

ADMINISTRATIVE PANEL DECISION

D Young & Co LLP v. Bob Gop

Case No. D2024-3734

1. The Parties

The Complainant is D Young & Co LLP, United Kingdom (“UK”), internally represented.

The Respondent is Bob Gop, United States of America.

2. The Domain Name and Registrar

The disputed domain name <dyoung.com> (the “Disputed Domain Name”) is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 16, 2024, 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 30, 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 October 1, 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 October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 24, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on October 29, 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 a UK headquartered firm of patent attorneys and solicitors founded over 130 years ago with over 200 people based in London, Munich and Southampton, and is listed in several recognized publications as a top tier practice for matters that involve intellectual property. The Complainant holds registrations for the trademark D YOUNG & CO in various countries including UK Registration No. 00915010192 for the mark D YOUNG & CO, registered on May 16, 2016 and European Union trademark registration number 015010192 for the D YOUNG & CO trademark, registered on May 16, 2016.

The Complainant owns the domain name <dyoung.com> which hosts a website operated by the Complainant.

The Disputed Domain Name was registered on August 12, 2024. The Disputed Domain Name resolves to an inactive website and has been used to send emails purporting to be from an employee of the Complainant that request payment of monies putatively due to the Complainant to a bank account that is not associated with the Complainant.

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 cites a number of trademark registrations for the mark D YOUNG & CO, in the United Kingdom and European Union, as prima facie evidence of ownership.

The Complainant submits that its rights in the mark D YOUNG & CO predate the Respondent's registration of the Disputed Domain Name. The Complainant submits that the Disputed Domain Name is confusingly similar to its trademark, for the reason that the Disputed Domain Name incorporates in its entirety the D YOUNG & CO trademark, and that the confusing similarity is not removed by the substitution of the letter "n" with the letter "m", or the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, "none of the circumstances which are specified in Paragraph 4(c) of the Policy as demonstrating the Respondent's rights to, or legitimate interest in, the Disputed Domain Name are present in this instance". The Complainant also contends that the Disputed Domain name was used to send "an email ... to a client of the Complainant ...purporting to be from the accounts department of the Complainant and fraudulently using the real name of the Complainant's actual Credit Controller. That email requests payment of monies due to the Complainant to a bank account that is not associated with the Complainant" and the Complainant contends that such use should not be considered as a bona fide offering of goods or services.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to evidence that points to "actual knowledge of the Complainant" and its trademarks, and, it submits that "the absence of any conceivable good faith use, should lead the Panel to the inevitable conclusion that there is no plausible circumstance under which the Respondent could legitimately register or use the Disputed Domain Name."

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed 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.

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 Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark D YOUNG & CO in several countries.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the D YOUNG & CO trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark D YOUNG & CO; (b) with the letter "n" replaced by the letter "m"; (c) the ampersand and letters respectively "& co" are deleted; and (d) followed by the gTLD ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "dyoumg".

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

A domain name which consists of a common, obvious, or intentional misspelling of a trademark such as in this case, where the letter "n" is substituted with the letter "m", is also considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

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 Disputed 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 Disputed 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 Panel finds that the word “dyoung” has no ordinary meaning other than in connection with the Complainant. Furthermore, there is no indication that the Respondent was commonly known by the term “dyoung” prior to registration of the Disputed Domain Name.

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 Panel notes the evidence that the Disputed Domain Name was used to send email correspondence that attempted to trick one of the Complainant’s clients into misdirecting a payment in an attempt to defraud the client and Complainant, and unsurprisingly finds that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use.

Panels have held that the use of a Disputed Domain Name for illegal activity here, phishing and impersonation/passing off, can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

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.

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.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, given the composition of the Disputed Domain Name, and the well-established rights the Complainant has in its trademark, the Panel is satisfied that the Respondent targeted the Complainant’s when it registered the Disputed Domain Name.

The Panel is prepared to infer from the deliberate typo that the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant’s trademark (see [WIPO Overview 3.0](#), section 3.2.2). In this case the Complainant’s mark was plainly targeted by the Respondent.

On the issue of use, the Complainant’s evidence is that the Disputed Domain Name resolves to an inactive website and has been used to send emails for the purpose of phishing.

Panels have also held that the use of a domain name for illegal activity here, claimed impersonation or passing off in an attempt to perpetrate a fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 Disputed Domain Name <dyoumg.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: November 4, 2024.