

ADMINISTRATIVE PANEL DECISION

DPDgroup International Services GmbH & Co. KG v. Mike Ross
Case No. D2022-4655

1. The Parties

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

The Respondent is Mike Ross, United States of America.

2. The Domain Name and Registrar

The disputed domain name <dpdgroupusa.com> (the “Disputed Domain Name”) 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 5, 2022. On December 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 8, 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 December 15, 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 December 15, 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 December 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 17, 2023.

The Center appointed Michael D. Cover as the sole panelist in this matter on January 24, 2023. 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 major parcel delivery company and network and has been operating since 1977. The Complainant has 32,000 pick up points in 230 countries around the world.

The Complainant is the owner of numerous DPD trademarks in various countries, as set out in Annex 4 to the Complaint. These include International Trademark Registration No 761146 DPD (& device) in Classes 36 and 39, filed on May 26, 2001 and International Trademark Registration No 1217471 dpd (logo) in Classes 9, 16, 35, 39 and 42, registered on March 28, 2014. The Complainant is also the owner of numerous domain names, notably, as set out in the Complaint: <dpd.asia>, <dpd.eu>, <dpdgroup>, as set out in Annex 5 to the Complaint.

The Disputed Domain Name was registered on September 24, 2022 and resolves to a website, which reproduces the Complainant's DPD trademark and offers parcel delivery and tracking.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

Having set out the trademarks and domain names it owns, the Complainant submits that the Disputed Domain Name is confusingly similar to the trademark DPD and that the addition of "*group*" and "*usa*" does not distinguish the Disputed Domain Name from the Complainant's intellectual property "dpd.com" or "dpdgroup". The Complainant continues arguing, that the words "group" and "usa" do not distinguish the Disputed Domain Name from the Complainant's DPD trademark and that such use merely serves to heighten potential Internet user confusion with the Complainant's domain names, website and the postal and delivery services that it offers through them.

The Complainant concludes that the Disputed Domain Name, combining the Complainant's trademark in its entirety, with an additional term, is confusingly similar on a phonetical and conceptual standpoint.

Rights or Legitimate Interests

The Complainant sets out that, to the Complainant's knowledge, the Respondent is not commonly known under the Disputed Domain Name nor is he offering a *bona fide* offer of product or services. The Complainant continues that, to the best of the Complainant's knowledge, the Respondent does not make any use of a business name, which includes the sign DPD and has no rights in any trademark composed of this sign. The Complainant states that, as part of monitoring its trademarks, he has never noticed any DPD trademark in the name of the Respondent. The Complainant also states that the Complainant has no relationship with the Respondent and has not authorized, licensed, permitted or otherwise consented to the Respondent's use of the trademark DPD in the Disputed Domain Name.

The Complainant submits that the Respondent is deliberately creating confusion with the Complainant's business by using the Complainant's identity, reproducing without any prior authorization the Complainant's trademark and taking the Complainant's services. The Complainant submits that the Respondent has sought to confuse Internet users who arrive at the Respondent's website into thinking that the Respondent's website is the Complainant's website or is associated with it, when this is not the case. The Complainant concludes that this does not amount to legitimate or *bona fide* conduct and supports an inference that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

Registered and Used in Bad Faith

The Complainant sets out that it can be considered that the Disputed Domain Name was registered and is being used in bad faith. The Complainant then submits that the website to which the Disputed Domain Name resolves reproduces, without any authorization, the Complainant's DPD trademarks and also the Complainant's DPD logo trademark. The Complainant also notes that the homepage of that website proposes online tracking, which, the Complainant says, is reminiscent of the Complainant's postal and delivery services.

The Complainant also submits that the Respondent is deliberately using the identity of DPD and has registered and uses fraudulently and in bad faith the Disputed Domain Name, by reproducing the Complainant's prior rights with intent to take advantage of the Complainant's brand's reputation. The Complainant submits that the use of the well-known trademark DPD in the field of parcel and postal services must also be considered as opportunistic bad faith. The Complainant describes this as scam and phishing operations.

The Remedy requested by the Complainant

The Complainant requests the Panel to order the transfer the Disputed Domain Name to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Name; and that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds and decides that the Complainant has established registered rights in its DPD trademark, the earliest registration of which predates the registration of the Disputed Domain Name by many years. The Panel also finds that the Complainant's trademark DPD has become well-known through extensive use by the Complainant.

The Disputed Domain Name incorporates the Complainant's DPD trademark in full and, in assessing confusing similarity, it is well established that the addition of other terms, as "*group*" or "*usa*", in this case, does not prevent a finding of confusing similarity. It is also well-established that the addition of the gTLD, as "*.com*", is viewed as a standard registration requirement and, accordingly, is to be disregarded under the first element of the Policy.

The Panel therefore finds that the Disputed Domain Name is confusingly similar to the Complainant's trademark DPD, in which the Complainant has rights, and that the provisions of the Policy, paragraph 4(a)(i) have been met.

B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and that the provisions of paragraph 4(a)(ii) of the Policy have been met.

The Panel accepts that the Respondent has not been authorized, licensed or otherwise permitted by the Complainant to register or use the Complainant's DPD trademark as part of the Disputed Domain Name or otherwise.

The Complainant has established a *prime facie* case, to which no response has been filed, that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not, before any notice to the Respondent of the dispute, made use or demonstrable preparations to use the Disputed Domain Name or a name corresponding to it in connection with a *bona fide* offering of goods or services nor has the Respondent been commonly-known by the Disputed Domain Name nor has the Respondent made non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue. The use that has taken place of the Disputed Domain Name, as already set out, involves the Disputed Domain Name resolving to a website, which features the Complainant's DPD trademark and offers similar services to those offered by the Complainant. This does not constitute a *bona fide* offering of goods or services.

C. Registered and Used in Bad Faith

The Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. It is a reasonable inference that the Respondent knew of the Complainant and its well-known DPD trademark at the time when the Respondent registered the Disputed Domain Name and that the Respondent could have had no reason to register the Disputed Domain Name other than for the significance of the DPD element as the trademark of the Complainant.

With regard to the use of the Disputed Domain Name, this has been used to resolve to the website, which features the Complainant's DPD trademark and offers services similar to those offered by the Complainant. In addition, the Respondent has failed to use the opportunity to file a Response to the Complaint and, in particular, to file any evidence of good faith use and had sought to conceal his identity.

The Panel accordingly finds that the Respondent has registered and is using the Disputed Domain Name in bad faith and that the provision of the Policy, paragraph 4(a)(iii) been met.

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, <dpdgroupusa.com> be transferred to the Complainant.

/Michael D. Cover/

Michael D. Cover

Sole Panelist

Date: February 3, 2023