

ADMINISTRATIVE PANEL DECISION

Old Dominion Freight Line, Inc. v. 张伟 (Wei Zhang)
Case No. DCO2024-0087

1. The Parties

The Complainant is Old Dominion Freight Line, Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

The Respondent is 张伟 (Wei Zhang), China.

2. The Domain Name and Registrar

The disputed domain name <odfl.co> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY, Wei Zhang) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 in English on November 25, 2024.

On November 22, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On November 25, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on November 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 18, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on December 26, 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 is a less-than-truckload freight carrier. The initials of its company name are "ODFL". It holds United States trademark registration number 4,268,384 for ODFL, registered on January 1, 2013, with a claim of first use in commerce in December 1998, specifying transportation services, namely freight transportation by truck, train, and air, in class 39. That trademark registration is current. The Complainant also uses the domain name <odfl.com>, registered on July 3, 1997, in connection with a website where it provides information about itself and its services.

The Respondent is an individual based in China.

The disputed domain name was registered on November 10, 2024. According to evidence presented by the Complainant, the disputed domain name resolves to a landing page displaying Pay-Per-Click ("PPC") links related to "Shipment Freight", "Freight Trucking Company", and "Logistics Freight Company" that redirect to websites of the Complainant's competitors.

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 the disputed domain name is confusingly similar, if not identical, to its ODFL mark. The Complainant claims common law rights in that mark dating back to at least 1998, as well as registered trademark rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized the Respondent to use the ODFL mark nor is the Respondent a licensee of the ODFL mark. The disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requests that the language of the proceeding be English for several reasons, including that the disputed domain name is composed of Latin characters; the disputed domain name is hosted at an IP address owned by an Australian company that does business in English so it is more likely than not that the Respondent understands English; the Complainant does not understand Chinese; and translation of the Complaint into Chinese would place an unnecessary burden on the Complainant and unduly delay the proceeding.

Despite the Center having sent an email regarding the language of the proceeding and the notification of the Complaint in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements:

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

The burden of proof of each element is borne by the Complainant.

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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown registered rights in respect of the ODFL trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Given the Panel's findings below, it is unnecessary to consider the Complainant's claim of common law rights.

The entirety of the mark is reproduced within the disputed domain name. The only additional element in the disputed domain name is the country code Top-Level Domain ("ccTLD") extension for Colombia (".co"). As a standard requirement of domain name registration, the TLD extension can be disregarded in the assessment of identity or confusing similarity for the purposes of the first element of paragraph 4(a) of the Policy. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name resolves to a landing page displaying PPC links related to the same type of services as those provided by the Complainant and redirecting to the websites of the Complainant’s competitors. The Panel does not consider this to be a use of the disputed domain name in connection with a bona fide offering of goods or services. Given that the PPC links operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or for the commercial gain of the operators of the linked websites, or both, this is not a legitimate noncommercial or fair use of the disputed domain name either. Further, the Registrar has confirmed that the Respondent’s name is “张伟 (Wei Zhang)”. Nothing on the record indicates that the Respondent has been commonly known by the disputed domain name.

In addition, the disputed domain name is identical to the Complainant’s ODFL mark, which creates a high risk of implied affiliation with the Complainant. Yet the Respondent is not authorized by the Complainant to use the ODFL mark nor is the Respondent a licensee of the ODFL mark.

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.

Based on the record, 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. The fourth of these circumstances is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted 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.”

In the present case, the disputed domain name was registered in 2024, many years after the registration of the Complainant’s ODFL mark. According to evidence presented by the Complainant, the top results of an Internet search for “odfl” all relate to the Complainant. The disputed domain name is identical to the ODFL mark and is used in connection with a landing page displaying PPC links related to the same type of services as those that the Complainant provides, i.e., freight services. The Respondent provides no explanation for

his choice to register the disputed domain name. In view of these circumstances, the Panel finds it more likely than not that the Respondent registered the disputed domain name with the Complainant's ODFL mark in mind.

As regards use, the disputed domain name, which is identical to the Complainant's ODFL mark, resolves to a landing page displaying PPC links that redirect to the websites of the Complainant's competitors. The disputed domain name differs from the domain name associated with the Complainant's own website by only one letter in the TLD extension. The Panel has found this use to be for commercial gain in section 6.2B above. Accordingly, the Panel finds that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, 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 <odfl.co> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: January 9, 2025