

ADMINISTRATIVE PANEL DECISION

Dominion Operadora, S. de R.L. de C.V. v. Anil Majevardia
Case No. D2023-2875

1. The Parties

The Complainant is Dominion Operadora, S. de R.L. de C.V., Mexico, represented by Brickall Abogados, Mexico.

The Respondent is Anil Majevardia, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <dominionhousing.com> is registered with 123-Reg Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in Spanish with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 2023, 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 (123-REG LIMITED) and contact information in the Complaint. On July 11, 2023, the Center sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint.

The Center sent an email communication in English and Spanish to the parties on July 11, 2023, regarding the language of the proceeding, as the Complaint has been submitted in Spanish and the language of the registration agreement for the disputed domain name is English. The Respondent did not comment on the language of the proceeding. The Complainant filed a translated Complaint on July 14, 2023, in English.

The Center verified that the Complaint together with the translated 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 July 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 11, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on August 16, 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. On September 19, 2023, the Panel issued Procedural Order No.1 to the Parties, described below, whereby the Complainant was requested to submit an amended Complaint reflecting the Registrar-disclosed registrant as the Respondent, and the Center was instructed to exceptionally send the Procedural Order to the Respondent at his physical address noting that the Respondent could not be reached via email. The Complainant filed an amended Complaint on September 22, 2023. The Respondent did not reply to the Procedural Order.

4. Factual Background

The Complainant is a Mexican company that is dedicated to hotel and accommodations services in Mexico.

The Complainant has the following device trademarks registered in Mexico:

- DOMINION, reg. 673299, for class 42, registered on September 29, 2000.
- DOMINION, reg. 675951, for class 36, registered on October 27, 2000

The disputed domain name was registered on February 17, 2004. The record shows that the disputed domain name has not been in use, and resolves to a Registrar parked site that contains a notice of suspension indicating that the disputed domain name is pending ICANN verification.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name 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 lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (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 of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

A. Preliminary Matters: Procedural Order

On September 19, 2023, the Panel issued a Procedural Order requesting the Complainant to file an amendment to its Complaint reflecting the Registrar-disclosed registrant *i.e.*, "Anil Majevardia" as the Respondent. Noting that the Respondent could not be reached via its email address, the Panel instructed the Center to exceptionally send the Procedural Order to the Respondent at the address provided by the Registrar via courier, and requested the Respondent to provide the Center an email address through which it may be contacted.

The Panel further instructed the Center to use the "Registrant Contact Form" of the Registrar to additionally seek to contact the Respondent.

The Complainant submitted an amended Complaint on September 22, 2023, indicating "Anil Majevardia" as the Respondent.

The Respondent did not reply to the Procedural Order. According to the courier records, the Procedural Order was delivered to his address by post.

The Panel finds that the Respondent received due notice of the Complaint.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of the term "housing" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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 Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that:

- The disputed domain name combines the trademark of the Complainant with the term “housing” related to the Complainant activities;
- The Respondent has not replied to the Complainant’s contentions;
- The disputed domain name is not in use;
- The Complainant’s trademark was registered and used several years before the registration of the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

8. 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, <dominionhousing.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: October 6, 2023.