

## ADMINISTRATIVE PANEL DECISION

The Depository Trust & Clearing Corporation v. Dadawahka Ongwehonweh  
Case No. D2022-2142

### 1. The Parties

Complainant is The Depository Trust & Clearing Corporation, United States of America (“United States”), represented by Day Pitney LLP, United States.

Respondent is Dadawahka Ongwehonweh, United States.

### 2. The Domain Name and Registrar

The disputed domain name <depositorytrustcompany.com> is registered with IONOS SE (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 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 Complainant on June 17, 2022, 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 June 22, 2022.

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 June 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 20, 2022.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on July 25, 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**

Complainant, The Depository Trust & Clearing Corporation, is a provider of post-trade services in the financial industry, including clearing, settlement and institutional trade processing services. Complainant owns a subsidiary by the name of the Depository Trust Company that provides securities depository services. Complainant's Depository Trust Company holds physical security certificates in custody on behalf of brokers, dealers, banks and other entities and acts as a clearinghouse to process and settle trades of securities. Complainant owns a United States trademark registration for the mark DTC, which is an acronym for the Depository Trust Company (Registration No. 2,098,643), that issued to registration in 1997.

Respondent appears to be an individual based in Michigan. Respondent registered the disputed domain name on April 20, 2022. To date, Respondent has used the disputed domain name with a click through linking page with links to various financial offerings. Respondent also appears to have set up the disputed domain name for email purposes.

On May 22, 2022, Complainant sent a letter to the registrar of the disputed domain name to terminate the registration and hosting of the disputed domain name. No response to that letter was ever received.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant asserts that it is a preeminent provider of post-trade services to the global financial community, has been providing its services under the marks DTCC and DTC for over 40 years and that it processes over 100 million financial transactions daily. Complainant states that since 1973 it has used and widely promoted the name of its subsidiary, the Depository Trust Company, which has become one of the world's largest securities depositories, holding securities valued at over USD 87.1 trillion. As a result, Complainant maintains that the Depository Trust Company and the DEPOSITORY TRUST COMPANY mark are well-known globally and commonly referred to through the acronym DTC.

Complainant contends that the disputed domain name is identical to Complainant's DEPOSITORY TRUST COMPANY mark and DTC acronym.

Complainant argues that Respondent has no rights or legitimate interests in the disputed domain name as Respondent (i) has no connection to or relationship with Complainant, (ii) does not own any trademark rights in the name and mark DEPOSITORY TRUST COMPANY, (iii) is not commonly known by the disputed domain name, (iv) has not made any demonstrable preparations to use the disputed domain name with an offering of goods or services, (v) has used the disputed domain name for commercial gain, and (vi) cannot claim a fair use of the disputed domain name as it fully and solely consists of Complainant's DEPOSITORY TRUST COMPANY mark.

Lastly, Complainant maintains that Respondent has registered and used the disputed domain name in bad faith as Respondent has only used the disputed domain name with a parked page with links. Complainant contends that Respondent has registered the disputed domain name to refer to and be identified with Complainant, as it solely consists of Complainant's DEPOSITORY TRUST COMPANY name and mark. Complainant also contends that Respondent's bad faith is established by the lack of any *bona fide* use of the disputed domain name by Respondent, the lack of legitimate contact information for Respondent, and the fact that Respondent has set up the disputed domain name for email use and could use such for a nefarious

purpose at any time.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

Here, although Respondent has failed to respond to the complaint, the default does not automatically result in a decision in favor of Complainant, nor is it an admission that Complainant's claims are true. The burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. A Panel, however, may draw appropriate inferences from a respondent's default in light of the particular facts and circumstances of the case, such as regarding factual allegations that are not inherently implausible as being true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"); see also *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

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

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. Section 1.2.1. of the [WIPO Overview 3.0](#) at section 1.2.1. Complainant has provided evidence that it owns a trademark registration for the acronym DTC which Complainant argues is viewed by consumers and the trade as standing for DEPOSITORY TRUST COMPANY. While that may possibly be the case, Complainant provided very little evidence supporting that contention apart from some articles on online platforms such as Investopedia and Complainant's website at <dtcc.com> that list the company name Depository Trust Company with the acronym DTC in parentheses. Such evidence does not in and of itself establish that consumers or the trade recognize or perceive DTC as an acronym that stands for the DEPOSITORY TRUST COMPANY.

