

ADMINISTRATIVE PANEL DECISION

Bodycote Plc v. Abhilash VJ, Company

Case No. D2024-4619

1. The Parties

Complainant is Bodycote Plc, United Kingdom, represented by Appleyard Lees IP LLP, United Kingdom.

Respondent is Abhilash VJ, Company, Oman, represented by KADAVANS LEGAL OFFICES, Advocates & Corporate Consultants, India.

2. The Domain Name and Registrar

The disputed domain name <bodycotemts.com> (hereinafter “Disputed 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 November 11, 2024. On November 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 13, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on November 14, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 18, 2024.

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 Respondent of the Complaint, and the proceedings commenced on November 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2024. On December 10, 2024, Respondent made a request to extend the Response due date. The Center granted the automatic four calendar day extension for response under paragraph 5(b) of the Rules, and the new Response due date was set for December 14, 2024. The Response was filed with the Center on December 14, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on December 23, 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.

Procedural Order Ruling

Although the Amended Complaint identifies Abhilash VJ, Company as Respondent, the Response was filed on behalf of Bodycote Materials Testing Services LLC. On January 8, 2025, the Panel issued an order directing Bodycote Materials Testing Services LLC to explain and substantiate its relationship, if any, with Abhilash VJ, Company. Bodycote Materials Testing Services LLC timely responded with substantiation showing that Abhilash VJ is the “Technical Manager” of Bodycote Materials Testing Services LLC, on whose behalf he registered the Disputed Domain Name. Accordingly, the Panel finds the Response was filed on behalf of the identified Respondent.

4. Factual Background

Complainant provides heat treatment and specialist thermal processing services using the trademark BODYCOTE (hereinafter the “Mark”). Complainant owns trademark registrations for the Mark in several jurisdictions, including;

- Madrid Protocol Registration No. 875117 (registered January 6, 2005) (Designating Austria, Benelux Office for Intellectual Property, Czech Republic, Hungary, Lithuania, Poland, Romania, Russian Federation, Slovakia, Slovenia, Switzerland, and Ukraine)
- India Trademark Registration No. 1468969 (Registered July 11, 2006).

Complainant also owns trademark registrations in several jurisdictions for a stylized version of the Mark, including:

- Oman trademark Registration No. 1036182 (registered February 25, 2010) for:

The logo for Bodycote, featuring a red square with a white 'B' inside, followed by the word 'Bodycote' in a bold, black, sans-serif font.

And

- Oman Trademark Registration No. 1037147 (Registered February 25, 2010) for:

A stylized logo consisting of a red square with a white 'B' inside, set against a dark background.

Complainant provides services under the Mark in over 165 plants in over 22 countries, has in excess of 40,000 customers, and a global annual revenue in excess of GBP800 million.

Complainant owns the domain <bodycote.com>, which resolves to a website where Complainant publishes information about its services.

On its website, Respondent states: “Bodycote Materials Testing Services LLC is a third-party independent laboratory providing high-quality services in the field of Construction Materials Testing and site investigations.”

Respondent registered the Disputed Domain Name on June 7, 2023. The “mts” component of the Disputed Domain Name refers to “materials testing service,” which services Respondent offers out of its facilities in Oman using the trademark BODYCOTEMTS in a stylized format:



Respondent owns Oman Trademark Registration No. 164248 (Registered November 17, 2024) for:



Respondent applied for this registration on April 1, 2023, but Complainant filed an Opposition proceeding on July 17, 2024. In a decision dated November 13, 2024, the Oman Trademark Office rejected the Opposition as untimely filed.

Also in April 2023, Respondent or its related parties received several licenses and certificates related to its business, including (1) Registration of “Bodycote Materials Testing Services Company LLC” as a Limited Liability Company dated April 30, 2023; (2) “Laboratory Testing Certificate” December 7, 2023; (3) “Economic Activities License Certificate” issued April 28, 2023. Respondent attached to its response copies of all of these registrations and certificates.

On November 9, 2024, Respondent received four ISO Certificates relating to materials testing services.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends Respondent was probably aware of Complainant's worldwide reputation when it registered the Disputed Domain Name. Complainant contends that Respondent is using a confusingly similar imitation of Complainant's stylized version of Complainant's Mark to offer material testing services in the construction sector in Oman, which are identical to those provided by Complainant and protected by Complainant's trademark registrations. Complainant contends that this conduct infringes its trademark rights in Oman.

