

ADMINISTRATIVE PANEL DECISION

Dun & Bradstreet International, Ltd. v. Duns Vietnam Company Limited /
Nguyễn Huy Duy
Case No. D2022-3339

1. The Parties

The Complainant is Dun & Bradstreet International, Ltd., United States of America (“United States”), represented by BMVN International LLC, Viet Nam.

The Respondent is Nguyễn Huy Duy, Viet Nam, self-represented.

2. The Domain Name and Registrar

The disputed domain name <dunsvietnam.com> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2022. On September 9, 2022, 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 named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 amended Complaint on September 19, 2022. The Respondent sent two informal communication emails on September 21, 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 the Respondent of the Complaint, and the proceedings commenced on September 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2022. The Response was filed with the Center on October 18, 2022.

The Center appointed Antony Gold as the sole panelist in this matter on October 27, 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 a company with its head office in the United States, which provides commercial data, analytics and insights on businesses located worldwide. The Complainant, which is often known by its acronym of D&B, allocates a nine-digit identifier to each individual entity in its database. This is known as a D-U-N-S number although this term is frequently contracted to “DUNS”. “D-U-N-S” is an acronym for “Data Universal Numbering System” and is a proprietary term and process developed by the Complainant, which is the sole company which issues D-U-N-S numbers. Many organisations will now identify companies by reference to their D-U-N-S number, including the United Nations and the European Commission.

The Complainant has protected the use of D-U-N-S by trade mark registrations worldwide, including in Viet Nam, where its registrations include trade mark registration number 40173568 for D-U-N-S in classes 35 and 36, registered on October 12, 2011. The Complainant also, by way of further example, owns the United States Service Mark, registration number 3063450, for D-U-N-S in classes 35 and 36, registered on February 28, 2006.

The disputed domain name was registered on June 22, 2020. It resolves to a website in Vietnamese language and script purporting to be operated by an entity called Duns Vietnam¹, which offers facilities connected with the registration and/or use of DUNS numbers. Neither party has provided a translation of the content of the Respondent’s website, but a visit to the home page using Google Translate² indicates that claims on it include “The DUNS number contains enterprise information that is verified and certified by D&B organization, a global reputable organization entrusted by the partners, before signing the cooperation contract”. The “About us” section of the website makes the claim; “Duns Vietnam specialized in supporting DUNS code registration services in Vietnam”. A screenshot of the Respondent’s website provided by the Complainant shows prominent use of the Complainant’s “Dun & Bradstreet” name on another web page at the disputed domain name, although the specific context is unclear.

5. Parties’ Contentions

A. Complainant

The Complainant says that the disputed domain name is confusingly similar to the Complainant’s D-U-N-S trade and service marks. The Complainant has been widely using its mark for many years prior to the Respondent’s registration of the disputed domain name in June 2020. The removal of the hyphens between the letters in the Complainant’s mark is insufficient to create any distinctiveness for the disputed domain name as it does not alter the way it is pronounced, nor does the addition of the term “vietnam” prevent the disputed domain name from being found confusingly similar to the Complainant’s marks.

¹ The Respondent says that the full name of its company is Duns Vietnam Company Limited although this full name has not been readily apparent to the Panel from its relatively brief inspection of its website (see below). The closest mention appears to be Duns Vietnam Company under the Contact section at the website. As nothing turns on the point, the shorter version of the company name is used in this Decision.

² See section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”); “Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name.” The Panel has visited the home page of the Respondent’s website, using Google’s translation facility, in order to improve its understanding of the use which is being made of it.

The Complainant says also that the Respondent has no rights or interests in the disputed domain name. There is no record that the Respondent has ever established a right or a legitimate interest in a trade mark which corresponds to the disputed domain name or any part of it. The Complainant has never licensed or, in any way, authorized or permitted the Respondent to use its marks, or the disputed domain name, and the Respondent has been seeking to create an impression of an authorized association with the Complainant.

The Complainant says that the disputed domain name was registered and is being used in bad faith. "D-U-N-S" is a term coined by the Complainant and its D-U-N-S marks are used exclusively by the Complainant and its licensees. Having regard to the repute and well-established nature of the Complainant's trade mark rights, the Respondent will have been well aware of them when it registered the disputed domain name. In these circumstances, the Respondent's registration of the disputed domain name is in bad faith.

