

ADMINISTRATIVE PANEL DECISION

Deublin Company LLC v. Dan Austin

Case No. D2023-2018

1. The Parties

The Complainant is Deublin Company LLC, United States of America (“United States”), represented by PENDL MAIR Attorneys at Law OG, Austria.

The Respondent is Dan Austin, Australia.

2. The Domain Name and Registrar

The disputed domain name <deubliin.com> (the “Disputed Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2023. On May 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 8, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed a first amended Complaint on May 12, 2023 and a second amended Complaint on May 16, 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 May 16, 2023. The Respondent sent an informal communication on May 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2023. Accordingly, the Center notified Commencement of Panel Appointment Process on June 7, 2023.

The Center appointed Mariia Koval as the sole panelist in this matter on June 12, 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 was founded in 1945 and is the world's leading manufacturer of rotary unions and electrical slip rings which are used in equipment such as air clutches, gearboxes, machine tool spindles, and rubber and plastic manufacturing machinery. The Complainant also manufactures turbulence bars, siphons, and steam joints, which are sold to the automotive, machine tool, and printing industries. Currently, the Complainant operates globally, having entered in many markets around the world.

The Complainant is the owner of, among others, the following DEUBLIN trademark registrations (the "DEUBLIN Trademark"):

- United States Registration No. 817254, registered on October 25, 1966, in respect of goods in classes 13 and 23;
- European Union Trade Mark No. 005868856, registered on September 18, 2008, in respect of goods in classes 6 and 7.

The Complainant operates the domain name <deublin.com> for promoting its products under the DEUBLIN Trademark. The Complainant is also active on social media platforms such as Facebook, Twitter, LinkedIn, Instagram and YouTube.

The Disputed Domain Name was registered on April 3, 2023. As at the date of this Decision and when the Complaint was filed, the Disputed Domain Name resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's DEUBLIN Trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant is not aware that the Respondent is using or is planning to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, any use of the Disputed Domain Name so far has been in bad faith.

The Complainant further asserts that the Respondent has registered and is using the Disputed Domain Name in bad faith. It has come to the Complainant's knowledge that under the Disputed Domain Name, unknown parties have, via email, impersonated key employees of the Complainant's connected company - Deublin GmbH (Germany) - in order to convince the Complainant's customers to pay large sums of money to a bank account which is not owned by Deublin GmbH (phishing attempt). The Disputed Domain Name was used to deceive the Complainant's customers in thinking that these emails have been sent by Deublin GmbH. This Respondent's behavior disrupted the business of the Complainant and represents a clear registration and use of the Disputed Domain Name in bad faith.

B. Respondent

The Respondent forwarded an informal communication where he indicated that he has never registered the Disputed Domain Name and has no intention to claim it as his own. The Respondent noted that it was

obviously some sort of computer glitch when the Disputed Domain Name was registered. The Respondent also informed that he is ready to immediately transfer the Disputed Domain Name to the rightful owner.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, in order for the complainant to succeed it must satisfy the panel that:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has properly asserted its rights in the DEUBLIN Trademark due to the long use and registrations worldwide.

The Disputed Domain Name reproduces the DEUBLIN Trademark in its entirety with the addition of an added letter “i”, as well as the generic Top-Level Domain (“gTLD”) “.com”. As it is well accepted, the gTLD can be disregarded in the comparison with the Complainant’s DEUBLIN Trademark for the purposes of the Policy. Moreover, the Disputed Domain Name appears to be a typical example of typosquatting, *i.e.* a misspelling of the Complainant’s DEUBLIN Trademark. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel finds that addition of one more letter “i” in this case does not prevent the Disputed Domain Name from being confusingly similar to the Complainant’s DEUBLIN Trademark.

In light of the above, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s DEUBLIN Trademark, and that the Complainant has established the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

In accordance with section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the Complainant, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. If such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to come forward with such relevant evidence, the Complainant is generally deemed to have satisfied the second element.

Taking into account the facts and arguments given above, the Panel finds that the Complainant has made a *prima facie* case. The Respondent registered the Disputed Domain Name more than 50 years after the DEUBLIN Trademark had been registered. There is no evidence that the Respondent owns any “Deublin” trademark, nor that it is commonly known by the Disputed Domain Name. Moreover, the Respondent has failed to come forward with any evidence to rebut such *prima facie* case.

