

## ADMINISTRATIVE PANEL DECISION

DPDgroup International Services GmbH & Co. KG v. 林丽萍 (lin li ping)  
Case No. D2022-3314

### 1. The Parties

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

The Respondent is 林丽萍 (lin li ping), China.

### 2. The Domain Name and Registrar

The disputed domain name <dpdexpfr.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on September 6, 2022. On September 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 8, 2022, 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 September 9, 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 an amendment to the Complaint in English on September 12, 2022.

On September 9, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On September 12, 2022, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on September 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 7, 2022.


The Center appointed Jonathan Agmon as the sole panelist in this matter on October 24, 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, DPDgroup International Services GmbH & Co. KG, is one of the world's leading parcel delivery networks. The Complainant is the parcel delivery network of GeoPost, a holding company owned by La Poste Groupe, a French postal service company with its headquarters in Paris, France. The Complainant's headquarters are in Aschaffenburg, Germany/Issy les Moulineaux, France and operates in approximately 230 countries with a network of 32,000 pickup points.

The Complainant is the registered owner of numerous word and composite DPD marks incorporating DPD worldwide, including China, including but not limited to the following:

- International trademark registration no. 1271522 for “  ”, registered on August 25, 2015, designating China;

- United Kingdom trademark registration no. UK00912722427 for “  ”, registered on August 14, 2014;

- United Kingdom trademark registration no. UK00913720636 for “  ”, registered on June 8, 2015; and

- United Kingdom trademark registration no. UK00001583515 for “  ”, registered on September 20, 1996.

The Complainant states that it is also the owner of numerous domain names, including but not limited to, <dpd.com> and <dpd.fr>.

The disputed domain name was registered on April 18, 2022. It resolved to an active website which appears to provide parcel tracking services competing with the Complainant.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its DPD mark as the disputed domain name <dpdexpfr.com> wholly incorporates the DPD mark in its entirety and the addition of the suffixes “exp” and “fr” along with a generic Top-Level Domain (“gTLD”) “.com”, which are insufficient to avoid confusing similarity.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith for illegitimate commercial gain by creating a likelihood of confusion with the Complainant's DPD mark and thereby disrupting the business of the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue**

#### **A. Language of the Proceeding**

Paragraph 11 of the Rules provides that:

"(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

The language of the Registration Agreement for the disputed domain name is Chinese.

The Complainant requested that the language of the proceeding be English for the following reasons:

- (i) the website under the disputed domain name is in the English language; and
- (ii) additional expense and delay would be incurred if the Complainant is translated into Chinese.

The Respondent did not comment on the language of the proceeding.

The Panel cites the following with approval: "Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel's discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time, and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case." (See *Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)).

Having considered the above factors, the Panel determines that English should be the language of the proceeding. The Panel notes that the Respondent has not participated in this proceeding and that all of the Center's communications with the Parties have been sent in English and Chinese. The Panel also needs to ensure the proceeding is conducted in a timely and cost effective manner. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

### **6.2 Substantive Issues**

#### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the DPD mark.

The disputed domain name comprises the Complainant's DPD trademark in its entirety with the addition of the suffixes "exp" and "fr". It is well established that where the trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. The Complainant's mark is clearly recognizable in the disputed domain name.

Further, it is well established that the adding of the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and the element under paragraph 4(a)(i) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name ([WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests. The Complainant provided evidence that it owns trademark registrations of the DPD mark long before the date that the disputed domain name was registered, and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)). There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name (see [WIPO Overview 3.0](#), section 2.3).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

## **C. Registered and Used in Bad Faith**

The complainant must show that the respondent registered and is using the domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name long after the Complainant registered its DPD trademarks. Given that the Complainant's trademarks have been registered for a long time, it is highly unlikely that the Respondent did not know of the Complainant and its DPD mark prior to the registration of the disputed domain name. The disputed domain name incorporates the Complainant's DPD mark in its entirety with the additional suffixes "exp" and "fr", which given the circumstances of this case, the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v.*

*Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The Complainant also submitted evidence that the disputed domain name resolved to an active website which appeared to offer parcel tracking services that competes with the Complainant's business. The DPD mark appeared on the top left corner of the homepage of the website under the disputed domain name. This shows that it is unlikely that the Respondent registered the disputed domain name without sight and knowledge of the Complainant's marks and it is implausible that there is any good faith use to which the disputed domain name may be put to. It is clear to the Panel that the Respondent specifically targeted the Complainant and its marks and registered the disputed domain name to divert Internet traffic and benefit commercially from unsuspecting Internet users seeking out the Complainant.

It is also the Complainant's evidence that the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant's marks as the Respondent's name has no connection with the Complainant's DPD marks which were registered. This is another indication of bad faith on the part of the Respondent (see *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#)).

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's marks, the fact that the disputed domain name was used to redirect Internet users to a website which offered competing services, the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

## **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, <dpdexpfr.com>, be transferred to the Complainant.

*/Jonathan Agmon/*

**Jonathan Agmon**

Sole Panelist

Date: November 7, 2022