

## **ADMINISTRATIVE PANEL DECISION**

### **DPDgroup International Services GmbH & Co. KG v. Osazee Samuel Case No. D2022-4010**

#### **1. The Parties**

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

The Respondent is Osazee Samuel, Nigeria.

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

The disputed domain name <dpdparceldeliveries.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2022. On October 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 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 October 27, 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 October 27, 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 November 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 29, 2022.

The Center appointed Oleksiy Stolyarenko as the sole panelist in this matter on December 2, 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 in this proceeding is a German company specializing on delivery services.

The Complainant has been operating since 1977, and has 32,000 pickup points in 230 different countries.

The Complainant combines innovative technology and local knowledge to provide a flexible and user-friendly service for both shippers and shoppers.

The Complainant is the owner of numerous DPD trademarks in numerous jurisdictions, included but not limited to the following:

- European Union trademark for DPD DYNAMIC PARCEL DISTRIBUTION, No. 006159487, registered on August 19, 2009, in classes 35 and 39;

- International trademark for DPD (design mark), No. 761146, registered on May 26, 2001, in classes 36 and 39;

- International trademark for DPD (design mark), No. 1217471, registered on March 28, 2014, in classes 9, 16, 35, 39, and 42.

The Complainant operates its main Internet business through the domain name <dpd.com> which was registered on March 20, 1991.

The Complainant is the owner of numerous domain names including <dpd.asia>, <dpd.iz>, <dpd.ch>, <dpd.com>, <dpd.net>, <dpd.in>, <dpd.lu>, <dpd.fr>, and <dpd.eu>.

The Respondent appears to be a Nigerian individual. According to the Whois, the disputed domain name was registered on June 20, 2022. The disputed domain name does not resolve to an active website at the time of the decision. However, based on the evidence provided by the Complainant, the disputed domain name used to resolve to a website prominently depicting the DPD trademark, with a claim "Dpd Parcel Deliveries Your delivery Expert" on the top of the webpage and a note "dpdparceldeliveries Service and Logistics Company" at the center of the webpage. A cargo ship was used as a background to complete an impression of the shipping company website.

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

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

The Complainant contends that it has strong rights in the DPD trademark by virtue of its longstanding use and registration of the mark in a number of jurisdictions around the world. The Complainant argues that the disputed domain name is identical or confusingly similar to the Complainant's DPD trademark as it incorporates the Complainant's registered DPD trademark entirely. The additional words "parcel" and "deliveries" in the disputed domain name would be instantly understood by Internet users as a reference to the Complainant's DPD mark and services. These additional words in the disputed domain name are a descriptive reference indicating that the disputed domain name resolves to a website targeting current or potential customers of the Complainant.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use the DPD trademark in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent was fully aware of the Complainant's

reputation and the Complainant's trademark rights in the DPD trademarks when he registered the disputed domain name.

The disputed domain name was registered in bad faith. The website under the disputed domain name is a very confusing imitation of the Complainant's corporate website.

The use of the disputed domain name by the Respondent is disruptive to the Complainant's business and will harm the significant reputation that exists in the DPD trademark, and members of the public would suffer as a result of the Respondent's activity.

Therefore, the disputed domain name has been registered and used by the Respondent in an unfair manner and in bad faith. It is also inconceivable that the Respondent had any good faith intentions at the point of registering the disputed domain name.

The Complainant seeks a decision that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant has proved its rights in the DPD mark through the European Union and the International registrations covering multiple jurisdictions worldwide and dating back to 2001. Therefore, the Panel considers that the Complainant has satisfied the threshold requirement of having trademark rights in the DPD mark.

The disputed domain name is comprised of three words "dpd", "parcel", and "deliveries", and combined with the generic Top-Level Domain ("gTLD") ".com". The Panel finds that the addition of the words "parcel" and "deliveries" to the DPD mark in the disputed domain name does not prevent a finding of confusing similarity because the Complainant's trademark remains clearly recognizable in the disputed domain name. Such conclusion is consistent with findings of previous UDRP decisions. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#). Therefore, the Panel disregards the gTLD for the purposes of this comparison.

