

ADMINISTRATIVE PANEL DECISION

DP Global Group Limited v. Andrey Barchenkov
Case No. DCY2022-0001

1. The Parties

The Complainant is DP Global Group Limited, British Virgin Islands, United Kingdom, represented by Igor Motsnyi, Serbia.

The Respondent is Andrey Barchenkov, Russian Federation (the) ("Russia").

2. The Domain Names and Registrar(s)

The disputed domain names <dodopizza.com.cy> and <dodopizza.cy> are registered with CY Registry, University of Cyprus (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 3, 2022. On November 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on November 7, 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 the first amended Complaint on November 9, 2022 and the second amended Complaint on November 14, 2022.

The Center verified that the Complaint together with the amended Complaints 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 November 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on December 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 company that operates and manages a chain of pizzerias and a pizza delivery business globally under the DODO and DODO PIZZA trademarks. The “Dodo Pizza” project started in 2011 in Syktyvkar by Russian entrepreneur Fedor Ovchinnikov. Inspired by the traditional pizza delivery business model, he aimed to re-invent it with technology. In 2014, the Complainant’s “Dodo Pizza” opened its first franchise unit outside the Russian Federation in Brasov, Romania and launched the world’s first commercial pizza delivery by drone. In 2016, the Complainant’s “Dodo Pizza” became the largest pizza chain in the Russian Federation. In 2017, Dodo’s mobile app appeared on the “App Store” and on “Google Play”. In its native land, the Complainant’s Dodo Pizza is larger than Domino’s and Papa John’s combined. System-wide sales hit USD 215 million last year.

Currently “Dodo Pizza” is one of the fast-growing franchising networks in the pizza industry and as of December 27, 2021, “Dodo Pizza” had 763 outlets in 15 countries.

The Complainant has registered, *inter alia*, the following trademarks:

DODO PIZZA (word + device) European Union Trademark No. 013117494, registered on February 24, 2015;

DODO (word) European Union Trademark No. 018118244, registered on May 22, 2020;

DODO PIZZA (word + device) United Kingdom Trademark No. UK00913117494, registered on February 24, 2015; and

DODO (word) International Trademark No.1537267, registered on March 2, 2020, and valid *inter alia* in the following territories: Serbia, Ukraine, Belarus, Georgia.

The disputed domain names were registered on June 25, 2020.

The disputed domain names do not resolve to active websites.

5. Parties’ Contentions

A. Complainant

The Complainant claims that: (a) the disputed domain names are confusingly similar to the Complainant’s trademarks; (b) the Respondent lacks any rights or legitimate rights in the disputed domain names; and (c) the Respondent has registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain names, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the DODO and DODO PIZZA trademarks. The disputed domain names incorporate the Complainant's DODO PIZZA trademark in its entirety, with no additional elements, but with the ".com.cy" and ".cy" country code Top-Level Domain. Being technical elements, these are irrelevant when assessing confusing similarity.

Therefore, the Panel finds the disputed domain names to be identical to a trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain names. Lastly, the disputed domain names are identical to the Complainant's DODO PIZZA trademarks and thus carry a high risk of implied affiliation to the Complainant, contrary to the fact, which cannot constitute fair use.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the DODO and DODO PIZZA marks when it registered the disputed domain names.

In fact, the combination of "dodo" and "pizza" is quite unique, and is associated with the Complainant, its affiliates, and its business.

Given the Complainant's popularity in the Russian Federation, it appears very likely that the Respondent, a Russian national, was aware of the Complainant's trademarks and activity.

Hence, the registration of the disputed domain names does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain names.

In addition to the disputed domain names, the same Respondent has also registered the domain name <dodopizza.vn>. This is further inference that the Respondent clearly has targeted the Complainant and its trademarks by registering domain names containing and/or corresponding to the Complainant's trademarks.

Inference of bad faith can also be made in the failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

In these circumstances, the passive holding of the disputed domain names would not preclude a finding of bad faith; on the contrary it can be considered further inference of bad faith.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 names <dodopizza.com.cy> and <dodopizza.cy> be cancelled.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: December 23, 2022