

ADMINISTRATIVE PANEL DECISION

Driver Hire Group Services Limited v. David Conway
Case No. D2024-2972

1. The Parties

The Complainant is Driver Hire Group Services Limited, United Kingdom (“UK”), represented by Murgitroyd & Company, UK.

The Respondent is David Conway, UK.

2. The Domain Name and Registrar

The disputed domain name <driverhireapp.com> (the “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 July 22, 2024. On July 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 23, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 23, 2024, 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 July 24, 2024.

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 July 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on September 3, 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 is one of the largest specialist logistics recruiters in the UK. It was founded in 1983 and has traded under the trademark DRIVER HIRE since that date. By 2002, the Complainant had over 100 offices throughout the UK, and it launched its international business in Australia in around 2012.

The Complainant and its franchises provide drivers for a full range of vehicles, including LGV, PSV, vans, cars and forklifts; as well as non-driving logistics staff to fulfil roles as warehouse operatives, pickers and packers. The Complainant and its franchises also provide staff to work in the public sector, for example, in waste disposal and park and recreation roles. In addition, the Complainant provides recruitment services for professional roles such as logistics coordinators and transport managers.

The Complainant has won a number of awards recognizing its business and, in particular, has been a finalist in the British Franchise Association Franchisor of the Year Awards in 13 of the last 15 years and has achieved six awards, including twice being named “Franchisor of the Year” in 2006 and 2019.

The Complainant is the proprietor of a number of registered trademarks in respect of DRIVER HIRE, including: UK trademark number 1294570 “DRIVER HIRE” device mark registered on April 17, 1990; European Union trademark number 009384355 DRIVER HIRE device mark registered on March 1, 2011; and UK trademark number 3556889 DRIVER HIRE registered on February 4, 2022.

Notably, UK trademark number 3556889 was registered with the observation that “the trade mark was inherently non-distinctive, but evidence was submitted to show that, by the date of application, the mark has in fact acquired a distinctive character as a result of the use made of it.”

The Complainant operates a number of websites promoting its services, including “www.driverhire.co.uk.”

The Domain Name was registered on December 13, 2023. It resolves to the profile of an X (formerly Twitter) user at <x.com/wwwgreenerhomes> apparently promoting the Respondent’s domain name business at <expandingdomains.com>. The Respondent was also the respondent to a complaint under the Policy between the same parties in *Driver Hire Group Services Limited v. David Conway*, WIPO Case No. [D2023-4241](#) in respect of <driverhire.app>, in which the panel upheld the complaint and ordered the transfer of the domain name to the Complainant. The Domain Name was registered just a few days after the decision of the panel in that case.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its DRIVER HIRE trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant’s contentions

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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. Ignoring the generic Top-Level Domain ("gTLD") ".com", the Domain Name comprises the entirety of the Complainant's DRIVER HIRE mark (the "Mark") together with the term "app". The addition of this term does not prevent a finding of confusing similarity between the Domain Name and the Mark. [WIPO Overview 3.0](#), section 1.8.

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. Accordingly, 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.

The Domain Name is being used to redirect Internet users to the profile of an X (formerly Twitter) user apparently promoting the domain name reselling business of the Respondent. Although the resale of domain names is, in appropriate circumstances, legitimate, this principle does not apply to domain names comprising the entirety of a well-known trademark. Particularly, in light of the previous finding against the Respondent in relation to the <driverhire.app> domain name, the Panel considers that the Respondent likely registered the Domain Name with knowledge of the Complainant and due to its similarity with the Complainant's trademark, and it appears clear that the Respondent could not have any rights or legitimate interests in the Domain Name.

Having reviewed the available evidence, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Respondent has not put forward any explanation as to why it registered the Domain Name. In light of the notoriety of the Complainant's business under the DRIVER HIRE mark for over 40 years, as recognized by its industry awards and the finding of the UK trade mark office noted in respect of UK trademark number 3556889, and in view of the previous finding against the Respondent in respect of <driverhire.app>, the Panel is satisfied that the Respondent had the Complainant and its rights in the DRIVER HIRE mark in mind when it registered the 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.

Considering all the circumstances, the Panel finds it likely that the Respondent registered the Domain Name in bad faith. Its use of the Domain Name to promote its domain name business, no doubt for commercial gain, amounts to bad faith use. The Panel also anticipates that the Respondent may have registered the Domain Name with a view to selling it to the Complainant likely for considerably more than its out-of-pocket expenses in registering the Domain Name and that the redirection of the Domain Name to the webpage promoting the Respondent's domain name business was with that in mind.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith. The Panel finds that the 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 Domain Name <driverhireapp.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: September 17, 2024