That being said, the Panel is satisfied that Complainant has provided sufficient evidence that at the time the disputed domain name was registered in April 2022, Complainant had established some common law rights in the DEPOSITORY TRUST COMPANY name and mark through at least its use of the name and mark for its securities depository services on Complainant's website at <dtcc.com>, in company articles about the Depository Trust Company and through its appearance in several trade publications as the name of a Securities and Exchange Commission ("SEC") registered clearing agency and significant securities depository.

With Complainant's rights in the DEPOSITORY TRUST COMPANY mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top-Level Domain ".com") is identical or confusingly similar with Complainant's mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

In the instant proceeding, the disputed domain name is identical to Complainant's DEPOSITORY TRUST COMPANY mark as it fully and solely consists of the DEPOSITORY TRUST COMPANY mark. The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in Complainant's DEPOSITORY TRUST mark and in showing that the disputed domain name is identical to that trademark.

## B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once the complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Here, Respondent has used the disputed domain name with a website that offers financial links for such things as "stock trading", "futures trading" and "buying gold and silver". These links, in turn, lead to further links promoting various third party financial services. It appears fairly obvious that Respondent registered the disputed domain name that copies Complainant's exact DEPOSITORY TRUST COMPANY name and mark as a way to drive web traffic to Respondent's website for Respondent's profit. Such use of the disputed domain name does not amount to a *bona fide* use or provide Respondent with a legitimate interest in the disputed domain name. See [WIPO Overview 3.0](#) at section 2.5.3.

It is also worth noting that Respondent appears to have set up the disputed domain name for email use, as evidenced by the MX records provided by Complainant. Although it is not clear how or if Respondent has used the disputed domain name as an email address and for what purposes, the fact that the disputed domain name fully and solely copies Complainant's DEPOSITORY TRUST COMPANY name and mark, make its use for email purposes suspicious. Given that Respondent has chosen not to appear in this proceeding to explain his actions further supports Complainant's contention that the use of the disputed domain name for email may not be legitimate.

Given that Complainant has established with sufficient evidence that it owns rights in the DEPOSITORY TRUST COMPANY mark, and given Respondent's above noted actions, the Panel concludes that Respondent does not have a right or legitimate interest in the disputed domain name and that none of the circumstances of Paragraph 4(c) of the Policy are evident in this case.

## C. Registered and Used in Bad Faith

In this matter, Respondent has registered the disputed domain name that copies Complainant's DEPOSITORY TRUST COMPANY name and mark and has used such with web pages promoting various third party financial and other products, services and offerings for Respondent's profit. Respondent has also set up the disputed domain name for email purposes, although it is not clear for what purpose. Such actions, along with Respondent's lack of appearance in this matter, support Complainant's contention that Respondent registered the disputed domain name to take advantage of Complainant's rights in the DEPOSITORY TRUST COMPANY name and mark for Respondent's profit.

Simply put, the evidence before the panel, none of which is contested by Respondent, makes it more likely than not that Respondent opportunistically registered and used the disputed domain name to intentionally and misleadingly attract Internet users to Respondent's website for Respondent's own profit. See [WIPO Overview 3.0](#) at Section 3.1.4 (and cases cited therein).

Accordingly, the Panel finds that Complainant succeeds under this 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, <depositorytrustcompany.com> be transferred to Complainant.

/Georges Nahitchevansky/

**Georges Nahitchevansky**

Sole Panelist

Date: August 8, 2022