

ADMINISTRATIVE PANEL DECISION

Doggett Company, LLC v. Richard Rawlings

Case No. D2024-3591

1. The Parties

Complainant is Doggett Company, LLC, United States of America (“US”), represented by Chamberlain, Hrdlicka, White, Williams & Aughtry, US.

Respondent is Richard Rawlings, US.

2. The Domain Names and Registrar

The disputed domain names <doggettacura.com>, <doggettaudi.com>, <doggettdodge.com>, <doggetthyundai.com>, <doggettmercedes-benz.com>, <doggettmercedesbenz.com>, <doggettmitsubishi.com>, and <doggettsubar.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 9, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names that differed from the named Respondent (Registration Private Domain By Proxy, LCC) and contact information in the Complaint. The Center sent an email communication to Complainant on September 11, 2024, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 17, 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 Respondent of the Complaint, and the proceedings commenced on September 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 11, 2024.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on October 18, 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

Complainant has a multiyear history in the forklift rental, warehousing, structural automotive parts, and associated sales businesses, currently running multiple auto and equipment dealerships in Texas and nearby states under the DOGGETT brand.

Complainant applied to register its DOGGETT marks with the US Patent and Trademark Office in Classes 12, 35, 37, and 42 on May 19, 2023, (Registration Numbers 7526296 (word mark) and 7526297 (stylized writing)), both of which matured to registration on October 8, 2024). The Panel notes that the US Trademark application file contains some pieces of evidence supporting the DOGGETT mark's first use and first use in commerce dating back to 2012 (and for certain classes, 2017). Public web pages accessed by the Panel at "www.archive.org" also show references to Complainant's operations from as early as 2017 in many locations, including at least in Texas, Louisiana, and Arkansas.

The disputed domain names <doggettaudi.com>, <doggetthyundai.com>, <doggettmitsubishi.com>, and <doggettsubaru.com> were registered February 24, 2024. The disputed domain names <doggettacura.com>, <doggettdodge.com>, <doggettmercedes-benz.com>, and <doggettmercedesbenz.com> were registered February 25, 2024.

All of the disputed domain names resolve either to inactive webpages or to parking pages provided by the Registrar.

5. Parties' Contentions

A. Complainant

To establish trademark rights for purposes of this proceeding, Complainant puts forth its 2023 applications for US Trademarks, as well as alleging that it enjoys common-law rights in the DOGGETT mark.

Complainant avers that it has prominently and extensively used, promoted, and advertised the DOGGETT marks and <doggett.com> for over 20 years and that it has been using the marks in connection with automotive dealerships since at least 2017.

Complainant alleges that it has controlled the domain name <doggett.com> since May 2, 2004, used for a website through which Complainant's goods and services are offered. Complainant also alleges that the <doggett.com> website is owned by an entity affiliated with, and under 100% common control of, Complainant.

Complainant also alleges that, via an affiliated entity, Complainant has used the marks in the domain names <doggettford.com> and <doggettauotgroup.com> since 2018. The Complaint annexes a photo of signage prominently featuring the DOGGETT mark for one of its auto dealerships, allegedly taken in 2022.

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

B. Respondent

Respondent did not reply to 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.

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 that the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the first element of Policy paragraph 4(a) 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.

Complainant alleges that Respondent has no license or authorization to use Complainant's marks. The Panel accepts these undisputed allegations.

Although not addressed by Complainant, it also appears that Respondent is not commonly known by the disputed domain name, and the Panel so finds.

Having reviewed the available record, the Panel finds that a prima facie case has been established that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted the prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel finds the second element of paragraph 4(a) 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.

As cited in sections 3.8.1 and 3.8.2 of the [WIPO Overview 3.0](#), while panels will not normally find bad faith on part of a respondent where a respondent has registered a domain name prior to a complainant's trademark rights having accrued, there are certain limited circumstances where the facts of the case establish that a

respondent's intent in registering a domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights.

In the present case, while the Complainant's rights were still pending at the time of registration of the disputed domain names, the Panel notes that Respondent composed each of the disputed domain names by taking the DOGGETT mark (which Complainant has used for several years in the auto sales and auto parts business in Texas, among other locations) and adding an automotive brand name. In his registration agreements, Respondent identified his address as being within the same region of Texas in where Complainant's business operations and auto dealerships are located. The Panel finds that it is highly unlikely that Respondent registered the disputed domain names without knowledge of Complainant's DOGGETT mark and associated businesses.

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, "coming soon," or parking page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes that Respondent targeted Complainant in each of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel finds that Complainant has established the third element of paragraph 4(a) of the Policy.¹

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 names <doggettacura.com>, <doggettaudi.com>, <doggettdodge.com>, <doggetthyundai.com>, <doggettmercedes-benz.com>, <doggettmercedesbenz.com>, <doggettmitsubishi.com>, and <doggettsubar.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: October 31, 2024

¹Complainant also contends that Respondent has created a pattern of abusive registration under the Policy. The other alleged UDRP proceeding against Respondent by Complainant in relation to the DOGGETT marks was apparently terminated without a published decision, see *Doggett Company, LLC v. Richard Rawlings*, WIPO Case No. [D2024-1567](#). The Panel is therefore unable to evaluate Complainant's contention that bad faith should be found on that basis.