Decision for dispute CAC-UDRP-106863

Case number	CAC-UDRP-106863
Time of filing	2024-09-16 09:20:33
Domain names	vw-volkswagenag.com

Case administrator

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

Complainant

Organization	Volkswagen AG

Complainant representative

Organization	Lubberger Lehment Rechtsanwälte Partnerschaft mbB

Respondent

Name	Vw Vw

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 is one of the leading automobile manufacturers worldwide and the largest automobile manufacturer in Europe. The Complainant is a world-renowned company with an excellent reputation for its products and services in the automotive sector and beyond. The Complainant owns a large portfolio of trademarks, inter alia for the signs VW and VOLKSWAGEN. The signs are protected by various trademark registrations worldwide, inter alia in the EU:

- VW: EUIPO no. 1354216
- VOLKSWAGEN: EUIPO Nr 703702

The trademarks are protected inter alia under international class 12 for “vehicles”.

The trademarks are – by virtue of long and intensive use – well-known to significant parts of the public in the EU and worldwide. Therefore, they are associated exclusively with the Complainant.

FACTUAL BACKGROUND

Until recently, the disputed domain name was resolving to a website that copied the official dealer portal as part of Complainant's

Group Retail Portal. The Group Retail Portal and the dealer portal specifically can be accessed by official Volkswagen dealers. Access to the Portal is secured by access data and password. The website that the disputed domain name resolved to is designed to create the impression that it is the official VW portal in order to receive the dealers access date when they try to log in. The website is not operated by the Complainant and has no connection with it. It is a fraudulent phishing website.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

Briefly summarised the Complainant contends the following in support of the complaint.

A. The disputed domain name is identical to the protected trademark

The disputed domain name, <vw-volkswagenag.com>, is using signs identical to the trademarks VW and VOLKSWAGEN and the Complainant's business identifier Volkswagen AG. It is well-established by judicial jurisprudence and UDRP panel decisions that the addition of a purely generic element to a trademark in a domain name is irrelevant in assessing confusing similarity or identity under para. 4(a)(i) of the Policy.

B. Respondent has no rights or legitimate interests in respect of the disputed domain name

There is no company or business relationship between the Respondent and the Complainant. In particular, the Respondent is not a licensee of the Complainant, nor is he in any other way associated with the Complainant.

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

The Complainant's trademarks VW and Volkswagen are famous and well-known trademarks.

The Respondent has registered and is using the domain in bad faith. By registering and using the domain the Respondent intentionally attempts to mislead the Complainant's dealers about the origin of the disputed domain name. Dealers are tricked by the copycat website to enter their secret user and access data. This creates a severe risk for the official dealer portal of the Complainant which can be accessed with these user data in order to perform illegal activities.

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).

This is a case of adding a generic term - in this case "ag", an abbreviation of the German company denomination "Aktiengesellschaft", to a combination of the two well-known trademarks of the Complainant, VW and VOLKSWAGEN, and in respect of the well-established practice that the specific top-level of a domain name such as ".com" does not affect the disputed domain name for the purpose of determining whether it is identical or confusingly similar, it is found that the disputed domain name is confusingly similar to Complainant´s well-known trademarks VW and VOLKSWAGEN.

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).

Given the circumstances of the case, including the indisputable reputation of the Complainant's trademarks VW and VOLKSWAGEN and the distinctive nature of these marks, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name resolved, until disabled by the Registrar, to a website mimicking the dealer portal of the Complainant for phishing purposes, namely to mislead the dealers of the Complainant to type in their access information and password with the apparent purpose of using the acquired data to gain illegal access to the genuine dealer portal of the Complainant - this has not been denied by the Respondent. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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

The three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed domain name is 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 with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademarks is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name. The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered.

The disputed domain name resolved, until disabled, to a website mimicking the dealer portal access page of the Complainant for phishing purposes. It is further to this concluded that the mere registration of a domain name that is identical or confusingly similar to well-known or widely-known trademarks by an unaffiliated entity is sufficient to create a presumption of bad faith.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **vw-volkswagenag.com**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2024-10-21

Publish the Decision