

ADMINISTRATIVE PANEL DECISION

DispatchHealth Management, LLC v. Zhichao Yang
Case No. D2023-3457

1. The Parties

The Complainant is DispatchHealth Management, LLC, United States of America ("US"), represented by Holzer Patel Drennan, US.

The Respondent is Zhichao Yang, China.

2. The Domain Names and Registrar

The disputed domain names, <dispatchhealth.com> and <dispatchhealth.com> (the "Domain Names"), are registered with GoDaddy Online Services Cayman Islands Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 14, 2023. On August 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On August 17, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 of the Complaint, and the proceedings commenced on August 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 12, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 18, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant provides in-home medical care and related services, currently in 23 states of the US. The Complainant advertises through direct mail, Internet, print, radio, and television.

The Complainant owns trademark registrations in DISPATCHHEALTH, such as US registration number 5350995 registered on December 5, 2017.

The Domain Names were registered on February 6 and 18, 2020. At the time of drafting the Decision, both Domain Names resolved to parking pages with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Names are confusingly similar to its trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Respondent has made a misspelling of the Complainant's trademark. Typosquatting indicates a lack of legitimate interest. The use of the Domain Names, to resolve to pay-per-click links, is not *bona fide* use, but evidence of bad faith.

The Complainant argues that the Respondent's misspelling of the Complainant's trademark is by itself evidence of bad faith. Moreover, the Respondent's income is generated by the Complainant's trademark value. Internet users are confused to believe there is a relationship with the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Names. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark DISPATCHHEALTH. The Domain Names are identical to the Complainant's trademark, save the omission of the letter "t" and "h". The omissions do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While the overall burden of proof in UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has not rebutted the Complainant's *prima facie* case and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names.

The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. The use of the Domain Names is evidence of bad faith, see below.

Based on the available 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 composition of the Domain Names makes it probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The registration appears to be typosquatting, and typosquatting is evidence of bad faith under the Policy. Furthermore, the Domain Names have resolved to parking pages with pay-per-click links, which is another indication of bad faith. The Panel cannot see any possible good faith use to which the Domain Names may be put by the Respondent.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Names <dispachhealth.com> and <dispatchhealth.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 27, 2023