The disputed domain name is also being used in bad faith in order to profit from the resulting customer confusion that the Respondent is somehow connected with the Complainant. The Respondent is claiming to offer the exact same services that the Complainant is offering in relation to the allocation of D-U-N-S numbers. The Respondent has made direct references to the Complainant's D-U-N-S trade mark and its trade name on its website in an attempt to attract Internet users to it for commercial gain. The claims on its website will mislead Internet users into believing that the Respondent is an affiliate or authorized agent, representative or distributor of the Complainant, when that is not the case.

B. Respondent

The Respondent asserts that the Complainant's D-U-N-S trade mark is no longer valid in Viet Nam because marks in Viet Nam are only valid for ten years. The purpose of its website is to assist customers in obtaining a free D-U-N-S number from the Complainant which they will need when registering as an Apple Developer and with the FDA.³ Accordingly, the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and services and it is not misleading customers nor tarnishing the Complainant's trade mark. Furthermore, the Complainant's D-U-N-S trade mark is quite different from the disputed domain name in appearance.

The Respondent says also that the disputed domain name is being used in good faith. Contrary to the Complainant's assertion, its D-U-N-S mark is not widely known. Moreover, the Respondent's support to customers registering D-U-N-S numbers brings benefits to the Complainant, as the Respondent receives data from its customers, which it passes on to the Complainant. Moreover, the Respondent's company name, Duns Vietnam Company Limited, is clearly stated on its website and a statement is made that "we support customers in registering the REAL and TRUE D&B D-U-N-S Number from D&B". The Respondent's website makes plain that it is the Complainant which is issuing the D-U-N-S number, so the Respondent is not creating any likelihood of confusion with the Complainant.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant prove each of the following three elements in order to succeed in its Complaint:

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

³ This is likely a reference to the United States Food and Drug Administration.

A. Identical or Confusingly Similar

The Complainant has provided evidence of its trade and service mark registrations for D-U-N-S, full details of two of these marks having been set out above. Even if the Respondent is correct in its contention that the Complainant's D-U-N-S trade mark registration in Viet Nam is no longer valid, the Complainant is the owner of other trade and service mark registrations for D-U-N-S and has thereby established its rights in this mark.

For the purpose of determining whether the disputed domain name is identical or confusingly similar to its mark, the generic Top-Level Domain ("gTLD") ".com" is disregarded as this is a technical requirement of registration. The first part of the disputed domain name comprises the term "duns". The dominant feature of the Complainant's D-U-N-S mark is the letters rather than the hyphens which separate them. Accordingly, the disputed domain name will be perceived by Internet users as including the distinctive component of the Complainant's mark. The second part of the disputed domain name is the word "vietnam". The addition of this term does not impact on an assessment of whether the disputed domain name is to be considered confusingly similar to the Complainant's trade mark. As explained at section 1.8 of the [WIPO Overview 3.0](#); "Where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Complainant's D-U-N-S mark is, for the above reasons, clearly recognizable within the disputed domain name and the Panel therefore finds that it is confusingly similar to a trade or service mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides, without limitation, examples of circumstances whereby a respondent might demonstrate that it has rights or legitimate interests in a domain name. In summary, these are if a respondent has used or prepared to use the domain name in connection with a *bona fide* offering of goods and services, if a respondent has been commonly known by the domain name, or if a respondent has made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark in issue.

The Respondent's claim that it is using the disputed domain name for a *bona fide* offering of goods and services, by its use of a website purporting to assist Internet users to obtain a D-U-N-S number from the Complainant, gives rise to issues considered at section 2.8 of the [WIPO Overview 3.0](#), and in a number of decisions of earlier UDRP panels, including *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). This decision set out four cumulative requirements to be fulfilled if a UDRP panel is to accept a respondent's claim to be using a domain name in connection with a *bona fide* offering of goods on the grounds that it is a reseller or distributor of a complainant's goods or services. Three of those requirements appear to be fulfilled, namely;

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services. This has likely been met in that the Complainant has not asserted that the Respondent's website is being used for any purpose unconnected with the obtaining of D-U-N-S numbers;
- (iii) a respondent must not try to corner the market in domain names which reflect the complainant's trade mark. The Complainant has not asserted that the Respondent has registered any other domain names which incorporate any of its marks.

