.hk Domain Name Dispute Resolution
ARBITRATION PANEL DECISION

Complainant: DPD Dynamic Parcel Distribution GmbH & Co. KG
Respondent: FAXIAN LI
Case Number: DHK-1700141
Contested Domain Name: <dpdgroup.hk>
Panel Member: Mr. William Law

1. Parties and Contested Domain Name

The Complainant was established in Germany in 1998 and is a subsidiary of GEOPOST SA of France. The Respondent is an individual with address in Guangdong Province, China and registered the Contested Domain Name on January 18, 2017.

2. Procedural History

On April 25, 2017, the Complainant submitted a Complaint in English language in respect of the Disputed Domain Name <dpdgroup.hk> to Hong Kong International Arbitration Centre ("HKIAC") and elected the case to be dealt with by one single panelist according to the Domain Name Dispute Resolution Policy, adopted by the Hong Kong Domain Name Internet Registration Corporation Limited (HKIRC) on 22 February 2011 (the "Policy"), the HKIRC Domain Name Dispute Resolution Policy Rules of Procedure, approved by HKIRC on 22 February 2011 (the "Rules") and the HKIAC Supplemental Rules effective from 1 March 2011.

On April 25, 2017, HKIAC sent a New Case Notification to the Registrar to verify and confirm registration information. On May 2, 2017, the Registrar replied HKIAC to confirm that the registrant of the Disputed Domain Name is same as the Respondent. The Registrar also confirmed that the Policy shall apply.

On May 2, 2017, HKIAC transmitted the Complaint to the Respondent by email and informed the Respondent of the 15-day period to file a Response. However, no Response has been filed.
On May 25, 2017, HKIAC informed the Complainant and copied the Respondent on the Respondent's default to respond to the Complaint.

On May 29, 2017, HKIAC informed the parties of the appointment of Mr. William Law as the sole panelist and the decision would be rendered on or before June 20, 2017.

3. **Factual Background**

For the Complainant

The Complainant registered the following trademarks in HK since at least 2005 and a large number of trademarks all over the world:

<table>
<thead>
<tr>
<th>Application / Trade Mark No.</th>
<th>Priority Date</th>
<th>Trade Mark</th>
<th>Class No.</th>
<th>Applicant / Owner's Name</th>
<th>Type</th>
<th>Status</th>
</tr>
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<tr>
<td>300419364</td>
<td>9, 36, 39</td>
<td>DPD</td>
<td>36, 39</td>
<td>DPD DYNAMIC PARCEL DISTRIBUTION GmbH &amp; Co. KG</td>
<td>Registered TM</td>
<td>Registered</td>
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<tr>
<td>2014-03-21</td>
<td>9, 16, 35, 39, 42</td>
<td>dpd</td>
<td></td>
<td>DPD DYNAMIC PARCEL DISTRIBUTION GmbH &amp; Co. KG</td>
<td>Registered TM</td>
<td>Registered</td>
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<tr>
<td>303527318</td>
<td></td>
<td>dpdgroup</td>
<td>39</td>
<td>DPD DYNAMIC PARCEL DISTRIBUTION GmbH &amp; Co. KG</td>
<td>Registered TM</td>
<td>Registered</td>
</tr>
</tbody>
</table>

4. **Parties' Contentions**

The Complainant

1. The Disputed Domain Name, i.e. "dpdgroup.hk" is identical and/or confusingly similar to the Complainant's business name and trade marks. The "hk" should be disregarded. The addition of generic top-level domain names such as ".com" or country code top-level domain name such as .hk or .com.hk to portions of the Disputed Domain Name is irrelevant in relation to the confusingly similar analysis. The case of Conair Corporation vs. Tom Lee CCTV Ltd., DHK-1400108, (Hong Kong Intl Arb. Cntr. Jul. 23, 2014) supports this point.
2. The Respondent has no rights and/or legitimate interests in respect of the Disputed Domain Name due to the reasons below:

(a) The Respondent has not asserted any purported legitimate interest. According to our search on the trade marks register, there is no registration or pending application for trademarks bearing “dpd” or “dpdgroup” owned or filed by the Respondent at the Trade Marks Registry of Hong Kong as at today; and

(b) The Respondent’s registration of the Disputed Domain Name appears to have been intended to exploit the Complainant’s “DPD” trademark and/or business name, rather than using it in a bona fide offering of goods and/or services and/or a legitimate non-commercial use without intent for commercial gain.