B. Respondent

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name. Respondent denies trademark infringement, arguing that “the complainant and the respondent are operating in entirely different business activity and there is no scope for any confusion as alleged. Respondent is operating in Material testing and complainant is operating in heat treatment and specialist Thermal process.”

Moreover, Respondent states that it started its operations and continues with the business in a bona fide manner. Respondent emphasizes that it has secured a wide variety of licenses from various government agencies in Oman and that it owns an Oman trademark registration that corresponds to the Disputed Domain Name and that the Oman Trademark office rejected Complainant opposition to this registration.

6. Discussion and Findings

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 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.

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 entirety of the Mark is reproduced within the Disputed Domain Name. Although the addition of the term "mts" may bear on assessment of the second and third elements, the Panel finds this addition does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. 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 Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Panel notes that Respondent used the Disputed Domain Name in connection with a bona fide offering of goods or services—i.e., testing materials in the physical (versus cyber) world in Oman—before notice of this dispute. Since April 2023, Respondent has been using the Disputed Domain Name to promote its services that are delivered to clients in Oman. This use is documented by registrations and licenses issued by government agencies.

Complainant contends that Respondent's use infringes Complainant's trademark rights, in particular its Mark which is registered in Oman. Complainant argues that the Disputed Domain Name "is presently being used on the website at the Domain in relation to the supply/offer to supply by Respondent of material testing services in the construction sector in Oman, which are identical to those provided by Complainant and protected by the Registrations, in particular in class 40, "treatment of materials" and "advice and information" in connection with the same in class 40 and "industrial analysis and research services" in class 42." Respondent denies trademark infringement, arguing, as noted above, that the parties are offering different services.

This is not a cybersquatting case. It is a contested trademark infringement case. The Panel acknowledges that Respondent appears to mimic the design elements of the stylized version of Complainant's Mark. On the other hand, it is not clear that Complainant offers services in the materials testing space. The Panel notes that Complainant's Wikipedia page that Complainant attached as an annex to its Complaint observes that: "In 2008, [Complainant's] materials testing division was sold to private ownership, leading to the founding of the testing company Exova." Moreover, Respondent owns an Oman trademark registration that includes the design format that Complainant accuses of infringement.

This case is better left to the courts (whether in Oman or otherwise). "Panelists frequently observe that the UDRP is meant to address intentional bad faith conduct and not 'ordinary' trademark infringement. *Thor Tech Inc. v. Eric Kline*, WIPO Case No. [D2023-4275](#).¹ "The Policy is only designed to deal with

¹ The opinion observes that the "Second Staff Report on Implementation Documents for the Uniform Dispute Resolution Policy" notes three "fundamental observations" in connection with the approval of the UDRP implementation documents. One such observation relates to the "minimalist" nature of proceedings under the Policy, and notes that the UDRP "calls for administrative resolution for only a small, special class of disputes. Except in cases involving 'abusive registrations' made with bad-faith intent to profit commercially from

clear cases of cybersquatting. This procedure is not a convenient forum for resolving borderline disputes and/or cases involving material conflicts of fact.” *Centennial Communications Corporation and Centennial de Puerto Rico v. Centennial*, WIPO Case No. [D2000-1385](#). See also *Elec Games Ltd. v. REGL Admin, Rhino Entertainment LTD*, WIPO Case No. [D2024-4346](#) (“The Panel is of the opinion that the present dispute would more properly be characterized as a wider trademark dispute rather than the type of clearcut case of cybersquatting or cyberpiracy that would fit within the narrow confines of the Policy.”)

The Panel finds the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

Given that Complainant has not established the second element of the Policy, the Panel will not address the third element.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: January 23, 2025

others' trademarks (e.g., cybersquatting and cyberpiracy), the Policy leaves the resolution of disputes to the courts (or arbitrators where agreed by the parties) and calls for registrars not to disturb a registration until those courts decide. The Policy establishes a streamlined, inexpensive administrative dispute-resolution procedure intended only for the relatively narrow class of cases of 'abusive registrations.' Thus, the fact that the Policy's administrative dispute-resolution procedure does not extend to cases where a registered domain name is subject to a legitimate dispute (and may ultimately be found to violate the challenger's trademark) is a feature of the policy, not a flaw. The Policy relegates all 'legitimate' disputes--such as those where both disputants had longstanding trademark rights in the name when it was registered as a domain name--to the courts; only cases of abusive registrations are intended to be subject to the streamlined administrative dispute-resolution procedure.” <https://archive.icann.org/en/udrp/udrp-second-staff-report-24oct99.htm>. (last viewed February 9, 2024)