



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. 6E5D0596

Determination FINAL

I. PARTIES

Complainant: SES-imagotag (FR)
Complainant's authorized representative(s): Domgate (FR)

Respondent: Karl Danneberg (ZA)

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain Name(s): THEVISION.COMPANY
Registry Operator: Binky Moon, LLC
Registrar: GoDaddy.com, LLC

Domain Name(s): VSION.COMPANY
Registry Operator: Binky Moon, LLC
Registrar: GoDaddy.com, LLC

Domain Name(s): VSION.GROUP
Registry Operator: Binky Moon, LLC
Registrar: GoDaddy.com, LLC

Domain Name(s): VSION.WORLD
Registry Operator: Binky Moon, LLC
Registrar: GoDaddy.com, LLC

Domain Name(s): VSION.BIZ
Registry Operator: Registry Services, LLC
Registrar: GoDaddy.com, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2023-10-24 21:48
Lock of the domain name(s): 2023-10-27 01:08
Notice of Complaint: 2023-11-02 10:41
Response Submitted: 2023-11-10 10:40
Panel Appointed: 2023-11-15 23:09
Final Determination issued: 2023-11-18 00:47

IV. EXAMINER

Examiner's Name: Paddy Tam

The Examiner certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the domain name(s) be suspended for the balance of the registration period.

The Respondent requests that the domain names be unlocked and returned to his full control.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant:

The Complainant is SES-IMAGOTAG of Nanterre, France.

The Complainant is the owner of the trademark VUSION with several international and national trademark registrations worldwide, including but not limited to:

- French trademark VUSION number 4400460 in classes 6, 9, 20, 35 and 42;
- European Union trademark VUSION number 017416488 in classes 6, 9, 20, 35 and 42;
- International trademark VUSION number 1420807 in classes 6, 9, 20, 35 and 42;
- International trademark VUSION number 1426878 in classes 6, 9, 20, 35 and 42.

B. Respondent:

The Respondent is Karl Danneberg of Durbanville, South Africa.

The Respondent submitted a formal Response on November 10, 2023.

C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

Language of the Final Determination: The Complaint was filed in English and the Response was filed in English as well. The Examiner determines that the language of the Final Determination be English.

D. Findings of fact:

The Registration Date of the Disputed Domain Names are:

THEVSION.COMPANY: 2023-04-17

VSION.COMPANY: 2023-04-17

VSION.GROUP: 2023-04-17

VSION.WORLD: 2023-08-30

VSION.BIZ: 2023-08-30



E. Reasoning:

1. The domain name(s) is(are) identical or confusingly similar to a word mark

To satisfy URS 1.2.6.1, the Complainant needs to prove its rights in a word mark and that the domain name is identical or confusingly similar to the word mark.

In the present case, the Examiner is satisfied that the Complainant is a well-known digital solution provider for retailers who also owns trademark registrations for VUSION globally.

The Complainant claims that the Disputed Domain Names are confusingly similar to Complainant's VUSION trademarks. Despite the omission of the almost silent letter "U" and the prefix "THE" in case of THEVSION.COMPANY, the Complainant's trademark is still recognizable in all Disputed Domain Names.

By doing side-by-side comparisons, the Examiner accepts that the Disputed Domain Names are visually and aurally similar to Complainant's VUSION trademark and the missing letter "U" and the additional prefix "THE" in case of THEVSION.COMPANY do not negate the similarity.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.1.

2. Respondent has no rights or legitimate interests to the domain name(s)

To satisfy URS 1.2.6.2, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the Disputed Domain Name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that no license or permission of any kind has been given by the Complainant to the Respondent to use Complainant's trademarks. Furthermore, the Complainant contests that resolving the confusingly similar Disputed Domain Names to pay-per-click websites is an attempt to obtain commercial gain by riding on Complainant's trademark rights.

The Examiner finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Names and the burden of prove has been shifted to the Respondent to prove that it does have rights or legitimate interests to the Disputed Domain Names.

The Respondent rebuts that he has a registered entity called VSIONCO and a trademark on VSION CO in South Africa. The Respondent further explains that the VSION CO trademark was instructed and registered in the course of 2023 and was designed for the sake of registering a trademark that shall encapsulate independently branded optometry outlets. The omission of the letter "I" was made intentionally and there is no competition between the Complainant and Respondent.

Despite the Respondent claims to be the owner of the registered entity VSIONCO and the trademark VSION CO in South Africa, the Panel notes that there is no evidence presented that the Respondent, namely Karl Danneberg, is the owner of the entity VSIONCO. Furthermore,

the Panel also notes that the owner of the trademark VSION CO is neither VISIONCO nor the Respondent. On the screenshot of the mentioned VSION CO trademark provided by the Respondent, both the status and registration date are missing. Considering the missing links between the Respondent, the entity VSIONCO and the trademark VSION CO, the Panel does not admit that the Respondent is the owner of either the mentioned entity or trademark. On this basis, the Panel is of the view that the Respondent has failed to prove that he has rights or legitimate interests to the Disputed Domain Names.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.2.

3. The domain name(s) was(were) registered and is(are) being used in bad faith

To satisfy URS 1.2.6.3, the Complainant must prove both the registration and use of the Disputed Domain Names are in bad faith.

The Complainant alleges that the Respondent resolves the Disputed Domain Names to pay-per-click websites and invited the Complainant to purchase the Disputed Domain Names after receiving the Complainant's Cease and Desist Letter.

The Respondent rebuts that its entity VSIONCO and trademark VSION CO were encapsulated for his independent branded optometry outlets. The VSION Co Optometrist is a mark that is trademarked and that will link all the independent optometrist outlets under one unified brand. However, no evidence has been presented on the preparation to use the mentioned mark.

The Panel would like to reiterate that the Respondent has failed to prove its ownership of both the mentioned entity and trademark. Furthermore, the Panel is of the view that registering and using a domain name that is confusingly similar to a third party's trademark for commercial gain no matter it is by selling the domain name or resolving it to pay-per-click advertisements constitute bad faith under URS 1.2.6.3. See *Inter Ikea Systems Bv v. jun yin*, FBD11EC6, (MFSD 15 June 2020). See also *SES-IMAGOTAG v. eLead Resources, Inc.*, B9D93C56, (MFSD 2023-06-02) ("The Respondent's website does not currently resolve to an active website. However, the Complainant has provided documentary proof that the Respondent's website had previously resolved to a parked page featuring pay-per-click (PPC) advertisement for goods and services unrelated to the Complainant's business segment. On balance, the Respondent's behaviour would therefore fall into the remit of circumstance .d of paragraph 1.2.6.3 of the URS Procedure"). Having reviewed the screenshots of the websites resolved by the Disputed Domain Names and correspondence between the parties, and in view of the facts set forth above, it is more likely than not that the Respondent has registered and is using the Disputed Domain Names in bad faith for commercial gain without bona fide offering of goods or services.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.3.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated



B. Complaint, Response and remedy

Complaint: Accepts

Response: Rejects

Domain Name: THEVSION.COMPANY Suspends for the balance of the registration period

Domain Name: VSION.COMPANY Suspends for the balance of the registration period

Domain Name: VSION.GROUP Suspends for the balance of the registration period

Domain Name: VSION.WORLD Suspends for the balance of the registration period

Domain Name: VSION.BIZ Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Final Determination

SIGNATURE

Name: Paddy

Surname: Tam

Date: 2023-11-18