

ADMINISTRATIVE PANEL DECISION

DispatchHealth Management, LLC v. Anonymize, Inc.
Case No. D2023-4486

1. The Parties

Complainant is DispatchHealth Management, LLC, United States of America (“U.S.”), represented by Holzer Patel Drennan, U.S.

Respondent is Anonymize, Inc., U.S.

2. The Domain Name and Registrar

The disputed domain name <despatchhealth.com> is registered with Epik, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2023. On October 30, 2023, 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 confirming that Respondent is listed as the registrant and providing the contact details. Specifically, Registrar confirmed that “The registrant of the domain is a client of [Registrar] and is utilizing Anonymize as a private proxy. Anonymize [is] a Whois proxy service provider, which this domain is currently using. Thus, the current registrant is: Anonymize, Inc.”

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 6, 2023.

The Center appointed Phillip V. Marano as the sole panelist in this matter on December 12, 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

Complainant is a Delaware company that since 2015 has provided in-home medical care and related healthcare services. Complainant promotes its services through its official <dispatchhealth.com> domain name and related website. Complainant owns valid and subsisting registrations for the DISPATCHHEALTH and DISPATCH HEALTH trademarks (collectively the “DISPATCH HEALTH trademarks”) in the U.S., including Reg. No. 5,350,995 and Reg. No. 6,183,996, registered on December 5, 2017 and October 27, 2020 respectively, with the earliest priority dating back to first use in commerce on August 15, 2017.

Respondent registered the disputed domain name on February 18, 2020. At the time this Complaint was filed, the disputed domain name resolved to a pay-per-click parking website with hyperlinks to health-related services, including “Electronic Health Records”, “Health Insurance”, and “Health Plans”.

5. Parties’ Contentions

A. Complainant

Complainant asserts ownership of the DISPATCH HEALTH trademarks and has adduced evidence of trademark registrations in the U.S. with earliest priority dating back to August 15, 2017. The disputed domain name is confusingly similar to Complainant’s DISPATCH HEALTH trademarks, according to Complainant, because Respondent “hijacked Complainant’s URL and trademark through typosquatting - targeting Internet users who incorrectly type Complainant’s trademark and/or website address into their web browser.”

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: Respondent’s typosquatting on Complainant’s DISPATCH HEALTH trademarks; Respondent’s use of the disputed domain name in connection with click-through links; Respondent’s failure to reply to Complainant’s cease and desist correspondence; and Respondent’s use of a proxy registration service to shield its actual identity.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: Respondent’s typosquatting on Complainant’s DISPATCH HEALTH trademarks “to allow third parties to advertise for medical and/or medical-related services on the URL associated with the disputed domain name”; and Respondent’s generation of pay-per-click income based on the value of Complainant’s business and DISPATCH HEALTH trademarks.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark 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 has been registered and is being used in bad faith.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g., where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

A. Preliminary Matter – Identity of Respondent

Respondent is "Anonymize, Inc." notwithstanding the fact that Anonymize, Inc. is a proxy Whois service provider. Complainant so named the Respondent, among the Registrar and other John Doe parties, because "Anonymize, Inc." was the only name found in the registrant field of the Whois information for the disputed domain name, either before or after this proceeding commenced. Indeed, after the Complaint was filed, the Center asked the Registrar to verify, among other things, the identity and contact information for the registrant of the disputed domain name. In response, the Registrar explained that its customer "has WHOIS privacy; therefore we cannot provide their information without their permission" and "we have not heard back from the [customer]; therefore, we cannot remove the privacy they have placed on their domain nor provide their data." The only disclosed email address in the Registrar's record for the disputed domain name was "[...][@anonymize.com](#)", and it is not known if the Complainant's and the Center's efforts to reach Respondent at that email address were successful. In view of the foregoing, there are threshold issues regarding the identity of Respondent, and how the use of (and Registrar refusal to disable) a proxy Whois service, plus the lack of verifiable contact information for the holder of the disputed domain name, affect the procedural and substantive aspects of this case.

In all cases involving a privacy or proxy service, and irrespective of the disclosure of any underlying registrant, the appointed panel retains discretion to determine the respondent against which the case should proceed. [WIPO Overview 3.0](#), section 4.4.5. In this case, the Registrar has not objected to its proxy Whois service being identified as the Respondent. In addition, the Registrar has declined to provide any reliable contact information for its customer. These circumstances should not affect in any way the Administrative Panel's ability to make a determination on the merits of the case. Therefore, the panel considers it entirely appropriate for "Anonymize, Inc." to be named as Respondent in this case. See e.g., *The Royal Bank of Scotland Group plc v. Reserved Bench of Strategic Geographers / Domain ID Shield Service*, WIPO Case No. [D2012-1733](#) (concluding proxy registration service was proper respondent where *inter alia* the Registrar's proxy service was unable to provide any reliable contact information for its customer); see also ICANN 2013 Registrar Accreditation Agreement, section 3.7.7.3 ("A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing the Registered Name Holder reasonable evidence of actionable harm.")

B. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the DISPATCH HEALTH trademarks have been registered in the U.S. with priority dating back to August 15, 2017. Thus, the Panel finds that Complainant's rights in the DISPATCH HEALTH trademarks have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's DISPATCH HEALTH trademarks. In this Complaint, the disputed domain name is confusingly similar to Complainant's DISPATCH HEALTH trademarks because, disregarding the ".com" generic Top-Level Domain ("gTLD"), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar..."). In regards to gTLDs, such as ".com" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

Furthermore, it is well established that domain names which consist of common, obvious, or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 ("Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ... (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersion of other terms or numbers"). See e.g., *Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) ("This is clearly a 'typosquatting' case where the disputed domain name is a slight misspelling of a registered trademark to divert internet traffic ... In fact, the domain name comprises the Complainant's trademark ... with a single misspelling of an element of the mark: a double consonant 's' at the end."); see also *General Electric Company v. mr domains (Marcelo Ratafia)*, WIPO Case No. [D2000-0594](#) (August 28, 2000) ("In the Panel's opinion 'www-' used in this context is a generic term which does nothing to reduce the potential for confusion, and therefore the panel is of the opinion that the Domain Names are for all intents and purposes identical to the registered trademark.") In this case, Respondent has substituted the letter "e" for the letter "i" in Complainant's DISPATCH HEALTH trademarks. This substitution, no doubt intentionally, looks and sounds substantially similar to Complainant's DISPATCH HEALTH trademarks, and creates essentially the same commercial impression with Internet users.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

C. Rights or Legitimate Interests

Complainant must make out a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1.

It is evident that Respondent, identified by WhoIs data for the disputed domain name as "Anonymize, Inc.", is not commonly known by the disputed domain name or Complainant's DISPATCH HEALTH trademark.

Indeed, service of pay-per-click advertisements through the (typo) disputed domain name attempts to trade off the goodwill of Complainant and accordingly cannot constitute any *bona fide* offering of goods or services using the disputed domain name. [WIPO Overview 3.0](#), section 2.9 (Unless "genuinely related to the dictionary meaning" of the disputed domain, "[pay-per-click] links do not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of Complainant's mark or otherwise mislead Internet users.") See, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO Case No. [D2012-2066](#) (use of a domain name in connection with a web page that "only contains advertisements as sponsored links" is "for presumed commercial gain"); *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois*, WIPO Case No. [D2014-0465](#) ("a parking website containing sponsored links... cannot be considered either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the Domain Name as the Respondent is unduly profiting from the Complainant's goodwill by

misleading Internet users to its website”); and *Canyon Bicycles GmbH v. Domains By Proxy, LLC / Rob van Eck*, WIPO Case No. [D2014-0206](#) (a disputed domain name “pointing to a website featuring PPC [pay-per-click] links... could not be construed as a *bona fide* or legitimate noncommercial or fair use”). In this Complaint, Respondent has proffered convincing screengrab evidence depicting Respondent’s pay-per-click parking website with hyperlinks to health-related services, including “Electronic Health Records”, “Health Insurance”, and “Health Plans”.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent’s documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

Where parties are both located in the U.S. and the complainant has obtained a federal trademark registration pre-dating a respondent’s domain name registration, panels have applied the concept of constructive notice, subject to the strength or distinctiveness of the complainant’s trademark, or circumstances that corroborate respondent’s awareness of the complainant’s trademark. [WIPO Overview 3.0](#), section 3.2.2. In this Panel’s view, when the disputed domain name was registered on February 18, 2020, Respondent had constructive knowledge of Complainant’s pre-existing rights in Complainant’s DISPATCH HEALTH trademarks under U.S. law. See e.g., *Champion Broadcasting System, Inc. v. Nokta Internet Technologies*, WIPO Case No. [D2006-0128](#) (Applying the principle of constructive notice where both parties are located in the U.S.).

The act of “typosquatting” or registering a domain name that is a common misspelling of a mark in which a party has rights has often been recognized as evidence of bad faith registration per se. [WIPO Overview 3.0](#), section 3.2.1 (“Particular circumstances UDRP panels take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely known mark ...”). See also *Paragon Gifts, Inc. v. Domain.Contact*, WIPO Case No. [D2004-0107](#) (citing *National Association of Professional Baseball Leagues, d/b/a Minor League Baseball v. Zuccarini*, WIPO Case No. [D2002-1011](#)); *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (finding that the practice of “typosquatting”, of itself, is evidence of the bad faith registration of a domain name). The Panel concurs with this approach. It is evident that Respondent registered and used the typosquatted disputed domain name to intentionally attract, for commercial gain, Internet users to the website linked to disputed domain name in a manner that confuses and misleads Internet users. Thus, the Panel finds Respondent’s bad faith based on the fact that the Respondent is trying to gain profit off mistakes such as typographical errors made by Internet users.

