

ADMINISTRATIVE PANEL DECISION

OMNIDOC v. Servicios Doc Medic de Santis, Servicios Doc Medic,
Sapi de CV
Case No. D2024-5130

1. The Parties

The Complainant is OMNIDOC, France, represented by AtlantIP, France.

The Respondent is Servicios Doc Medic de Santis, Servicios Doc Medic, Sapi de CV, Mexico.

2. The Domain Name and Registrar

The disputed domain name <omnidoc.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 originally named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 17, 2024, 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 amended Complaint on December 18, 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 the Respondent of the Complaint, and the proceedings commenced on December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2025.¹

¹ In light of the Respondent’s failure to submit a Response, the Panel has reviewed the record to ensure the Center fulfilled its responsibility to utilize “reasonably available means” determined to achieve actual notice to the Respondent, as mandated by

The Center appointed David H. Bernstein as the sole panelist in this matter on January 14, 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.

4. Factual Background

The Complainant states that it is a French corporation specializing in the field of teleconsultation and e-MDT solutions for healthcare professionals and medical organizations, collaborating with different hospital groups and healthcare professionals for tele-expertise sessions. It further states that it provides a tele-expertise platform that facilitates and enhances medical collaboration by allowing healthcare professionals to exchange medical opinions with correspondents within their framework of territorial organizations. It provided various annexes about the company that are in French, but did not provide any translation of those documents (even though the language of the Registration Agreement (and therefore the language of the proceeding) is English, and the Complainant specifically asked that the language of the proceeding be English).

The Complainant asserted that it owns numerous trademarks worldwide. The only evidence the Complainant provided with respect to any trademark registration is the Complainant's French trademark registration (No. 19 4 593 649) for OMNIDOC in classes 9, 38, and 42, which was filed on October 25, 2019, and registered on February 14, 2020. The Complainant did not submit any evidence of any trademark rights in Mexico or in any Spanish-speaking country, nor did it indicate whether it provides services in Mexico or other Latin American countries. The Complainant also did not indicate when its rights in OMNIDOC first arose, other than through its French trademark registration.

The Complainant also owns at least two domain names incorporating the OMNIDOC mark, <omnidoc.fr>, which was created on November 26, 2018, and <omnidoc.de>.

According to the Registrar, the Respondent's name is "Servicios Doc Medic de Santis", and the Respondent's organization is "Servicios Doc Medic, SAPI de CV". The Registrar provided an address for the Respondent in Mexico.

The Registrar reports that the disputed domain name was first registered on July 10, 2002, with GoDaddy, LLC. The disputed domain name currently resolves to a DNS resolution error 1001 page. The Complainant submitted evidence from the Internet Archive Wayback Machine showing that, in 2021 and 2022, the disputed domain name resolved to webpages in Spanish that included references such as "Encuentra en la app: Médicos Especialistas . . . Receta Médica Digital" and "Tu consultorio médico digital". The Complainant submitted only brief snippets from these webpages and did not submit any translations of the brief excerpts that it submitted with its Complaint.

paragraphs 2(a) and 4(g) of the Rules. See *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#). On December 19, 2024, the Center sent emails to the email address associated with the Respondent, as verified by the Registrar, and to the domain name's postmaster email address, notifying the recipients of the Complaint and transmitting the Complaint and its Annexes. The record shows that email delivery was completed, but no delivery notification was sent by the destination server for the listed email addresses of the Respondent, except that delivery failed to the postmaster email address. The Center also sent a notice of the Complaint via mail courier to the address verified by the Registrar, but the address was apparently incorrect, and the delivery was unable to be made. It appears that Respondent received actual notice of these proceedings through email. Regardless, the Panel is satisfied that the Center has employed "reasonably available means" in attempting to provide actual notice to the Respondent and has thus fulfilled its obligation pursuant to paragraphs 2(a) and 4(g) of the Rules.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

First, the Complainant contends that the disputed domain name is identical to the Complainant's trademark and domain names, creating a risk of confusion with the Complainant's rights.

