

ADMINISTRATIVE PANEL DECISION

DPDgroup International Services GmbH & Co. KG v. Privacy Service
Provided by Withheld for Privacy ehf / Debra Hutson
Case No. D2022-0324

1. The Parties

The Complainant is DPDgroup International Services GmbH & Co. KG, Germany, represented by Fidal, France.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Debra Hutson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <dpdgroupservice.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 31, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2022 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 2, 2022.

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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 1, 2022.

The Center appointed Gregor Vos as the sole panelist in this matter on March 9, 2022. 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 German company that mainly focusses on parcel delivery and shipping services. The Complainant has been operating since 1977 and has 32,000 pickup point in 230 different countries.

The Complainant is the owner of *inter alia* the following European Union (“EU”) and international trademark registrations (hereinafter jointly referred to as: the “Trademarks”):

- International trademark Registration No. 761146 for  registered on May 26, 2001;
- EU trademark Registration No. 6159487 for DPD DYNAMIC PARCEL DISTRIBUTION registered on August 19, 2009;
- International trademark Registration No. 1217471 for  registered on March 28, 2014;
- International trademark Registration No. 1271522 for  registered on August 25, 2015.

Further, it is undisputed that the Complainant is the holder of *inter alia* the following domain names:

- <dpd.com>, registered on March 20, 1991;
- <dpd.net>, registered on December 2, 1997;
- <dpdgroupe.com>, registered on April 2, 2008;
- <dpd-gruppe.com>, registered on July 24, 2016.

The Domain Name was registered on November 17, 2021 and currently resolves to a webpage on which parcel delivery and shipping services are offered.

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to the Trademarks. The Trademarks are incorporated in the Domain Name in their entirety with the mere addition of the term “service”.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent is not commonly known under the name “dpdgroupservice.com”, does not provide a *bona fide* offering of products or services, does not make any use of a business name which includes the sign “dpd” and has no rights on any trademark composed of this sign. Furthermore, the Complainant has never authorized, licensed, permitted or otherwise consented to the Respondent’s use of the Trademarks in the Domain Name. According to the Complainant, the Respondent is therefore deliberately creating confusion with the Complainant’s business by using the Complainant’s identity, reproducing the Complainant’s Trademarks without authorization, taking ownership of its services and tricking Internet users into thinking they have arrived at the Complainant’s website or that the Respondent is associated with the

Complainant.

Lastly, according to the Complainant, the Respondent has registered and uses the Domain Name in bad faith. The Respondent deliberately reproduces the Trademarks, graphic layout and identity of the Complainant and tries to trick the consumer by promoting the same services as the Complainant to take advantage of its Trademark's reputation and give credibility to the Respondent's scams, phishing operation and commercial purpose. According to the Complainant, the Respondent had knowledge of both the (reputation of the) Complainant and the Trademarks when the Domain Name was registered and did not choose the Domain Name by coincidence. Furthermore, according to the Complainant, the Respondent's use of Trademarks in the Domain Name must be considered as opportunistic bad faith, because this use is obviously connected with the Complainant's well-known Trademarks in the field of parcel delivery and shipping services.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

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

Only if all three elements have been fulfilled, the Panel is able to grant the remedies requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Name (see section 1.7 of 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, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Name. The addition of the generic TopLevel Domain ".com" and the term "service" does not prevent a finding of confusing similarity with the Trademarks (see sections 1.8 and 1.11 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds

that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three nonlimitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to address the *prima facie* case thus established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four nonlimitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Name. In light of the well-known character of the Trademarks, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business. The well-known character of the Trademarks of the Complainant has been confirmed by earlier UDRP panels (see e.g. *DPDgroup International Services GmbH & Co. KG v. Dealer Sub, DealerSub*, WIPO Case No. [D2021-0779](#); *DPDgroup International Services GmbH & Co. KG v. Whois Privacy Protection Foundation / Albert Lancken*, WIPO Case No. [D2019-2957](#)).

Furthermore, the Domain Name resolves to a website offering similar services to those of the Complainant. In combination with the reputation of the Trademarks that are incorporated in their entirety in the Domain Name, this suggests that the Domain Name was registered in recognition of the similarity between the Domain Name and the well-known Trademarks of the Complainant, in an attempt of the Respondent to attract, for commercial gain, Internet users to its website by creating a confusion with the Complainant's Trademarks. .

With regard to use of the Domain Name in bad faith, the Panel finds that the use of the Trademarks in the Domain Name signals an intention on the part of the Respondent to confuse Internet users into thinking that the Domain Name is connected to the Complainant (section 3.2.1, [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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 <dpdgroupservice.com> be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: March 23, 2022