

ADMINISTRATIVE PANEL DECISION

HYDAC Technology GmbH v. Rabbani Hussain, Digital Motive Inc
Case No. D2024-4947

1. The Parties

Complainant is HYDAC Technology GmbH, Germany, represented by L. S. Davar & Co., India.

Respondent is Rabbani Hussain, Digital Motive Inc, India.

2. The Domain Name and Registrar

The Domain Name <hydacservic.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2024. On December 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on December 4, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 10, 2024.

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 December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. Respondent sent email communications to the Center on December 7 and 12, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on January 8, 2025. 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.

On January 24, 2025, the Center issued at the Panel's instruction the Procedural Order No. 1 to the Parties, requesting Respondent to explain the reasons for its registration and use of the Domain Name, in particular use of the Domain Name in connection with any offering of goods or provision of services. Respondent replied on January 25, 2025. Complainant did not submit any reply.

4. Factual Background

Complainant was founded in 1963 as a company for hydraulic accessories and is today an internationally active company group with over 9,000 employees, 50 branch offices and 500 trade and service partners worldwide. It manufactures filter devices and filters for heating, steam-generating, refrigerating, drying, ventilating, water supply, water treatment, air-conditioning, and sanitary installations and apparatus, and provides respective services. As per the Complaint, Complainant's sales turnover for the year 2022 was over EUR 1,700,000,000 and global advertising expenses more than EUR 2,300,000.

Complainant is the owner of trademark registrations for HYDAC, including the Indian trademark registration No. 510465, HYDAC, filed and registered on May 16, 1989, for goods in International Class 7.

The Domain Name was registered on March 22, 2022, and at the time of filing of the Complaint lead to a website ("the Website") offering services similar to those of Complainant, namely air condition repair services using the words "HYD" and "AC Services". As provided in the Whois records confirmed by the Registrar, Respondent is located in Hyderabad, India.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not formally reply to Complainant's contentions. On December 7 and 12, 2024, he sent email communications to the Center asking for clarification as regards the Complaint. In his reply to the Procedural Order No. 1, Respondent stated that the Domain Name was chosen because "HYD" is commonly used as an abbreviation for "Hyderabad", where his business is based. The term "HYDAC" represents a combination of "HYD" (Hyderabad) and "AC" (air conditioning), directly reflecting the nature of Respondent's services. Respondent stated that he was unaware of Complainant's trademarks before the Complaint. Respondent stated also that there was no intent to cause confusion or trade upon Complainant's reputation, as Respondent's business focuses solely on AC repair services. Respondent expressed his willingness to sell the Domain Name to Complainant "at a fair market value to compensate for the time, effort, and resources" he has invested.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant 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 Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered or is being used in bad faith.

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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "service" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

The Panel finds the first element of the Policy has been established.

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 [Respondent] of the dispute, [Respondent's] 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) [Respondent has] been commonly known by the Domain Name, even if [Respondent has] acquired no trademark or service mark rights; or

(iii) [Respondent is] 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 has rights and legitimate interests in respect of the Domain Name for the purposes of the Policy.

Respondent has submitted a reply to the Procedural Order No. 1 and has claimed and demonstrated such rights and legitimate interests with respect to the Domain Name.

The Panel finds that, before notice to Respondent of the dispute, Respondent used the Domain Name in connection with a purportedly bona fide offering of services. [WIPO Overview 3.0](#), section 2.2. The Panel finds that these circumstances confer upon Respondent rights and legitimate interests in respect of the Domain Name for the purposes of the Policy.

Complainant has not established paragraph 4(a)(ii) of the Policy.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The evidence in the case file as presented does not indicate that Respondent's aim in registering the Domain Name was to profit from or exploit Complainant's trademark.

Respondent in the present case justified the choice of the terms "hyd" and "ac", as stemming from his place and nature of business respectively, when registering the Domain Name. Respondent claims that the Domain Name was registered for legitimate purposes, namely to promote his air conditioning repair services and not in order to target Complainant or cause confusion with Complainant's business. Moreover, the Panel notes that the "HYD AC Services" sign displayed on the Website incorporates a stylized "H", includes a space between "HYD" and "AC", and has different colors for the elements "HYD" and "AC". Such stylistic choices support Respondent's contentions regarding its choice of terms for their descriptive meaning, and offer a distinct visual effect different from Complainant's trademark (which choices the Panel would not expect if Respondent's motivation was to unfairly trade on or impersonate Complainant and Complainant's trademark).

The reputation and long-standing use of Complainant's mark, including in the field of air condition related commerce, may be indicative that Respondent had knowledge of Complainant; however, Respondent has expressly denied such knowledge. In these circumstances, the Panel finds that the evidence in the case file as presented by the Parties, does not indicate that Respondent's aim in registering the Domain Name was to profit from or exploit Complainant's trademark, rather than registering the Domain Name for his air condition repair related business in Hyderabad.

As regards the willingness of Respondent to sell the Domain Name, panels have generally found that where a registrant has an independent right to or legitimate interest in a domain name, an offer to sell that domain name would not be evidence of bad faith for purposes of the UDRP, irrespective of which party solicits the prospective sale ([WIPO Overview 3.0](#), section 3.1.1).

In the present case the Panel finds that the willingness of Respondent to sell the Domain Name "at a fair market value to compensate for the time, effort, and resources" he has invested, as such is not enough to establish bad faith, in view of the time of registration of the Domain Name, the fact that some use was made of the brand name of "HYD" (Hyderabad) and "AC" (air conditioning), "HYD air condition", and the explanation provided by Respondent.

The Panel finds on balance that the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: February 14, 2025