For all the foregoing reasons, the Panel finds that the first element of paragraph 4(a) of the Policy has therefore been satisfied by the Complainant.

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

Paragraph 4(a)(ii) of the Policy requires the Complainant to establish that the Respondent has no rights or legitimate interests in the disputed domain name. Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#). In this case, the Respondent did not rebut the Complainant's *prima facie* case regarding the lack of rights or legitimate interests.

However, the overall burden of proof remains with the Complainant. Paragraph 4(c) of the Policy provides circumstances that demonstrate a respondent's rights or legitimate interests to the disputed domain name, and that complainants frequently address to show that the activities of a respondent does not fall under the

*bona fide* offering of goods or services (paragraph 4(c)(i) of the Policy), that the respondent is not commonly known by the disputed domain name (paragraph 4(c)(ii) of the Policy) and that the respondent is not involved into a legitimate noncommercial or fair use of the disputed domain name (paragraph 4(c)(iii) of the Policy).

According to the Complainant, the Respondent is not authorized or licensed to use the Complainant's DPD trademark in the disputed domain name, as well as not in any way affiliated with the Complainant.

The disputed domain name used to resolve to a website which impersonates the official website of the Complainant, prominently displaying the DPD trademark along with additional claims related to the nature of the activities of the Complainant. The fact that the Respondent's website under the disputed domain name used to refer to the Complainant's type of activity and portray as a shipping company confirms that the Respondent was well aware that DPD is the trademark of the Complainant, and of the Complainant's services and activities. It has been found by the previous UDRP panels that any type of impersonation or passing off supports a finding that a respondent has no rights or legitimate interests in the domain name. See section 2.13.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

Therefore, the Panel finds that the Respondent is not involved in a *bona fide* offering of goods or services (under paragraph 4(c)(i) of the Policy) and the Respondent's activities does not fall under a legitimate noncommercial or fair use (under paragraph 4(c)(iii) of the Policy). According to the Registrar's information, "Osazee Samuel" is the registrant of the disputed domain name. The Panel does not find any evidence that the Respondent is commonly known by the disputed domain name. The Panel concludes that the Respondent is not commonly known by the disputed domain name under paragraph 4(c)(ii) of the Policy.

Moreover, the nature of the disputed domain name carries a risk of an implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that the Complainant has satisfied the second element of the Policy, namely paragraph 4(a)(ii).

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

As the Panel established above, the Complainant's DPD trademark was widely used in commerce well before the registration of the disputed domain name on June 20, 2022.

The Panel finds that the Respondent knew of the Complainant's DPD trademark when registering the disputed domain name. This conclusion is supported by the facts that the disputed domain name is confusingly similar to the Complainant's DPD trademark, that the disputed domain name used to be linked to a page prominently displaying the DPD trademark and statements indicating that this website was related to the shipping company, which is the core specialization of the Complainant.

Previous UDRP panels found that bad faith is demonstrated when the Respondent registered the disputed domain name with the purpose of using it for possible unlawful purposes by impersonating the Complainant, creating a likelihood of confusion and aiming to take undue advantage of the Complainant's reputation and goodwill. See *Minerva S.A. v. TT Host*, WIPO Case No. [D2016-0384](#).

The Panel finds here as well that the Respondent's intention has always been to use the disputed domain name to intentionally attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location (see paragraph 4(b)(iv) of the Policy).

Furthermore, the Panel finds it implausible that the disputed domain name could be used by the Respondent in good faith considering that it is confusingly similar to the Complainant's trademark, and the current non-use of the disputed domain name does not change the Panel's finding of the Respondent's bad faith.

The Respondent failed to submit a Response or provide any evidence of a good-faith use or to show rights or legitimate interests in the disputed domain name.

Therefore, under the totality of the circumstances, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii).

## **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 <dpdparceldeliveries.com> be transferred to the Complainant.

*/Oleksiy Stolyarenko/*

**Oleksiy Stolyarenko**

Sole Panelist

Date: December 21, 2022