Second, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant did not transfer any of its rights in the OMNIDOC trademark to the Respondent; the Respondent does not hold any trademark or other rights in the name OMNIDOC; the Respondent is not commonly known as <omnidoc.com>; the Respondent is only motivated to disrupt the Complainant's business by creating an illegitimate association with the Complainant; OMNIDOC is not a common noun or name; and the Respondent is not using the disputed domain name in connection with any bona fide offering of goods and services, nor has it made preparations to do so.

Third, the Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent. The totality of the Complainant's allegations of bad faith registration and use are:

"No use of the litigious domain name OMNIDOC.com was noticed before 2021, which is later than the Complainant's rights, following probably the purchase of the litigious domain OMNIDOC.com by the Respondent from a third party. The Respondent tried to create confusion with the Complainant's rights by offering identical services, but to Spanish speaking consumers, since they did think they could prevent the Complainant to expand its activities to Spanish speaking countries (Annex 10).

Regarding the significant reputation of the Complainant in France/Latin languages speaking countries in the field of teleconsultation and e-MDT solutions for healthcare professionals and medical organizations following the Covid-19 period and its prior rights on OMNIDOC, it is highly predictable that the Respondent was perfectly aware of the Complainant's rights while purchasing the litigious domain OMNIDOC.com and then starting its activities to parasite the Complainant's success and investments.

Bad faith and use are also proven by the fact that the disputed domain name prevents the Complainant from using it in the most needed and valuable gTLD [generic Top-Level Domain], notably in order to promote its service of teleconsultation and e-MDT solutions. This seriously harms and disrupts Complainant's business.

Moreover, and as previously mentioned, it is clear that the litigious domain name OMNIDOC.com has been registered and is used in bad faith because it resolves to an Error 1001 landing page (Annex 9).

Regarding the identical nature of the litigious domain OMNIDOC.com with OMNIDOC's prior rights, it exists a significant risk that the Respondent may use fake email addresses to scam consumers or even internal associates of the Complainant.

The Complainant acknowledges that the use of the 'Privacy Service' offered by the Registrar GODADDY.COM to keep private the Respondent's personal identity is not inherently evidence of bad faith, but it has been recognized several times that when such concealment is used to escape one's legal responsibility, it might then confirm a fraudulent intention. In the present case, the litigious domain name OMNIDOC.com was registered by using such privacy service.

Consequently, it is clear that the Respondent has registered and acquired the litigious domain name OMNIDOC.com primarily for the purpose of preventing the Complainant from using it in the most needed and valuable gTLD.

Under these circumstances, the Complainant has satisfied its burden of proof that the contested domain name was registered and is being used in bad faith.”

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements by a preponderance of the evidence to obtain an order that a disputed domain name be transferred:

- 1) the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- 2) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

Pursuant to paragraph 5(f) of the Rules, in the absence of a Response, the Panel may proceed to a decision based on the amended Complaint and may rely on any supported and nonconclusory allegations in the amended Complaint, as well as reasonable inferences that may be drawn therefrom. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3. However, the Complainant is still obligated to prove its entitlement to the requested relief by a preponderance of the evidence. *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

For the reasons stated below, the Panel finds that the Complainant has not met its burden of proving that the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has submitted evidence of its French trademark registration for OMNIDOC, which establishes that it owns rights in the OMNIDOC trademark. [WIPO Overview 3.0](#), section 1.2.1. The disputed domain name is identical to that mark because it incorporates the entirety of the mark. [WIPO Overview 3.0](#), section 1.7. Accordingly, the Panel holds that the disputed domain name is identical to the Complainant’s registered trademark.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests may be difficult because it requires access to information that is often within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that a respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with evidence demonstrating its rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If a respondent fails to come forward with such evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has adequately alleged that it has not licensed its mark to the Respondent, that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, and that the Respondent is not commonly known by the disputed domain name.