Third-party generated material, such as parking websites with pay-per-click links, cannot be disclaimed by Respondent to prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.5 (“A respondent cannot disclaim responsibility for content appearing on the website associated with its domain name” regardless of whether “such links [are] generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that respondent itself may not have directly profited....”). See *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#) (“It is well established that where a domain name is used to generate revenue in respect of ‘click through’ traffic, and that traffic has been attracted because of the name’s association with the Complainant, such use amounts to use in bad faith ... Revenue will be generated by such visitors clicking on the provided links and it does not matter whether that revenue accrues to the Respondents or the operator of the parking site”) (internal citations omitted). Here, Respondent has misappropriated Complainant’s DISPATCH HEALTH trademarks in the disputed domain name and configured it to resolve to a website featuring pay-per-click advertisements for health-related services, including “Electronic Health Records”, “Health Insurance”, and “Health Plans”.

Indeed, panels have held that despite the lack of any affirmative obligation for domain name registrants to conduct a trademark or Internet search engine search prior to registration, sophisticated parties “who regularly register domain names for use as pay-per-click landing pages cannot be willfully blind to whether a particular domain name may violate trademark rights. In this context, a failure to conduct adequate searching may give rise to an inference of knowledge” and bad faith. See *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.* WIPO Case No. [D2007-1141](#) (citing a sophisticated domainer respondent’s failure to conduct an adequate search); *Aygaz Anonim Sirketi v. Arthur Cain*, WIPO Case No. [D2014-1206](#) (Citing a sophisticated website developer respondent’s failure to “carry out a far simpler Internet search engine search” which “would in the panel’s view have been likely to disclose the existence of the Complainant....”). In the instant Complaint, it is evident that Respondent has been named as Respondent in numerous complaints filed under the Policy, often involving the same pay-per-click parking activities and refusal to reveal customer information as are present in the instant case. See e.g., *Pixabay GmbH v. Anonymize, Inc.*, WIPO Case No. [D2023-2254](#) (transferring the pixabaz.com domain name); *Travelers Exchange Corporation Limited v. Anonymize, Inc.*, WIPO Case No. [D2023-0949](#) (transferring the travelx.exchange domain name); *Carrefour SA v. Anonymize, Inc.*, WIPO Case No. [D2022-4596](#) (transferring the carrefourfr.com domain name); *The Lincoln Electric Company v. Privacy Administrator, Anonymize, Inc.*, WIPO Case No. [D2022-2815](#) (transferring the lincolnelectricholdings.com domain name); etc. As such, Respondent cannot be willfully blind to whether the disputed domain name typosquats on and/or infringes Complainant’s DISPATCH HEALTH trademark.

The Panel further concludes that failure by Respondent to answer Complainant’s cease and desist letter “suggests that Respondent was aware that it 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.” See *America Online, Inc. v. Antonio R. Diaz*, WIPO Case No. [D2000-1460](#) (internal citations omitted). See also *Spyros Michopoulos S.A. v. John Talias, ToJo Enterprises*, WIPO Case No. [D2008-1003](#). Furthermore, the failure of Respondent to answer this Complaint or take any part in the present proceedings, in the view of the Panel, given the circumstances, is another indication of bad faith on the part of Respondent. See *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

And finally, where it appears that a respondent employs a proxy service, or selects a registrar that applies default proxy services, merely to avoid being contacted by a complainant, or notified of a UDRP proceeding filed against it, UDRP panels tend to find that this supports an inference of bad faith. [WIPO Overview 3.0](#) section 3.6. Use of a privacy or proxy registration service to shield a respondent’s identity and elude or frustrate enforcement efforts by a legitimate complainant demonstrates bad faith use and registration of a disputed domain name. See *Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#) (the use of a proxy registration service to avoid disclosing the identity of the real party in interest is also consistent with an inference of bad faith when combined with other evidence of evasive, illegal, or irresponsible conduct). Here, it is evident that Respondent has either intentionally employed a proxy registration service, or intentionally selected a registrar that offers default proxy registration services (and has repeatedly refused to disclose customer data to the Center in numerous cases) in order to conceal its

identity in conjunction with Respondent's pay-per-click monetization of the disputed domain name typosquatting on Complainant's DISPATCH HEALTH trademarks.

In view of the foregoing, the Panel concludes that Complainant has established 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 <despatchhealth.com> be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: January 9, 2024