

ADMINISTRATIVE PANEL DECISION

Dynatrace LLC v. Quan Zhongjun, Juanita Co.
Case No. D2023-4533

1. The Parties

The Complainant is Dynatrace LLC, United States of America (the “United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Quan Zhongjun, Juanita Co., China.

2. The Domain Name and Registrar

The disputed domain name <dyntrace.com> is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2023. On November 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 2, 2023, 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 (Unknown) 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 amended Complaint on November 8, 2023.

The Center verified that the Complaint together with the amended 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 November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on December 26, 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 global technology company that provides a software observability platform based on artificial intelligence and automation. The Complainant operates globally, with customers in over 70 countries.

The Complainant was created on February 2, 2005, in Linz, Austria, and incorporated in Delaware on November 21, 2014. The Complainant changed its name to Dynatrace, Inc. on July 31, 2019. SpectX OÜ is a subsidiary of the Complainant and was acquired on September 14, 2021. Evidence of these facts can be located as Annexes 6.1 of the Complaint.

The Complainant is the owner of registrations for the trademark DYNATRACE across various jurisdictions, among which registrations granted by the European Union Intellectual Property Office (“EUIPO”) (reg 009011875, of September 27, 2010); the United Kingdom Intellectual Property Office (reg UK00909011875 of September 27, 2010); the United States Patent & Trademark Office (reg 3930589 of March 15, 2011); the Canadian Intellectual Property Office (reg TMA825869 of June 07, 2012); and the World Intellectual Property Office (reg 1331469 of September 29, 2016). Printouts from these registrations were presented as Annex 1 to the Complaint.

The Complainant attempted to contact the Respondent, by addressing cease-and-desist letters, but these were ignored by the Respondent. All relevant evidence is shown in Annex 9 to the Complaint.

The disputed domain name was registered on April 18, 2023, and at the time of filing the Complaint directed to a page displaying Pay-Per-Click (“PPC”) links to third party’s sites, some of which are in the Complainant’s field of activity.

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.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s mark DYNATRACE. The absence of the letter “a” in the disputed domain name is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s DYNATRACE trademark. The Complainant further argues that it is clear case of typosquatting.

The Complainant owns several registrations worldwide for the trademark DYNATRACE, all dated years prior to the registration of the disputed domain name. As well, the Complainant owns the rights over the trade name, as evidenced by the annexes to the Complaint.

The disputed domain name registered by the Respondent – a reproduction of the Complainant’s registered mark with an irrelevant absence of a letter – shows a clear intention of misleading the Internet users. The Complainant also indicates that the Respondent registered and is using the disputed domain name in bad faith, through the use of a parked page with PPC links.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by the Complainant to obtain relief. These elements are:

- (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 respect to the disputed domain name; and
- (iii) the disputed domain name has been 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The use of the trademark with a missing letter in the disputed domain name does not differentiate it from the DYNATRACE trademark. The omission of the letter "a" does not prevent a finding of confusing similarity, as the Complainant's DYNATRACE trademark is still recognizable within the disputed domain name. Prior decisions have often considered the subtraction of a single letter or the misspelling of a trademark to constitute typosquatting (see *Groupe ADEO v. Privacy Service Provided by Withheld for Privacy ehf / Ivan Urgant*, WIPO Case No. [D2022-0828](#); and *Christian Dior Couture v. Dior Interiors, Zion Segev*, WIPO Case No. [D2009-1431](#)). [WIPO Overview 3.0](#), section 1.9.

Based on the available record, 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.

Given the clear evidence that the trademark DYNATRACE is registered in the Complainant's name and is widely known as identifying the Complainant's activities, and that the Complainant has not licensed its trademark to the Respondent, the Panel finds that the Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case. 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.

Besides, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. In fact, the Complainant presented evidence that the disputed domain name resolved to a website displaying PPC links to third party's sites, some of which are in the Complainant's field of activity.

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.

Furthermore, the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of good or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark. [WIPO Overview 3.0](#), section 2.9.

The Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, nor for a legitimate noncommercial or fair use of the disputed domain name. The Panel is satisfied that the Complainant has made *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name which has not been rebutted by the Respondent.

The Panel, thus, finds for the Complainant under the second element of the Policy.

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.

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant's mark - hence the intentional misspelling of the trademark. The misspelling of a disputed domain name is indeed a fact which cyberquatters normally take profit from by giving Internet users the impression that the disputed domain name belongs to the Complainant. The fact that the disputed domain name resolves to a website displaying PPC links to third party sites, some of which are related to the Complainant's field of activity, supports a finding of bad faith use in these circumstances.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved 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 <dyntrace.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: January 12, 2024