

ADMINISTRATIVE PANEL DECISION

DPDgroup International Services GmbH & Co. KG v. Best Buy
Case No. D2022-1686

1. The Parties

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

The Respondent is Best Buy, United States of America.

2. The Domain Name and Registrar

The disputed domain name <dpdshippingagency.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the "Registrar").

3. Procedural History




The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 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 May 10, 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 on May 11, 2022.

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 of the Complaint, and the proceedings commenced on May 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 7, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on June 14, 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 the German company DPDgroup International Services GmbH & Co. KG, seated in Germany. The Complainant renders postal and delivery services throughout the world, under the registered trademarks DPD and DPDGROUP, as well as the word and design forms,   and .

The Complainant owns several registrations for the DPD trademark, as well as for variations thereof, such as DPDGROUP and the design marks showed above. Proofs of these registrations, all predating the registration of the disputed domain name, were duly produced in the Complaint as Annex 4.

The Complainant also owns several domain names formed by the trademark DPD registered worldwide, as shown in Annex 5 of the Complaint.

The disputed domain name was registered on March 2, 2022. The disputed domain name resolves to a page that reproduces the Complainant's trademarks, both word and design ones, in a mockup of the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's marks registered and used worldwide. In fact, the only distinctive portion of the disputed domain name is "dpd", which is identical to the Complainant's registered mark.

The expression chosen by the Respondent to compose the disputed domain name together with DPD is "shipping agency", which is obviously related to the Complainant's main activities. The addition of the term "shipping agency" does not distinguish the disputed domain name from the Complainant's trademark. On the contrary, they lead to confusion, given the presence of the Complainant's mark.

The Complainant owns several registrations worldwide for the trademark DPD, as well as several domain names bearing this mark, as evidence by Annexes 4 and 5 to the Complaint.

The disputed domain name adopted by the Respondent – a reproduction of the Complainant's registered mark associated with a descriptive expression – shows a clear intention of misleading the Internet users to its website, that bears the same trade dress as the one owned by the Complainant. It uses the identity of the Complainant, reproduces the Complainant's trademarks, and offers the same services. The Complainant underlines that the disputed domain name gives the impression that it is the Complainant's website or is associated with the Complainant.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. The disputed domain name is 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 to the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark DPD, registered throughout the world.

Further, the Panel finds that disputed domain name is confusingly similar to the trademark belonging to the Complainant, since this mark is entirely reproduced in the disputed domain name.

Hence, the Panel concludes that the first of the elements in the Policy has been satisfied by the Complainant in this dispute.

B. Rights or Legitimate Interests

The Panel understands that the mark DPD is naturally associated with the Complainant, since it is not only registered as a mark in its name, but also has been used to identify the services rendered by the Complainant worldwide.

Further, the Complainant provided sufficient evidence of the fame of the mark DPD and the services rendered under this name to its clients all over the world. Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark DPD, and its direct relation to the Complainant.

The Complainant presented evidence that the Respondent uses the identity of the Complainant, reproduces the Complainant's trademarks, and offers the same services under the disputed domain name. In fact, the Respondent directs the Internet users to its website, that bears the same trade dress as the one owned by the Complainant.

The Panel is satisfied that the Complainant has made *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. This has not been rebutted by the Respondent.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel believes that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

It is clear to the Panel that the Respondent has in all probability registered the disputed domain name with the purpose of taking illegitimate advantage of the Complainant's mark.

The Panel finds that the disputed domain name was likely registered to mislead consumers – hence the addition of the terms “shipping agency”. Further, the additional terms can surely be considered an allusion to the Complainant's core business, a fact from which the Respondent may well profit by giving Internet users the impression that the disputed domain name belongs to the Complainant. The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel

accepts that the disputed domain name may be intended for illegitimate purposes.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element 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 name, <dpdshippingagency.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: June 28, 2022