

ADMINISTRATIVE PANEL DECISION

DPDgroup International Services GmbH & Co. KG v. Maihi Ben
Case No. D2023-1120

1. The Parties

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

The Respondent is Maihi Ben, United States of America.

2. The Domain Name and Registrar

The disputed domain name <dpdbestdeliverycompany.com> is registered with Hostinger, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 14, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 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 March 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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 21, 2023.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on April 27, 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 German company operating in the field of postal and delivery services since 1977. The Complainant is active in 230 countries and has 32,000 pickup points.

The Complainant is the owner of various DPD trademarks, including the following:

- DPD DYNAMIC PARCEL DISTRIBUTION (word mark), European Union trademark registration No. 6159487, registered on August 19, 2009, for services in classes 35 and 39;
- DPD (figurative), International registration No. 761146 of May 26, 2001, covering services in classes 36 and 39;
- DPD (figurative), International registration No. 1217471 of March 28, 2014, covering services in classes 9, 16, 35, 39, and 42;
- DPD GROUP (figurative), International registration No. 1271522, of August 25, 2015, for services in class 39.

Moreover, the Complainant is the owner of a figurative trademark consisting of the representation of a red box (the “red box logo”), registered on March 12, 2014, under International registration No. 1214203, for goods and services in classes 9, 16, 35, 39, and 42.

The Complainant is also the owner of numerous domain names containing the trademark DPD, among which <dpd.com>, registered on March 20, 1991.

The disputed domain name was registered on November 25, 2022, and resolves to a website displaying trademarks confusingly similar to the Complainant’s DPD trademark and red cube logo, where the Respondent promotes the provision of freight services. At the time of this decision, the disputed domain name no longer resolves to an active website.

5. Parties’ Contentions

A. Complainant

According to the Complainant, the disputed domain name <dpdbestdeliverycompany.com> is confusingly similar to its trademark DPD. The addition of the words “bestdeliverycompany” to the Complainant’s trademark DPD enhances the confusing similarity.

The Complainant maintains that the Respondent is not commonly known by the disputed domain name and is not using the disputed domain name in connection with a *bona fide* offering of goods or services. Furthermore, the Respondent does not own trademark rights over the word “dpd” and is not making any use of a business name including this word. The Complainant has not authorized, licensed, permitted or otherwise consented to the Respondent’s use of the trademark DPD and has no relationship with the Respondent. By registering the disputed domain name, the Respondent is deliberately using the Complainant’s identity, reproducing the Complainant’s mark and creating confusion with the Complainant’s services. This behavior does not amount to a legitimate or *bona fide* conduct and supports the Respondent’s lack of rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a confusion with the Complainant's trademark. The Complainant's trademark enjoys reputation. The Respondent's website, to which the disputed domain name resolves, reproduces the Complainant's DPD and red cube logo trademarks and promotes services complementary to those offered by the Complainant. Furthermore, the graphic layout of the Respondent's website is similar to that of the Complainant's official website. It is therefore clear that the Respondent did not choose to incorporate the Complainant's DPD mark in the disputed domain name by mere coincidence, but to divert the Complainant's potential customers to its own website for a commercial purpose.

The Complainant further notes that its DPD mark is also used as part of email addresses "[...][@dpdbestdeliverycompany.com](mailto:dpdbestdeliverycompany.com)" on the Respondent's website.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns registered trademark rights over the figurative sign DPD. As explained in section 1.10 of the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), assessment of confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. Here, disregarding the Top-Level Domain ("TLD") suffix, the disputed domain name reproduces the textual element of the Complainant's mark with the addition of the wording "bestdeliverycompany". This addition cannot prevent a finding of confusing similarity as the Complainant's mark remains clearly recognizable within the disputed domain name (see section 1.8 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel is satisfied that the first condition of the Policy is met.

B. Rights or Legitimate Interests

As explained in section 2.1 of the [WIPO Overview 3.0](#), where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

In this case, the Complainant did not authorize the Respondent to make use of its DPD trademark in the disputed domain name. Furthermore, the Complainant did not license its trademark to the Respondent and the Respondent does not appear to be commonly known by the disputed domain name.

The disputed domain name, consisting of the Complainant's DPD trademark followed by words that are laudatory ("best") and descriptive ("delivery company") of the Complainant's activity is of such a nature as to suggest sponsorship or endorsement by the Complainant. Moreover, at the time of the filing of the Complaint, the disputed domain name resolved to a website reproducing trademarks confusingly similar to the Complainant's DPD and red cube logo trademarks and promoting freight services, which are complementary to the delivery services offered by the Complainant under its trademark. These circumstances are not compatible with a *bona fide* offering of goods or services, or with a legitimate or fair use of the disputed domain name. The consensus view on this point is that the use of a domain name for illegal activity (e.g., phishing, impersonation, or other types of fraud) can never confer rights or legitimate interests on a respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

In light of the foregoing, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of proof now shifts to the Respondent, to put forward its arguments and evidence in support of its rights or legitimate interests in the disputed domain name. The Respondent has omitted to file a Response.

Therefore, the Panel is satisfied that the Complainant has successfully established the second element of paragraph 4(a) of the Policy

C. Registered and Used in Bad Faith

The Complainant submits that the Respondent was likely aware of its DPD trademark at the time of the registration of the disputed domain name. The Panel agrees with the Complainant. The type of domain name registered, containing the Complainant's trademark associated with a word designating the Complainant's activity is a strong indication of such knowledge. Moreover, the website linked to the disputed domain name displayed trademarks confusingly similar to those of the Complainant, including the red box logo in association with the promotion of freight services, which should be held complementary to the delivery services offered by the Complainant. It is therefore unlikely that the Respondent choose to register the disputed domain name by mere coincidence.

The registration of a domain name, which is confusingly similar to the Complainant's trademarks, being aware of such trademarks and without rights or legitimate interests, amounts to registration in bad faith.

In view of the cited use of the disputed domain name, and associated website, it is apparent that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's DPD trademark and activity.

Moreover, as the Respondent's website displays an email address containing the Complainant's trademark, it is likely that the Respondent has activated mail exchange ("MX") records for disputed domain name. This circumstance entails that the Respondent could use the disputed domain name to send email scams.

Lastly, the fact that the disputed domain name no longer resolves to an active webpage cannot prevent a finding of bad faith (see section 3.3. of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the Complainant has proved that the third and last condition set forth in paragraph 4(a)(iii) of the Policy has been met.

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, <dpdbestdeliverycompany.com>, be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: May 11, 2023