Decision for dispute CAC-UDRP-107494

Case number	CAC-UDRP-107494
Time of filing	2025-04-16 12:40:13
Domain names	virbacsales.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	VIRBAC S.A.

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Burnett Gregory

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 the registered owner of the following trademarks:

- international trademark No. 793769 VIRBAC (figurative) registered since 11 March 2002 and duly renewed since in classes 5, 38, 42 and 44, and designated various countries including Australia, Japan, OAPI, Austria, Benelux, Algeria, Italy, Spain, China;
- international trademark No. 420254 VIRBAC (word) registered since 15 December 1975 duly renewed since in class 5, and designated various countries including Austria, Benelux, Switzerland, Germany, Monaco.

The Complainant indicates owning numerous domain names composed of the sole term VIRBAC or combined with other words but provides evidence for the sole official website <virbac.com> of the Complainant. The latter is reserved since at least 15 January 2000.

The Respondent registered the disputed domain name <virbacsales.com> on 2 April 2024. The disputed domain name resolves to a parking page with pay-per-click links at the time of the Complaint.

FACTUAL BACKGROUND

Founded in 1968 in France by Pierre-Richard Dick, the Complainant presents itself as an old and well-established company dedicated exclusively to animal health. With a turnover of €869 million in 2018, the company ranks today as the 6th largest animal health company worldwide. (Nota: the Panel ,despite the de minimis document provided with and the reference to 2018, estimates that the information may not have drastically varied for depicting the Complainant correctly).

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 Complainant points out to ownership of a portfolio of domain names containing the term “VIRBAC”, not evidenced though but that the panellist would accept as asserted. The Complainant uses its official domain name <virbac.com>, registered since 15 January 2000.

The disputed domain name <virbacsales.com> was registered on 2 April 2024 and resolves to a parking page with commercial links.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name, and that the language of the registration agreement is English.

The Respondent has not filed a Response.

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. The Complainant makes a number of legal arguments and also supplies a set of annexes providing evidence of its activities and of the Respondent's bad faith use (diverting traffic and possible phishing pattern) of the disputed domain name

No administratively compliant Response has been filed by the Respondent.

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

It ought to be indicated that the Centre sent the Complaint to the Respondent but neither the written notice of the Complaint nor the advice of delivery thereof was returned to the Centre.

No other address for correspondence was found on the disputed domain name.

The notice of the Commencement of the administrative proceeding was sent also by e-mail. Yet, the e-mail notices sent to <gregoryburnett757@mailstorm.live> and to <postmaster@virbacsales.com> but the Centre never received any proof of delivery or notification of undelivery. No further e-mail addresses could be found on the disputed site.

The Respondent never accessed the online platform.

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

Notwithstanding the fact that no Response has been filed, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- that the disputed domain name was registered and is being used in bad faith.

Confusing similarity

The disputed domain name consists of the Complainant's Trademark “VIRBAC” with the addition of the generic and descriptive term "SALES".

The Panel remarks that Section 1.7 of WIPO Overview 3.0, states that, "in cases where a domain name contains the whole of a trademark, or where at least one dominant feature of the relevant trademark is recognisable in the domain name, the domain name shall normally be considered confusingly similar to that trademark for the purposes of UDRP status".

The addition of the generic and descriptive term "SALES" in connection with VIRBAC increases the reference to the Complainant's rights.

The gTLD ".com" may be disregarded when it comes to considering whether a domain name is confusingly similar to a trademark in which the Complainant has rights.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, while the overall burden of proof rests with the Complainant, it is commonly accepted that this should not result in an often-impossible task of proving a negative. Therefore, numerous previous panels have found that the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such appropriate allegations or evidence, the Complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. If the Respondent does come forward with some allegations or evidence of relevant rights or legitimate interests, the panel then must weigh all the evidence, with the burden of proof always remaining on the Complainant.

The Complainant argues that:

- the Respondent is not authorized or licensed by the Complainant;
- the disputed domain name does not correspond to the name of the Respondent. The Respondent is not commonly known as “VIRBAC";
- there is no fair or non-commercial use of the disputed domain name.

The Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name from the following facts:

- there is no evidence at all that the Respondent is or has been commonly known by the disputed domain name or by the term "VIRBAC";
- there is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers;
- the Respondent did not show to have any trademark rights or other rights in the term "VIRBAC";
- the Respondent does not seem to have any consent or authorization to use the Trademark or variations thereof and does not seem to be related in any way to the Complainant; and
- the Respondent did not file an administratively compliant (or any) response.
- The Respondent did not provide evidence that it has rights or legitimate interests in the disputed domain name (the Respondent could, inter alia, have provided evidence of the factors mentioned in paragraph 4(c) of the Policy, but failed to do so).

In summary, on the balance of probabilities, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

The Complainant argues the following:

The Respondent registered the disputed domain name with actual knowledge of the Trademark. The Trademark is well known all around the world. Said trademark has no specific meaning but for the goods and services of the Complainant.

The Respondent does not use the disputed domain name for a bona fide offering of goods or services. Indeed, the disputed domain name resolves to a parking page with commercial links in direct connection with the goods of the Complainant. Furthermore, the Complainant asserts that the Respondent may be using the disputed domain name for phishing activities. The Complainant claims that the Respondent has registered and is using the disputed domain name to confuse consumers and intentionally proceed with fraudulent activities.

The Panel weighs these arguments and facts as follows:

- The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith;
- The name VIRBAC is distinctive and well known in numerous countries for designating animal health, pet food and well-being products of the Complainant;
- The Respondent has copied the Complainant's trademark "VIRBAC" and has combined it with a generic and descriptive term "SALES", referring to potential reduced prices, cheaper goods;
- Therefore, this registration can only be viewed as an attempt to use the name highly confusingly similar to conduct phishing or other misconduct by e-mails.

Making use of the disputed domain name, obviously in a potential fraudulent manner, neither qualifies as a bona fide nor as a legitimate non-commercial or fair use under the Policy and may not of itself confer rights or legitimate interests in the disputed domain name. The potential collection of personal data or passwords via the phishing process being one possible fraudulent act (see CAC Case No. 104862).

The Respondent, for not responding to the complaint, has failed to demonstrate any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, by passing off, infringement of consumer protection legislation, or infringement of the Complainant's rights under trademark law.

The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **virbacsales.com**: Transferred

PANELLISTS

Name	**David-Irving Tayer**

DATE OF PANEL DECISION 2025-05-17

Publish the Decision