

ADMINISTRATIVE PANEL DECISION

DSV A/S and DSV Road Limited v. Viktoria Ekaterina
Case No. D2023-4027

1. The Parties

Complainants are DSV A/S and DSV Road Limited, United Kingdom, represented by Birketts LLP, United Kingdom.

Respondent is Viktoria Ekaterina, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <dsv-express.com> (“the “Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 27, 2023, 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 (Whois Agent, Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainants on October 2, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on October 5, 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 Respondent of the Complaint, and the proceedings commenced on October 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 31, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on November 3, 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

Complainants are active in the transport and logistics business and maintain 1,500 offices and logistics facilities in over 90 countries worldwide. Second Complainant was established in 1995 and provides freight, transport, and logistic services. First Complainant was established in 1976. Complainants are part of the DSV group, a top, per Complaint, global group in its sector.

First Complainant owns trademark registrations for DSV including, *inter alia*, the European Union trademark registration No. 005358098, DSV (figurative), filed on October 5, 2006, and registered on January 31, 2008, for services in international classes 36, 39 and 42 and the International trademark registration No. 928400, DSV (figurative), registered on November 10, 2006 for services in international classes 36, 39 and 42.

Complainants' business has a net turnover (for 2021) of GBP501,107,000 and a significant online presence through their main website at "www.dsv.com".

The Domain Name was registered on June 21, 2023, and leads to a website purportedly offering shipping and/or freight and/or logistics services as "DSV Express" and transportation of cars purchased through Respondent. Complainants contend that they were made aware of Respondent by at least, six consumers who contacted the Complainants to verify whether the advertisements and requests for a financial deposit / payment for the car they purchased were genuine and originated from the Complainants and their group.

Respondent is therefore purporting to be a logistics / delivery company but is also linked to a business purporting to sell cars and requiring payments of deposits which are selling through Facebook marketplace. Complainants have been unable to identify whether DSV Express is actually a registered legal entity, or a trading name adopted for a nefarious purpose. Complainants are also aware that individuals appearing as "Senior Sales Executives", "Sales Manager" and "Co Representative Dealer Auto / Senior Sales Executive Manager" have directly contacted consumers.

5. Parties' Contentions

A. Complainant

Complainants assert that they have established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainants must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainants have rights;
- (ii) 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.

A. Identical or Confusingly Similar

Complainants have demonstrated rights through registration and use of the DSV mark.

The Panel finds that the Domain Name is confusingly similar with the DSV trademark of Complainants.

The Domain Name essentially incorporates the said trademark of Complainants in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The Domain Name incorporates the said trademark of Complainants in its entirety with the addition of the term “express” and a hyphen. The Panel finds that the trademark is recognizable in the Domain Name (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#), WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 1.7).

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as TLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

Complainants have established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

Respondent did not demonstrate, prior to the notice of the dispute, any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

Complainants demonstrated that Respondent used the Domain Name for the purpose of hosting a website purportedly offering services similar or in competition with Complainants and impersonate Complainants for the plausible purpose of a scam. The use of the Domain Name for an illegal activity such as phishing or fraud cannot confer rights or legitimate interests on Respondent (*L’Oréal v. Cimpress Schweiz GmbH*, WIPO Case No. [DCO2017-0021](#); [WIPO Overview 3.0](#), section 2.13.1.).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainants have established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation” are evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainants who is the owner of the trademark or service mark or to a competitor of that Complainants, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainants’ mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. As per the Complaint, Complainants’ DSV trademark is well known in its sector. Because the DSV mark had been used and registered at the time of the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant’s mark in mind when registering this Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Respondent should have known about Complainants’ rights, due to the fact that Complainants’ mark had goodwill when the Domain Name was registered. Furthermore, such knowledge is readily obtainable through a simple browser search due to Complainants’ use of DSV mark on the Internet, namely at the website “www.dsv.com” (*Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#)).

Furthermore, the Domain Name incorporates in whole Complainants’ mark plus the additional word “express” which could be associated with the Complainants’ business and a hyphen. This further indicates that Respondent knew of Complainants and chose the Domain Name with knowledge of Complainants.

Lastly, it is apparent that Respondent was aware of Complainants and Complainants’ mark DSV when registering the Domain Name. As Complainants demonstrated, Respondent used the Domain Name, to host the Website offering similar and competing services to the ones offered by Complainants and the Complainant contends that the Respondent impersonated Complainants also through direct communications with consumers.

As regards bad faith use, Complainants demonstrated that the Domain Name was used to host the Website and impersonate Complainants, purporting to provide logistics / delivery services but also linked to a business purporting to sell cars and requiring payments of deposits. Respondent has purportedly been offering shipping and/or freight and/or logistics services and transportation of cars in competition with Complainants. In this regard, Complainants claimed also that at least six consumers contacted them verify whether the advertisements and requests for a financial deposit / payment for the car they purchased were

genuine and originated from the Complainants and their group. In this regard, the use of a domain name for purposes other than to host a website may also constitute bad faith. Such purposes include fraud, phishing, identity theft, or malware distribution ([WIPO Overview 3.0](#), section 3.4). This pattern can be used in support of bad faith registration and use (*Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#); [WIPO Overview 3.0](#), section 3.4).

Under these circumstances and on this record, the Panel finds that Respondent registered and is using the Domain Name in bad faith.

Complainants have established Policy, paragraph 4(a)(iii).

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, <dsv-express.com> be transferred to Complainants.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 17, 2023