

ADMINISTRATIVE PANEL DECISION

DispatchHealth Management, LLC v. Zhichao Yang
Case No. D2023-4507

1. The Parties

The Complainant is DispatchHealth Management, LLC, United States of America, represented by Holzer Patel Drennan, United States of America.

The Respondent is Zhichao Yang, China.

2. The Domain Name and Registrar

The disputed Domain Name <dipatchhealth.com> is registered with Name.com, 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 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed Domain Name. On October 31, 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 (Name.com, Inc., Domain Protection Services, Inc. and John Doe(s)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 2023, 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 November 5, 2023.

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").

On November 15, 2023, the Complainant submitted a consolidation request, which they withdrew on November 16, 2023.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 12, 2023.

The Center appointed Daniel Kraus as the sole panelist in this matter on January 9, 2024. 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 provides in-home medical care and related services, currently in 23 states of the US. The Complainant advertises through direct mail, Internet, print, radio, and television. The Complainant owns trademark registrations in DISPATCHHEALTH, such as US registration number 5350995 registered on December 5, 2017, and DISPATCH HEALTH, such as US registration number 6183996, registered on October 27, 2020. The disputed Domain Name was registered on February 6, 2020. At the time of drafting the Decision, the disputed Domain Name resolved to a parking page with pay-per-click links.

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 provides evidence of trademark registrations and argues that the disputed Domain Name is confusingly similar to its trademarks. The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed Domain Name. The Respondent has made a misspelling of the Complainant's trademarks. Typosquatting indicates a lack of legitimate interest. The use of the disputed Domain Name, to resolve to pay-per-click links, is not *bona fide* use, but evidence of bad faith. The Complainant argues that the Respondent's misspelling of the Complainant's trademarks is by itself evidence of bad faith. Moreover, the Respondent's income is generated by the Complainant's trademarks value. Internet users are confused to believe there is a relationship with the Complainant.

B. Respondent

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

6. Discussion and Findings

A. 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.

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 Complainant has established that it has rights in the trademarks DISPATCHHEALTH and DISPATCH HEALTH. The disputed Domain Name is identical to the Complainant's trademark, save the omission of the letter "s". The omission does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

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

B. 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the disputed Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the disputed Domain Name or a name corresponding to the disputed Domain Name in connection with a *bona fide* offering of goods or services. The use of the disputed Domain Name is evidence of bad faith, see below. Based on the available record, the Panel finds the second element of the Policy has been established.

C. 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.

The composition of the Domain Name makes it probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. The registration appears to be typosquatting, and typosquatting is evidence of bad faith under the Policy. Furthermore, the Domain Name has resolved to parking pages with pay-per-click links advertising for medical and/or medical-related services, which is the same industry as the Complainant, which is another indication of bad faith. The Panel cannot see any possible good faith use to which the disputed Domain Name may be put by the Respondent. For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

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 Domain Name <dipatchhealth.com> be transferred to the Complainant.

/Daniel Kraus/

Daniel Kraus

Sole Panelist

Date: January 23, 2024