

URS DISPUTE

Dispute number: **85ACB43F**
Determination: **DEFAULT**

I. PARTIES

Complainant: **VEOLIA ENVIRONNEMENT**
Olivier Poulin
21 rue La Boétie

Complainant's Authorized Repr.: **IP TWINS**
Tristan Verna
78 rue de Turbigo

Respondent: **Not Disclosed On The WHOIS Not Disclosed On The WHOIS**

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

Domain name: **veolia.cloud**
aruba pec s.p.a.
50.63.202.39
godaddy.com, inc.

III. PROCEDURAL HISTORY

Complaint Submitted: 2019-04-10 17:59
Lock of the Domain name(s): 2019-04-12 15:21
Notice of Complaint: 2019-04-15 17:08
Default Date: 2019-04-30 00:01
Notice of Default: 2019-04-30 08:11
Panel Appointed: 2019-04-30 08:11
Default Determination issued: 2019-05-03 12:48

IV. EXAMINER

Examiner's Name: **Igor Motsnyi**

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

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period
The Respondent has not filed a Response

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant

The Complainant is the holding company of Veolia group that has a history of over 160 years. The Complainant's group has a total of EUR 25.911 billion in revenue.

The Complainant is the holder of the VEOLIA word trademark effective in many jurisdictions.

This trademark is well-known, widely used and protected worldwide in relation to water, waste and energy services. The Complainant sent a cease-and-desist letter to the Respondent via e-mail regarding use of the disputed domain name. The Respondent has not replied.

1. The Complainant alleges that the disputed domain name is, at least, confusingly similar to its VEOLIA trademark. It reproduces the trademark in its entirety with the mere addition of the new gTLD extension .cloud. Therefore, the disputed domain name is confusingly similar to the Complainant's word trademark.

2. The Complainant states that the Respondent has no legitimate rights or interests in respect of the disputed domain name.

The Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use its trademark or to seek registration of any domain name incorporating the said mark.

Furthermore, the Respondent has no prior rights or legitimate interest in the disputed domain name or in the trademark VEOLIA. The disputed domain name is so similar to the Complainant's well-known VEOLIA trademark that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through disputed domain name.

3. The Complainant contends that in light of the reputation of the Complainant's trademark, the Respondent was aware of the existence of this trademark, therefore, the disputed domain name was registered and is being used in bad faith. The Respondent also registered the disputed domain name despite having received a notification stating that the disputed domain name matches a trademark registered in the Trademark Clearinghouse (TMCH). It is possible that the Respondent registered the disputed domain name for the purpose of selling it to the Complainant.

The disputed domain name is currently inactive. Nevertheless, the mere failure to make an active use of the disputed domain name is indicative of bad faith registration and use pursuant to the URS Procedure.

The Complainant adds that since the VEOLIA mark is neither generic nor descriptive, it is not a coincidence that the Respondent registered the disputed domain name.

As the disputed domain name is identical/confusingly similar to Complainants' trademark, it is clear that a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to Respondent's own inactive site.

B. Respondent

The Respondent did not submit a Response.

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 Determination: In absence of a Response, the language of the Determination shall be English.

D. Findings of Fact

The disputed domain name was registered on September 23, 2018. The disputed domain name is not actively used.

The Complainant has demonstrated that it owns the following registered "VEOLIA" word trademarks:

- US trademark registration number 3543738, registration date - December 9, 2008;
- International trademark registration number 814678, registration date - September 11, 2003;
- International trademark registration number 910325, registration date - March 10, 2006.

E. Reasoning

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

The disputed domain name fully incorporates Complainant's VEOLIA word trademark without any additions or changes.

As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") "In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark ..." (see par. 1.7).

In the present case the disputed domain name is identical to the Complainant's VEOLIA word trademark. The Complainant provided evidence that its word trademarks are in use.

The domain zone .cloud shall be disregarded under the identity or the confusing similarity test as it does not add anything to the distinctiveness of the disputed domain name.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.1. of the URS Procedure have been satisfied.

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

The complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests; and once such prima facie case is made, the burden shifts to the respondent who has to demonstrate his rights or legitimate interests.

The Complainant made a prima facie case and the Respondent failed to respond and explain any rights or interests in respect of the disputed domain name. The web site under the disputed domain name is inactive.

No facts or evidence of this dispute indicate any legitimate rights or interests of the Respondent in respect of the disputed domain name.

Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

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

While the disputed domain name is not actively used, previous panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see par. 3.3 of WIPO Overview 3.0, see also URS DISPUTE NO. 01D047A5).

The totality of the circumstances has to be taken into account and the following factors of the present dispute are relevant:

- (i) the degree of distinctiveness or reputation of the Complainant's mark -the Complainant's VEOLIA mark is highly distinctive and widely-known (the Complainant has been a target of cybersquatters before and well - known nature of its trademark is confirmed by previous panels - e.g. Veolia Environnement SA v. Kenneth Vargas, WIPO Case No. D2017-1844; Veolia Environnement SA v. Hayden Fusco, WIPO Case No. D2017-1655; Veolia Environnement SA v. Milen Radumilo, WIPO Case No. D2017-0713 and Veolia Environnement SA v. Jeff Mitchell, WIPO Case No. D2016-0869). Besides, the Respondent should have received a notification informing that the disputed domain name matches a trademark registered in the TMCH;
- (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain name and
- (iii) the implausibility of any good faith use to which the disputed domain name may be put.

The disputed domain name is identical to the Complainant's trademark and as confirmed by WIPO Overview 3.0 the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by

an unaffiliated entity can by itself create a presumption of bad faith (par. 3.1.4).

From the evidence available in this case, it appears that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's mark by fully incorporating the trademark into the disputed domain name.

This conduct is considered by the URS as a demonstration of bad faith registration and use, under Paragraph 1.2.6.3 (d) of the URS Procedure.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

4. Abusive Complaint

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

VIII. DETERMINATION

A. Demonstration of URS elements

After reviewing the entire record of the URS proceeding and the Parties submissions, the Examiner shall determine if the Complainant has or has not demonstrated all three elements of the URS by a standard of clear and convincing evidence

Demonstration of URS elements **Demonstrated**

B. Complaint and remedy

The Examiner shall decide whether to accept or reject the Complaint and, therefore, order the domain name(s) be suspended for the balance of the registration period or be unlocked and returned to the full control of the Registrant

Complaint **Accepts**

Domain Name(s) **Suspends for the balance of the registration period**

C. Abuse of proceeding

The Examiner may find that a Complaint is abusive or contains deliberate material falsehood

Finding of abuse of proceedings **Not finds**

Ban from utilization of URS

D. Suspension or Termination

If legal proceedings were initiated by a Party or the Parties prior to or during the URS proceeding, the Examiner may order the suspension or termination of the URS dispute or decide to proceed to the Determination

URS proceeding

E. Publication

Publication **Publish the Determination**

SIGNATURE

Name **Igor**
Surname **Motsnyi**