The final requirement is that the respondent's website must accurately and prominently disclose the registrant's relationship with the trade mark holder or lack thereof. As explained earlier, a translation of the Respondent's website from the Vietnamese script has not been made available by either party. The Respondent has not drawn attention to any form of express disclaimer on its home page and none has been

apparent to the Panel. However, the Panel notes the Respondent's claim on its website that "we support customers in registering the REAL and TRUE D&B D-U-N-S Number from D&B". Additionally, the Panel has noted a section on the home page that, according to Google Translate makes the claim that; "The DUNS number contains enterprise information that is verified and certified by D&B organization, a global reputable organization entrusted by the partners, before signing the cooperation contract".

The most that claims of this type suggest is that the Respondent is a separate entity to the Complainant. They contain no indication at all that the Respondent is not authorized by the Complainant and, indeed, the implication is that the Respondent works closely with the Complainant, as a partner and/or an authorized agent or distributor. As the Complainant states that this is not the case, this is inaccurate and misleading.

The Respondent's use of the disputed domain name does not therefore meet the last *Oki Data* requirement referred to above, in that its website does not clearly and prominently disclose that its activities are not authorized by the Complainant. See, for example, *AB Electrolux v. Privacy protection service - whoisproxy.ru / Zoom Ltd.*, WIPO Case No. [D2018-1823](#). The Panel does not therefore find that the Respondent's website is being used in connection with a *bona fide* offering of goods and services.

Whilst the Respondent uses an entity with the name "Duns Vietnam" as its trading vehicle, it is apparent from the circumstances of this Complaint that this name has been chosen, in combination with the disputed domain name, in order to create a resonance with the Complainant and to encourage Internet users into believing that the Respondent is authorized by, or is otherwise connected with, the Complainant. As explained at section 2.3 of the [WIPO Overview 3.0](#), in considering a respondent's claim to be commonly known by a domain name, panels will typically assess whether there is a general lack of other indicia of cybersquatting; see also *UMAREX GmbH & Co. KG. v. Alan Phelps, Armex UK Ltd/Enfield Sports Ltd*, WIPO Case No. [D2019-1737](#). In these circumstances, the trading name chosen by the Respondent is part of the process whereby consumers are apt to be misled by the Respondent into believing that it has an association with the Complainant rather than a name chosen independently by the Respondent for reasons unconnected with its business of assisting clients to procure D-U-N-S numbers. The Panel does not therefore find that the Respondent has established a right or legitimate interest on the grounds that it is commonly known by the disputed domain name.

The third circumstance under paragraph 4(c) of the Policy is also inapplicable; the use the Respondent is making of the disputed domain name is commercial in character.

The Panel accordingly finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In the light of the fact that, following registration, the Respondent has used the disputed domain name to resolve to a website which purports to assist Internet users with the process of obtaining D-U-N-S numbers from the Complainant, it is reasonable to infer that the Respondent was aware of the Complainant and its D-U-N-S mark as at the date of its registration of the disputed domain name and that it was registered for the purpose to which it has subsequently been put. It is well-established under the Policy that registration of a domain name by an unconnected party with knowledge of a complainant's trade mark registration where the domain name is moreover put to a misleading use amounts to bad faith; see, for example, *Accor, SoLuxury HMC v. Huxianfeng*, WIPO Case No. [D2014-1326](#). The Panel therefore finds the Respondent's registration of the disputed domain name to have been in bad faith.

The only known use which the Respondent has made of the disputed domain name has been in order to resolve to a website, the form of which has been described above. As discussed above in relation to the second element, Internet users are apt to assume from the content of the Respondent's website that it is somehow operated with the authority of the Complainant. The likelihood of such a misapprehension is increased by both the use of the trading style "Duns Vietnam" and the confusing similarity between the disputed domain name and the Complainant's D-U-N-S mark. The Respondent's claim that its use of the

disputed domain name will result, directly or indirectly, in commercial advantage to the Complainant is not a material consideration because, irrespective of whether or not this is the case, the disputed domain name is nonetheless being used without the Complainant's license or other authority and is inherently misleading. Nor does the Respondent's assertion that there is no likelihood of confusion carry any weight; the use of the disputed domain name in the Respondent's hands has the clear capacity to confuse Internet users who may have been misled into visiting the Respondent's website by its perceived connection to the Complainant. See also, by way of example, *General Motors LLC v. Domains By Proxy, Inc / Mel Light*, WIPO Case No. [D2012-1415](#).

The Respondent's use of the disputed domain name therefore falls within the circumstance of bad faith set out at paragraph 4(b) of the Policy sets in that it has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The Panel accordingly finds that the Respondent has registered and is using the disputed domain name in bad faith.

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 <dunsvietnam.com> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: November 10, 2022