

ADMINISTRATIVE PANEL DECISION

OVH v. Anurag Gupta, Addroit Nexus
Case No. D2023-0696

1. The Parties

The Complainant is OVH, France, internally represented.

The Respondent is Anurag Gupta, Addroit Nexus, India.

2. The Domain Name and Registrar

The disputed domain name <ovh-india.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 17, 2023.

The Center verified that the Complaint together with the amendment to 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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on March 17, 2023. 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.

4. Factual Background

The Complainant is a French cloud computing company, providing data hosting, domain name reservation and Internet telephony services under its OVH mark. The Complainant's mark has been recognised as being well-known by prior UDRP panels (see for e.g. *OVH SAS v. Charal Investment Trust, R.D. Larach*, WIPO Case No. [D2012-1552](#)).

The Complainant owns registrations for its OVH trade mark in numerous jurisdictions including, most relevant for this matter, in the Respondent's country of India under trade mark registration No. 1978461 OVH registered on June 11, 2010 in class 9. The Complainant owns the domain name <ovh.com> (registered on February 7, 1997), which redirects to its primary web presence at "www.ovhcloud.com".

The Domain Name was registered on December 11, 2022 and the Complainant's evidence establishes that it has resolved to a parked page displaying pay-per-click ("PPC") advertising relating to competitors of the Complainant, as well as the Complainant itself.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its well-known OVH mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for PPC advertisements for the Respondent's commercial gain, taking advantage of the Complainant's reputation to attract users.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered and well-known mark is wholly contained within the Domain Name as its first element with the addition of the geographic term "India" preceded by a hyphen. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms (including geographic terms) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its mark was registered and well-known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9). There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark, for example those incorporating a well-known mark plus a geographic term as in this case, can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1).

The Domain Name has been used to advertise services relating to and competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3). The Respondent apparently supplied incomplete or false address details in the Whois record for the Domain Name; the Center's courier indicated that a "bad address" was supplied and that the Center's correspondence could not be delivered to the Respondent. In the circumstances of this case, this suggests an attempt by the Respondent to evade pursuit (*Kabushiki Kaisha Raibudoa v. Kubota, A*, WIPO Case No. [D2001-0817](#)).

The Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <ovh-india.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: March 27, 2023