Velocity and in the domain name <velocityelec.com> currently redirecting to the website “velocityelectronics.com”. Further, the use of the disputed domain name, showing that the Respondent has been targeting the Complainant’s unregistered mark and to perpetrate fraud, supports the Complainant’s assertions that its mark has achieved significance as a source identifier. See for example *Greenspring Associates, Inc. v. Lisa Knowles, Victoria capital pty*, WIPO Case No. [D2019-0265](#).

The Panel finds the unregistered mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7

Although the addition of other terms or letters (here, the word “elect” added to the unregistered mark VELOCITY, or the final letter “t” added in the disputed domain name and varying from the Complainant’s domain name may bear on assessment of the second and third elements, the Panel finds the addition of such term/letter does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with a website promoting goods similar to those of the Complainant, reproducing the Complainant’s company name and registration number, without providing any disclaimer. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its unregistered trademark particularly because the Complainant uses in commerce the Velocity name and corresponding website since 2014. Further, the use of the disputed domain name further enhances such conclusions.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent'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 respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's unregistered trademark and it varies with only one final letter from the Complainant's website, and the website operated under the disputed domain name displays the Complainant's company name, registration number and VAT number, indeed in this Panel's view, the Respondent has intended to attract unsuspecting Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

Further, panels have held that the use of a domain name for illegal activity (here, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Also, the Respondent provided inaccurate or incomplete contact details in the Whois and, although properly notified by the Center, it failed to participate in the present proceeding in order to put forward any potential arguments in its favor.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <velocitylect.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: December 5, 2023