There is also no evidence that the Respondent is using the Disputed Domain Name to offer *bona fide* goods and services or making a legitimate noncommercial or fair use of the Disputed Domain Name. On the

contrary, according to the evidence presented by the Complainant (Annex 6 to the Complaint) the Respondent has used, and/or is using, the Disputed Domain Name for the fraudulent scheme, namely, to impersonate employees of the Complainant's connected company in order to send the fraudulent invoices to the Complainant's customers requesting them to pay such invoices. For the purpose of such fraudulent scheme, the Respondent has used an email address "[...]@deubliin.com" that incorporates the Disputed Domain Name. The Respondent has also used the signature of the employee which gave the impression that the sender of this email works with the Complainant's connected company. In pursuance of section 2.13.1 of the [WIPO Overview 3.0](#), "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent". With respect to the circumstances of this case, the Panel considers that it is obvious that the Respondent registered the Disputed Domain Name with good awareness of the Complainant and with the sole intention of commercial gain by creating a likelihood of confusion with the Complainant's DEUBLIN Trademark as to the source of the email communication sent using the Disputed Domain Name.

Also, given the typosquatting nature of the Disputed Domain Name, the construction of the Disputed Domain Name is likely to mislead or cause confusion, which was likely the main intent of the Respondent when registering the Disputed Domain Name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent.

The Respondent did not file any response to the Complaint and did not participate in this proceeding, respectively, the Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Name.

In view of the foregoing, the Panel finds that the Respondent lacks rights or legitimate interests in the Disputed Domain Name and that the Complainant succeeds under the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel comes to the conclusion that the Disputed Domain Name was registered and is being used in bad faith in view of the following. The Complainant obtained the registration of the DEUBLIN Trademark almost 60 years earlier than the Respondent registered the Disputed Domain Name in 2023. Taking into account all circumstances of this case, it is highly likely that the Respondent was very well aware of the Complainant's business and its DEUBLIN Trademark when registering the confusingly similar Disputed Domain Name that completely incorporates the Complainant's Trademark. The Panel considers it is obvious bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's DEUBLIN Trademark so as to create a false association or affiliation with the Complainant.

Moreover, the Disputed Domain Name, incorporating the Complainant's DEUBLIN Trademark in its entirety with intentional addition of the additional letter "i", is clearly deceptive for Internet users with respect to the person manufacturing the goods. This also indicates that the Respondent was well aware of the Complainant's DEUBLIN Trademark when registering the Disputed Domain Name.

Given the use of the Disputed Domain Name, as further described above and below, the Respondent obviously chose to register the Disputed Domain Name, which is a misspelling of the Complainant's DEUBLIN Trademark, for the only purpose of misleading unsuspecting Internet users by creating a likelihood of confusion with the Complainant's DEUBLIN Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's emails.

The Panel notes that the Disputed Domain Name is being used by the Respondent for a fraudulent scheme. Evidence presented by the Complainant show that the Respondent impersonated employees of the Complainant's connected company for sending the fraudulent invoices to the Complainant's customers with request to pay such invoices. The Respondent has used an email address "[...]@deubliin.com" that

incorporates the Disputed Domain Name and has also used the signature of the employee which obviously made the impression of the sender's connection with the Complainant's connected company. In accordance with the [WIPO Overview 3.0](#), section 3.4, UDRP Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution (in some such cases, the respondent may host a copycat version of the complainant's website). Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers. Taking into account the above Respondent's use of the Disputed Domain Name, such behavior cannot be in any way considered as a good faith.

The Panel is also of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's DEUBLIN Trademark, intended to disrupt the Complainant's business and confuse Internet users seeking for or expecting the Complainant. In view of the absence of any evidence to the contrary and that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

In accordance with section 3.6. of the [WIPO Overview 3.0](#), there are recognized legitimate uses of privacy and proxy registration services; the circumstances in which such services are used, including whether the respondent is operating a commercial and trademark-abusive website, can however impact a panel's assessment of bad faith. The Panel considers that, taking into account all circumstances of this case, the Panel considers that the Respondent's use of privacy service constitutes further evidence of bad faith registration and use of the Disputed Domain Name.

In view of the foregoing, the Panel finds that the paragraph 4(a)(iii) of the Policy has been satisfied by the Complainant

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, <deubliin.com>, be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: June 26, 2023