There is nothing in the record before the Panel (including public record materials) that clearly contradicts these assertions. Admittedly, the webpage excerpts that the Complainant submitted from the Internet Archive Wayback Machine show that the registrant of the disputed domain name may have been offering some medical-related services in 2021 and 2022, but it is unclear from those excerpts what those services were, and whether they may have been infringing on the Complainant's rights (in which case they would not have been bona fide). The Panel has reviewed the full website that is available on the Internet Archive Wayback Machine from December 2022 (using machine translation to translate the Spanish language website into English), which suggests that the registrant was offering a telehealth platform that allowed healthcare professionals to communicate with directly patients. That website is no longer active, though, and it is unclear whether the Respondent was the owner of the disputed domain name at that time. Complicating the analysis is that the Panel's review of the Internet Archive Wayback Machine shows that the disputed domain name resolved to other medical-related websites in 2002 (when the website contained an "OmniDoc Login Page" that appeared to be associated with Medical Manager Health Systems, a WebMD Company) and in 2011 (when the website's homepage promoted Sage medical software). It is not entirely surprising that the disputed domain name has resolved to various medical-related websites over the years given that the disputed domain name could be read as a combination of the term "omni" (which means "all") and "doc" (which can be an abbreviation for "doctor").

It is possible that the Respondent has used, or intends to use, the disputed domain name in connection with its own medical-related services. But, once the Complainant has presented a prima facie showing that the Respondent lacks rights or legitimate interests, the burden is on the Respondent to come forward with some evidence that it has rights or legitimate interests in the disputed domain name, such as those enumerated in paragraph 4(c) of the Policy or otherwise. By virtue of its default, the Respondent has not come forward with such evidence. Ultimately, it is the Respondent's obligation to come forward with such evidence once a prima facie case has been made.

Because the Respondent has failed to do so here, the Panel finds that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

A complainant must prove both bad faith registration and bad faith use to prevail in a UDRP proceeding. Panels generally will not find bad faith registration when the domain name was registered prior to the creation of (or imminent creation of) trademark rights because, in such circumstances, the respondent could not have been targeting the trademark owner when it registered the domain name. [WIPO Overview 3.0](#), section 3.8.1.

Assessing bad faith registration is complicated in this case by two issues. First, the Complainant has not submitted any evidence of when its trademark rights first arose. At best, it submitted evidence that it registered an OMNIDOC domain name in 2018 and that it applied to register its trademark in its home country, France, on October 25, 2019. Although the Complainant did submit a number of annexes about the company which might have shed light on when the company was founded and when it first adopted the OMNIDOC trademark, those are all in French. Given that the language of this proceeding is in English, the Complainant's failure to submit translations has made it difficult for the Panel to assess this evidence. The Panel did use machine translation to review the Complainant's www.omnidoc.fr website (translated into English), which supports an inference that the Complainant offers a platform to allow health care professionals to communicate with each other about patients (but not with patients directly), that the Complainant was founded in 2019, and that the Complainant operates only in France and Belgium (with plans to expand into Germany). The Panel therefore finds, on the evidence presented, that the Complainant's trademark rights first arose as of October 25, 2019.

Also unclear is when the Respondent acquired the disputed domain name. The Registrar has verified that the disputed domain name was first registered in 2002. The Registrar has not indicated whether the Respondent registered the disputed domain name in 2002 or whether the Respondent subsequently acquired the disputed domain name. It is possible (indeed likely) that the use of the privacy service for the

registration has obscured transfers in ownership of the disputed domain name over the past 23 years. See [WIPO Overview 3.0](#), section 3.6 (“In some cases, particularly where the respondent does not avail itself of the opportunity to respond to claims based on the timing of the registration of the disputed domain name (such as a materially relevant change in underlying registrant), panels have been prepared to infer that the use of a privacy or proxy service may seek to mask the timing of the respondent’s acquisition of the domain name.”).

The Complainant asserts that the Respondent “probably . . . purchase[d] . . . the litigious domain [name]. . . from a third party” after 2019. As noted above, the Panel’s review of the Internet Archive Wayback Machine shows that the disputed domain name has resolved to various medical-related websites in the past (namely from 2002-2005 and then again in 2011), which suggests that the disputed domain name may have been transferred to different parties a number of times since its initial registration. The disputed domain name also was used for a Spanish-language telehealth website in 2021-2022.

