Decision for dispute CAC-UDRP-102704

Case number	CAC-UDRP-102704
Time of filing	2019-10-07 09:44:42
Domain names	virbacspeed.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	VIRBAC S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Super Privacy Service LTD c/o Dynadot

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has proven to be the owner of the VIRBAC trademark.

The Complainant is, inter alia, the owner of the following trademarks:

- International trademark registration no. 420254 “Virbac”, granted on December 15, 1975; and

- International trademark registration no. 793769 “Virbac”, granted on March 11, 2002.

The Complainant has also filed European trademark “VIRBAC SPEED” on August 22, 2019 (currently under examination).

The Complainant also owns a portfolio of domain names containing the term VIRBAC, including its official domain name <virbac.com>, registered since January 15, 2000.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in 1968 in France by Pierre-Richard Dick, VIRBAC S.A, i.e. the Complainant, is an old and well-established company dedicated exclusively to animal health. With a turnover of 869 million EUR in 2018, the company ranks today as the 7th largest animal health company worldwide. Its wide range of vaccines and medicines are used in the prevention and treatment of the main pathologies for both companion and food-producing animals. Present through health products in more than 100 countries, the company has more than 4,900 employees.

The disputed domain name was registered on August 22, 2019 and redirects to a parked page where it is offered for sale for $990 USD.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant contends that the disputed domain name <virbacspeed.com> is confusingly similar to its trademarks "VIRBAC".

The Complainant further contends that the addition of the generic term “SPEED” is not sufficient to escape the finding that the domain name is confusingly similar to the trademarks VIRBAC.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the Respondent has no links to the Complainant’s business. The Complainant does not carry out any activity for, nor does it have any business dealings with, the Respondent.

The Complainant further contends that the disputed domain name is offered for sale, and that this general offer to sell the disputed domain name is evidence of the Respondent’s lack of rights or legitimate interest.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that the disputed domain name includes the Complainant’s filed trademark VIRBACSPEED in its entirety, and this is inference that the Respondent had knowledge of the Complainant and its filed trademark when he registered the disputed domain name.

The Complainant further contends that:

- the term VIRBAC has no meaning, except in relation to the Complainant;

- the use of the Complainant’s trademark in the disputed domain name gives rise to the inference that the Respondent registered the disputed domain name for its trademark value;

- the Respondent does not make any use of the disputed domain name; and

- the Respondent fails to make an active use of the disputed domain name, and that this is evidence of bad faith registration and use.

Furthermore, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it at a price well exceeding the cost of its registration, which is evidence of bad faith registration and use.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the descriptive term, “speed”, does not prevent the disputed domain name from being confusingly similar to the Complainant’s trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in

bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark, and to profit from this confusion to sell the disputed domain name at a price well exceeding the cost of its registration.

Thirdly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **VIRBACSPEED.COM**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2019-11-12

Publish the Decision