Decision for dispute CAC-UDRP-100928

Case number	**CAC-UDRP-100928**
Time of filing	**2015-03-03 12:48:54**
Domain names	**virbacpet.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**VIRBAC S.A.**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Lee Fei**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any related proceedings.

IDENTIFICATION OF RIGHTS

The Complainant relies on its registered international trade marks including the word mark Virbac and the Logo Mark. It also relies on its use in trade globally since 1968 and its trade mark portfolio including www.virbacpets.com registered and used since 2002.

FACTUAL BACKGROUND

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

Founded in 1968 in Carros close to Nice by Pierre-Richard Dick (DVM), Virbac an old and well-established company is dedicated exclusively to animal health. With a turnover of €736 million in 2013, the company ranks today as the 8th 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 in more than 100 countries the company has more than 4,350 employees. Quoted on the Paris Stock Exchange since 1985 Virbac has remained a family company, not only as regards its shareholding but also through its management principles, its culture and its company values. Today Virbac is present in all 5 continents, with around 85% of its sales made outside of France. Virbac, the Complainant, has for years established a wide communication to the public whether on the press or the Internet worldwide. The Complainant and

all its subsidiaries have their own institutional websites. VIRBAC is the common name for all subsidiaries throughout the World as the distinctive component of the trade names. The Complainant owns a portfolio of brands including the word “VIRBAC” in several countries, throughout the World and has a strong repute for almost 40 years on the name VIRBAC.

Moreover, the Complainant points out that the sign VIRBAC is a registered trade name and signposts of the Complainant, rights duly protected by French law and by Article 8 of the Paris Convention, since at least 1973. Furthermore, the Complainant, directly or via its subsidiaries, owns multiple domain names comprising the trademark “virbac” (and submits evidence in that regard). Given the foregoing, according to the Complainant it is demonstrated the extensive rights in trademark VIRBAC.

The disputed domain name has been registered on September 22, 2010 by the Respondent. The Complainant contends that the disputed domain name is confusingly similar to its trademark as it includes and reproduces, identically and entirely, the term VIRBAC that corresponds to the Complainant’s trademark and other protected Intellectual Property rights together with the non-distinctive and generic ‘pet’, one core of activity of the Complainant.

The disputed domain name <virbacpet.com> includes the trademark “VIRBAC” in its entirety and reproduce totally – except the final letter “s” - the Virbac’s domain name <virbacpets.com> which is the domain name used for the United States . Local website of Virbac Corporation, a subsidiary of the Group Virbac, dedicated for pets. The Complainant contends that addition of the word “PET” and the GTLD “.COM” is not sufficient to escape the finding that the domain name is confusingly similar to its trademarks and does not change the overall impression of the designation as being connected to a trademark of the Complainant. It does not avoid the likelihood of confusion between the disputed domain names and the Complainant, its trademarks and its domain names associated. On the contrary, it only reinforces the impression that disputed domain name is related to the Complainant's activity.

On those facts, the Complainant contends the disputed domain name is confusingly similar to his prior trademarks by including the trademark “VIRBAC” in its entirety and reproduce totally for which it has provided registration certificates as prima facie evidence of its validity. The Respondent does not have any rights or legitimate interest in the domain name(s).

The domain name has been registered by “Lee Fei”, located in Fujian Fuzhou Hudonglu 239, Fuzhou Fujian 350000 China. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain name by the Complainant. The domain name displays as main page a shopping website dedicated to mothers and kids. There is no information in the website in relation with the words “VIRBAC” or “PET”. The Complainant contends that the Respondent has not legitimate interests in respect of the domain name. The domain name(s) has been registered and is being used in bad faith

The disputed domain name <virbacpet.com> includes the trademark “VIRBAC” in its entirety. Moreover, the word “PET” refers directly to the Complainant’s activity and especially its domain name < virbacpets.com>. The domain name displays a content related to a shopping website dedicated to mothers and kids. There is no relation with the disputed domain name.

The Complainant contends that the Respondent could not have ignored the Complainant’s trademark at the moment of the registration of disputed domain name and has registered the disputed domain name in order 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 website or location or of a product or service on the website or location:

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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. In particular, the Panel is satisfied that the Respondent was properly served under the Policy.

PRINCIPAL REASONS FOR THE DECISION

Here the Complainant's name and marks are very well known internationally. The addition of the generic word Pet either adds nothing or the Complainant's rights from use of its domain name www.virbacpets.com may extend to that word also.

The Panel is satisfied that the Complainant satisfied its burden and showing under UDRP and the Respondent failed to come forward. No rights or legitimate interests are apparent on the facts either. Once the Complainant made its prima facie case that the Respondent lacks rights or legitimate interests, the burden then shifts to the Respondent to demonstrate such rights or legitimate interests. 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.

As to bad faith, the Panel finds that the Respondent was likely to be aware of the Complainant’s marks when registering the disputed domain name and that the registration of the disputed domain name cannot be ascribed to a mere coincidence. In any case, given the reputation of the Complainant’s marks the Respondent should have been aware of the Complainant’s rights as it was obliged to determine whether its domain name registration infringes or violates someone else's rights under paragraph 2 of the Policy. Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VIRBACPET.COM**: Transferred

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2015-04-13

Publish the Decision