

ADMINISTRATIVE PANEL DECISION

DispatchHealth Management, LLC v. Zhichao
Case No. D2023-4490

1. The Parties

The Complainant is DispatchHealth Management, LLC, United States of America (the “US”) represented by Holzer Patel Drennan, US.

The Respondent is Zhichao, China.

2. The Domain Name and Registrar

The disputed domain name <dispathhealth.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2023. On October 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Dynadot Inc. and John Doe(s)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 2, 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 November 5, 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 January 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 24, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on February 2, 2024. 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, DispatchHealth Management, is a Delaware limited liability company, which operates in the US and provides in-home medical care and related services. Starting its services in Colorado, the Complainant quickly expanded, currently providing services in 23 US states through over 40 locations and having served hundreds of thousands of patients. The Complainant has advertised its services through direct mail, Internet, print, radio, and television.

The Complainant owns trademark registrations for DISPATCHHEALTH/ DISPATCH HEALTH, such as the following:

- the US trademark registration number 5350995 for the word DISPATCHHEALTH, filed on June 4, 2015, registered on December 5, 2017, covering goods and services in International classes 9, 42, 44; and
- the US trademark registration number 6183996 for the words DISPATCH HEALTH, filed on March 10, 2020, and registered on October 27, 2020, covering goods and services in International classes 9, 42.

The Complainant holds and promotes its services on the domain name <dispatchhealth.com>, registered on March 29, 2015.

The disputed domain name was registered on February 18, 2020, and, at the time of filing the Complaint, it resolved to an error page.

According to Annex 3 to the Complaint, on November 30, 2022 (with a follow-up on October 2, 2023), the Complainant sent a cease-and-desist letter to the disputed domain name Registrar and web host.

Following such letter, the server host blocked the URL associated with the disputed domain name as of October 5, 2023.

Before October 2, 2023, according to Annex 1 to the Complaint, the disputed domain name has been used to resolve to a website listing pay-per-click ("PPC") pages with sponsored links related to health services, similar to those provided by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it has generated substantial goodwill and customer recognition in each of its registered trademarks through extensive sales and advertising, and the high quality of services; the Respondent hijacked the Complainant's trademark and domain name through typosquatting - targeting Internet users who incorrectly type the Complainant's trademark and/or website address into their web browser; the PPC links clearly compete with and capitalize on the reputation and goodwill of the Complainant's mark and mislead consumers into thinking that the Complainant is somehow affiliated with the Respondent; the disputed domain name has tarnished the extensive goodwill and business value built by

the Complainant and its predecessor in interest since 2015; the Respondent's apparent use of the mis-typed infringing domain name is to allow third parties to advertise for medical and/or medical-related services on the URL associate with the disputed domain name and this creates a presumption of bad faith; the Respondent registered and has been using the disputed domain name in an effort to trade off the Complainant's trademark and good name and to disrupt the Complainant's business.

The Respondent seems to be involved in a couple of other UDRP disputes involving the Complainant's trademark, such as *DispatchHealth Management, LLC v. Zhichao Yang*, WIPO Case No. [D2023-4507](#), where the registrant has a similar name with the Respondent and the domain name <dipatchhealth.com> has been registered and used in a similar manner as the disputed domain name in the present proceedings.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name, being an obvious misspelling of the Complainant's trademark, i.e., the omission of the letter, "c". Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of

proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent used the disputed domain name in connection with PPC pages and, in this regard, panels have held that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the Complaint and unrebutted by the Respondent, the disputed domain name resolved to a page providing PPC links.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark and domain name, reproduced with a common obvious misspelling, in order to get traffic on its web portal and to misleadingly divert Internet users to third parties' websites, and thus to potentially obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. This activity may also disrupt the business of the Complainant and tarnish its trademark.

Furthermore, the Respondent did not participate in the present proceedings, employed a privacy service, and appears to be involved in other UDRP disputes decided against it. See *DispatchHealth Management, LLC v. Zhichao Yang*, supra.

The Panel finds that the Complainant has established the third element 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 disputed domain name <dispathhealth.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: February 16, 2024