

ADMINISTRATIVE PANEL DECISION

Mphasis Limited v. Registration Private, Domains By Proxy, LLC
Case No. DAI2023-0012

1. The Parties

The Complainant is Mphasis Limited, India, represented by DePenning & DePenning, India.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <mphasis.ai> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2023. On June 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 29, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint or amendment to the Complaint. The Complainant filed an amended Complaint on July 20, 2023.

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 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 15, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on August 25, 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

The Complainant is a global information and technology services company based in India. It has traded under the name and trademark MPHASIS since approximately 2000.

The Complainant is the owner of various trademark registrations for or including the mark MPHASIS. Those registrations include, for example:

- India trademark registration number 1446309 for the word mark MPHASIS, registered on April 13, 2006 in International Class 42; and

- United States trademark registration number 6348487 for a combined mark MPHASIS THE NEXT APPLIED, registered on May 11, 2021 in International Classes 9, 35, and 42.

The disputed domain name was registered on May 15, 2023.

The disputed domain name does not appear to have resolved to any active website.

According to evidence submitted by the Complainant, in May 2023, the Complainant offered, on an anonymous basis and through a domain name broker, to buy the disputed domain name for a price of between USD 500 and USD 1,500. However, the response communicated by the broker was that the Respondent required USD 121,212 for the disputed domain name as it had plans to develop the domain.

5. Parties' Contentions

A. Complainant

The Complainant submits that the mark MPHASIS is an invented term which it has used continuously in connection with its services since 2000. The Complainant states that it is ranked as India's seventh largest IT company with more than 34,000 employees and a worldwide presence of more than 60 sales and delivery offices. It claim an annual turnover equivalent to over USD 1 billion and provides evidence of numerous industry awards obtained in recent years. It operates a website at "www.mphasis.com" and is also the owner of the domain name <mphasis.in> among others. It submits in these circumstances that the trademark MPHASIS has acquired distinctiveness as a trademark exclusively associated with the Complainant.

The Complainant submits that the disputed domain name is identical to its MPHASIS trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its MPHASIS trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is not making any *bona fide* commercial use of the disputed domain name. It submits, on the contrary, that the disputed domain name can only have been registered for the purpose of misappropriating the Complainant's reputation and diverting business from its legitimate websites.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that the registration of a widely-known and distinctive third-party trademark as a domain name is in itself indicative of bad faith. It further submits that the Respondent's reply to the Complainant's good-faith attempt to purchase the disputed domain name for a reasonable sum demonstrates the Respondent's bad faith in the matter.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in the mark MPHASIS. The disputed domain name is identical to that trademark and the Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Further, for the reasons set out below, the Panel finds that the Respondent registered and has used the disputed domain name in bad faith, in circumstances which cannot give rise to rights or legitimate interests on the Respondent's part. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel accepts the Complainant's evidence that its trademark MPHASIS has become distinctive of its services and is uniquely associated with the Complainant in commerce. The disputed domain name comprises an unadorned appropriation of the Complainant's trademark, which in the view of the Panel is inherently misleading and deceptive. In particular, the disputed domain name is liable of itself to misrepresent to Internet users that it must be owned or operated by, or otherwise legitimately associated with, the Complainant. Furthermore, the Panel is unable to conceive in the circumstances of any legitimate use that could be made of the disputed domain name other than by the Complainant or with its authorization.

The Panel finds further that (albeit in response to an enquiry from the Complainant) the Respondent attempted to sell the disputed domain name to the Respondent for the sum of USD 121,212, which the Panel finds to give rise to the circumstances contemplated by paragraph 4(b)(i) of the Policy, namely: "circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name." The Respondent's (unsupported) explanation that it intended to develop the disputed domain name is unavailing in circumstance where the Respondent could make no legitimate use of it.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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, <mpphasis.ai>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: September 8, 2023