

## **ADMINISTRATIVE PANEL DECISION**

DPDgroup International Services GmbH & Co. KG v. Falcone Ernesto  
Case No. D2022-1685

### **1. The Parties**

The Complainant is DPDgroup International Services GmbH & Co. KG, Germany, represented by Fidal, France.

The Respondent is Falcone Ernesto, Italy.

### **2. The Domain Name and Registrar**

The disputed domain name <dpdcargo.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 2022, 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 May 11, 2022.

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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 7, 2022.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on June 13, 2022. 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 an international parcel delivery service.

Among other registrations, the Complainant owns the following trademark registrations:

- European Union trademark registration for DPD (special script) No. 012722427, registered on August 14, 2014, in classes 9, 16, 35, 39 and 42; and
- International trademark registration for DPD & design No. 761146, registered on May 26, 2001, in classes 36 and 39.

The Complainant has also registered the domain name <dpd.com> in 1991.

The disputed domain name was registered on March 16, 2022.

At the time of filing of the Complaint, the disputed domain name resolved to a website reproducing the Complainant's trademarks and logos in connection with a purported offer of shipping services.

#### **5. Parties' Contentions**

##### **A. Complainant**

According to the Complainant, the disputed domain name is confusingly similar to its trademark DPD as it identically reproduces its trademark with the mere addition of the term "cargo".

The Complainant contends that the Respondent has no rights or legitimate interest in the disputed domain name for the following reasons: (i) the Respondent is not commonly known by the disputed domain name; (ii) the Respondent is not affiliated nor authorized by the Complainant in any way; specifically no license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name; (iii) the disputed domain name is being used to mislead consumers into believing that the Respondent's website is an official website of the Complainant or is approved by the Complainant, which confirms that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. According to the Complainant, the disputed domain name is being intentionally used to host a website that conveys the misleading impression that it is an official website of the Complainant, or is otherwise officially authorized, sponsored or endorsed thereby. These actions demonstrate, in the Complainant's eyes, an intention to unlawfully profit from the use of the Complainant's trademark.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 registered by the respondent has been registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

The disputed domain name reproduces in its entirety the Complainant's trademark DPD, with the addition of the term "cargo".

The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a domain name where the relevant trademark is recognizable within the disputed domain name does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

In the present case, the trademark DPD is clearly recognizable in the disputed domain name. The mere addition of the term "cargo" does not change the overall impression produced by the disputed domain name and does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Finally, UDRP panels also accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

The Panel finds accordingly that the Complainant has successfully established the requirement under paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

The Respondent has failed to file a response.

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent an authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The Respondent does not appear to have operated any *bona fide* or legitimate business under the disputed domain name and is not making a noncommercial or fair use of the disputed domain name. Instead, the disputed domain name redirected to an active website purporting to be an official website of the Complainant, which in the Panel's view demonstrates an obvious attempt on the part of the Respondent to mislead Internet users seeking the Complainant's services and website.

Finally, the Respondent did not file a response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b). The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent.

Therefore, the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Respondent combined in the disputed domain name the sole word element of the Complainant's trademark, namely "DPD", with the term "cargo", which is related to the Complainant's activity (see *DPDgroup International Services GmbH & Co. KG v. WhoisGuard Protected / Hoster Node*, WIPO Case No. [D2019-1039](#), concerning the domain name <dpd-cargo.com>). Furthermore, there is no doubt accordingly that the Respondent was aware of the Complainant's trademark at the time of registration of the disputed domain name. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The Respondent uses the disputed domain name in connection with an active website purporting to be an official website of the Complainant. A photograph of a warehouse and trucks bearing the logo of the Complainant is prominently displayed on the home page of the website connected to the disputed domain name. Furthermore, according to the Complainant, such website displays several email addresses built with the disputed domain name. This use is apt to lead Internet users into believing that the website at issue is an official website of the Complainant, and that they can contact the Complainant either by means of the contact form available on the website, or by means of the provided email address including the disputed domain name. Any such communication would presumably be received by the Respondent.

Under these circumstances, the Panel considers it likely that the Respondent's intent is to use the disputed domain name as a support for a potential fraudulent scheme, namely to impersonate the Complainant and extract personal or financial data from Internet users visiting his website. Previous UDRP panels have founds that such behavior amounts to use of a domain name in bad faith (see *Marriott International, Inc., Marriott Worldwide Corporation and The Ritz-Carlton Hotel Company, LLC v. Van C Bethancourt Jr., Andre Williams*, WIPO Case No. [D2018-2428](#) and *Accor v. Sangho Heo / Contact Privacy Inc.*, WIPO Case No. [D2014-1471](#)).

By using the disputed domain name in such manner, the Respondent intentionally attempted to attract, for the purposes of commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source and affiliation of this website. Such behaviour constitutes use in bad faith under paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel finds that the Respondent has registered and uses the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) 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 <dpdcargo.com> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: June 27, 2022