Ultimately, the burden is on the Complainant to come forward with evidence, not with speculation based on what it believes is probable. Here, the Complainant has submitted no evidence whatsoever to establish when the Respondent acquired the disputed domain name.

If the Respondent registered the disputed domain name in 2002, this case would be easy to decide, since, as noted above, registration of a domain name so many years before the development of trademark rights cannot support a finding of bad faith registration under the Policy. Here, there is substantial uncertainty about the timing, and the Panel’s own investigation supports an inference that the Respondent likely acquired the disputed domain name sometime after 2002 (and probably after 2011, and maybe even after 2022), though it is unclear exactly when. It is the Complainant’s burden to prove bad faith registration, and the Panel finds, on this record, that it is a very close question whether the Complainant has submitted sufficient evidence to support its assertion that the Respondent registered the disputed domain name after the Complainant developed rights in the OMNIDOC trademark in October 2019.

Even if the record could support an inference that the Respondent acquired the disputed domain name after October 2019, the Complainant has nevertheless failed to establish by a preponderance of the evidence that the Respondent used the disputed domain name in bad faith. First, as noted above, it is not clear whether the Respondent was the registrant of the disputed domain name in 2021 and 2022. Further, even if the Respondent was the registrant of the disputed domain name at that time, the brief excerpts of Spanish-language websites from 2021 and 2022 that the Complainant submitted (without translation) do not establish bad faith use. In order to fully assess the Complainant’s claims in that regard, the Panel (using machine translation) has reviewed the full website that was captured by the Internet Archive Wayback Machine as of December 2022. That website appears to have been associated with a legitimate business offering “digital medical office” services to health professionals, including a platform that allowed health professionals to interact online with patients, make appointments, offer prescriptions, and have video consultations, all under the OMNIDOC mark. These services differ from those of the Complainant, which only offers a platform that allows health professionals to consult with each other, not with patients.

Although this may seem at first glance to be a somewhat subtle difference that supports the Complainant’s arguments, in the context of this case, where the parties operate on different continents (see below), in different languages, with different services, and under a mark with some descriptive elements, it is an important difference that undercuts any inference that the Complainant was being targeted by the Respondent when the Respondent acquired the disputed domain name.

In addition to this difference, as noted above, the Complainant appears only to offer services in France and Belgium; the Complainant has not provided any evidence that it offers any services in Mexico (or in any Latin American or Spanish-language speaking country). There is, therefore, no evidence that the Respondent used the disputed domain name intentionally to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement. Nor is there any evidence that the Respondent offered to sell the disputed domain name to the Complainant or used the disputed domain name to disrupt the business of the

Complainant as a competitor. As is stated above, given the composition of the disputed domain name – “omni” (which means “all”) and “doc” (which can be an abbreviation for “doctor”) – it is not surprising that the disputed domain name has resolved to various medical-related websites over the years that do not seem to target the Complainant.

The Complainant’s other allegations of bad faith registration and use are similarly unsupported. There is no evidence in the record that the Respondent registered the disputed domain name to prevent the Complainant from using that domain name, and certainly no evidence that the Respondent has engaged in a pattern of such activity. The fact that the disputed domain name currently is inactive is not, by itself, evidence that the disputed domain name is being used in bad faith. The Complainant has not submitted any evidence that the use of a privacy service for the registration was undertaken with a “fraudulent intention”. And, finally, there is no evidence in the record to support the Complainant’s speculation “that the Respondent may use fake email addresses to scam consumers or even internal associates of the Complainant”. These allegations are pure speculation, unsupported by any evidence whatsoever.

The Panel therefore finds that the Complainant has failed to establish bad faith registration and use.

7. Decision

For the foregoing reasons, the Complaint is denied.

/David H. Bernstein/

David H. Bernstein

Sole Panelist

Date: January 28, 2025