



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2001369
Complainant:	PCCW Limited
Respondent:	Milen Radumilo
Disputed Domain Name(s):	< viutv.tv >

1. The Parties and Contested Domain Name

The Complainant is PCCW Limited, of PCCW Tower, TaiKoo Place, 979 King's Road, Quarry Bay, Hong Kong.

The Respondent is Milen Radumilo, of Strada C. Rosetti, Bucharest, 010281, Romania.

The domain name at issue is < viutv.tv >, registered by Respondent with Bonam Fortunam Domains, LLC, of 5335 Gate Parkway, Jacksonville, Florida 32256, USA.

2. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the "Center") on 22 June 2020. On 24 June 2020, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On 23 July 2020, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On 24 July 2020, the Center wrote to the Complainant asking it to amend the Complaint to reflect the name and address of the Respondent in accordance with the Registrar's verification response. The Complainant filed the necessary amendment on the same day.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on 24 July 2020. In

accordance with the Rules, paragraph 5, the due date for Response was 13 August 2020. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on 14 August 2020.

The Center appointed Adam Samuel as the sole panelist in this matter on 14 August 2020. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

3. Factual background

The Complainant is the parent company of a media group which includes PCCW OTT (Hong Kong) Limited, a company with whom it shares a head office address in Hong Kong and HK Television Entertainment Company Limited which trades using the name Viu TV. PCCW OTT (Hong Kong) Limited owns a number of trademarks worldwide for the name VIU and two for the name VIUTV in Hong Kong, number 303529819, registered on 23 February 2016 and 304038345, registered on 3 August 2017. The Complainant's group promotes its Viu tv offering through a domain name <viu.tv>, registered on

The Respondent registered its

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant owns the VIU and VIUTV trademarks. The second level domain of the disputed domain name consists solely of the Complainant's VIUTV trademark.
- ii. The Respondent is not affiliated with the Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant's trademark in any way. The Respondent is not commonly known by the Disputed domain name. The Respondent's name does not resemble the disputed domain name.
- iii. The Respondent used a privacy shield which equates to a lack of legitimate interest and is evidence of bad faith use and registration.
- iv. The Respondent has sought to sell the disputed domain name for US\$688 which exceeds his out-of-pocket expenses.
- v. The Complainant and its VIU and VIUTV trademarks are known internationally. The Complainant has marketed extensively and provided services using the3se trademarks since 2015, prior to the registration of the disputed domain name. By registering a domain that is exactly matches the Complainant's VIUTV trademark, the Respondent has created a domain name that is also identical to the Complainant's <viu.tv> domain name. The Respondent has demonstrated a knowledge of the Complainant's brands. He has also created a likelihood of confusion with the Complainant and its trademarks to confuse unsuspecting internet users looking for the Complainant's services and mislead internet users as to the source, sponsorship, affiliation or endorsement of the disputed domain

name. He has also demonstrated a nefarious intention of capitalizing on the Complainant's trademarks' fame and goodwill to increase traffic to its pay-per-click website.

- vi. The Respondent has been ordered by a number of UDRP panels to transfer his domain names, suggesting that he is engaged in a pattern of cybersquatting.

B. Respondent

The Respondent did not reply to the Complaint.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The disputed domain name consists of the VIUTV trademark and ".tv" which denotes the type of activity in which the Complainant is engaged. VIU and VIUTV are made-up words with no independent meaning. The only issue is that the Complainant does not own the trademark. However, under the Policy, the Complainant only has to have rights in the mark. The trademark owner is a subsidiary of the Complainant sharing the latter's corporate address. Other members of the Complainant's group use the trademarks. This all suggests that the Complainant is at least a licensee of the VIUTV trademark and thus has rights in it.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark.

B) Rights and Legitimate Interests

The Respondent is not called "VIUTV" or anything similar. There is no evidence that the Complainant has ever authorized the Respondent to use its trademarks. Based on the available record, and in the absence of any response on this point, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C) Bad Faith

The Complainant's subsidiary's trademark is a distinctive made-up word. The disputed domain name reproduces it exactly with the addition of ".tv" which reflects the activity with which that trademark is most closely associated. The Respondent appears from this to have known of the Complainant's group's business activities. It is impossible, at least without a Response to the Complaint, to identify a reason why

the Respondent registered the disputed domain names other than to attract business or Internet users to its site who were looking for a site connected to the Complainant's trademark or business. The Respondent's motive in registering and using the disputed domain names was either to disrupt the Complainant's relationship with its customers or potential customers, attempt to attract Internet users for potential gain or persuade the Complainant to buy the disputed domain name from it for an amount in excess of the Respondent's out-of-pocket expenses. These all constitute evidence of registration and use in bad faith: paragraph 4(b)(i), (ii) and (iii) of the Policy.

Within a short time of registering the disputed domain name, the Respondent put the disputed domain name up for sale at a price which exceeds the Respondent's out-of-pocket expenses directly related to the disputed domain name. This suggests that the Respondent registered the disputed domain name "primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant". That is evidence of registration and use in bad faith: paragraph 4(b)(i) of the Policy.

These conclusions are reinforced by the Respondent's history of being found to have registered and used domain names in bad faith by a number of other UDRP panels.

For these reasons alone the Panel concludes that the Respondent registered and is using the disputed domain names in bad faith. It is unnecessary in the circumstances to deal with the other matters raised by the Complaint.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <viutv.tv> be transferred to the Complainant.



Adam Samuel
Panelist

Dated: 18 August 2020