(c) The unlawful use of the Disputed Domain Name by the Respondent constitutes infringement of the Complainant’s trade marks in Hong Kong.

3. The Disputed Domain Name has been registered and used in bad faith on the following grounds:

(a) The Complainant was established in Germany in 1998 and is a subsidiary of GEOPOST SA of France. GEOPOST SA is one of the major Express companies in Europe. Its DPD Group including the Complainant is the second largest international parcel delivery network in Europe having 50,000 delivery experts and a network of 27,450 pick-up stations for delivery of 3.6 million parcels in 230 countries every day. Further information of the DPD group can be viewed as www.dpd.com.

(b) The Complainant or its affiliated companies all over the world have not licensed or otherwise permitted the Respondent to register the domain name incorporating the business name and “DPD”, “dpd” and “dpdgroup” (“the Complainant’s Marks”) and there is no affiliation between the parties. The Respondent is not an authorized agent or licensee of the Complainant’s products and/or services in any way.

(c) Registration of the Disputed Domain Name by the Respondent has
the effect of preventing the Complainant and its affiliated companies from using their business name and/or trademark rights through a corresponding domain name in Hong Kong.

(d) The Respondent would not have registered the Disputed Domain Name had he or she conducted a proper trademark search before registering it. In fact, the Complainant had through its attorneys in France & Hong Kong sent a number of cease and desist letters to the Respondent with regard the domain name “dpd.hk” in the years 2015-2016, copy of which are attached herewith. The Complainant had received no response from the Respondent.

(e) The Applicant had on 26 July 2016 submitted a Complaint in English on domain name “dpd.hk” being held by the Respondent during that time. Copy of the decision made by the Panel member, Mr. Tan Loke-Khoon on 7 November 2016 is attached.

(f) On 18 January 2017, the Respondent registered the Disputed Domain Name.

(g) The Panel is invited to visit the Disputed Domain Name where the content is a reproduction of the Complainant’s Marks, business name and the information depicted from the Complainant’s website at www.dpd.com. Indeed, the Respondent had done the same thing for the domain name “dpd.hk”. Attached please find the Printouts of the content downloaded from the Disputed Domain Name. The Complainant is of the view that the Respondent is clearly engaged in cyber squatting to misconduct consumer looking for DPD Group’s website.

(h) The content of the website of the Disputed Domain Name is likely to cause confusion, to cause mistake, and to deceive as to the origin, sponsorship, or approval of the Respondent's commercial activities by the Complainant. By using the domain name and fraudulent content of webpage, the Respondent has intentionally attempted to confuse or deceive Internet users that they will receive services from the Complainant or its affiliated companies.

The Complainant would like to draw to the Panel’s attention to the case of Awesome Kids LLC v. Selavy Comm., D2001-0210 (WIPO Apr. 16, 2001) to support the requirements of identical or confusingly similar domain name, namely:

“that the domain name misappropriate sufficient textual components from the mark such that an ordinary Internet user who is familiar with the goods or services distributed under the mark would upon seeing the domain name likely think that owing to the visual and/or phonetic similarity between the mark and the domain name that an affiliation
exists between the site identified by that domain name and the owner or licensed users of the mark."

4. The Complainant asserts that the Disputed Domain Name is not the individual name of the Respondent, or any name which the Respondent is commonly known by. Thus the Respondent cannot rely on the individual name to claim rights or legitimate interest in relation to the Disputed Domain Name.

The Respondent

The Respondent did not file any response.

5. Findings

According to Paragraph 4a of the HKDNS Domain Name Dispute Resolution Policy (the "Policy") which is applicable hereto, the Complainant has the burden of proving that:

(i) the Disputed Domain is identical or confusingly similar to a trade mark or service mark in Hong Kong in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain; and

(iii) the Disputed Domain has been registered and is being used in bad faith; and

(iv) if the Disputed Domain Name is registered by an individual person, the Registrant does not meet the registration requirements for that individual category of Domain Name.

(1). Identical/confusing similarity

The distinctive part of the Contested Domain Name <dpdgroup.hk> is "dpd". The word "group" is a generic description of the size of the organization and therefore should be ignored for the purpose of domain name dispute. The Complainant owns quite a large number of "DPD" trademarks all over the world and particularly in Hong Kong way before. As such, with no evidence to the contrary, I am satisfied that the Complainant has civil rights or interests in the mark, "DPD" and that the distinctive part of the Contested Domain Name is identical to such mark.
(2). Rights or Legitimate Interests of Respondent

The Complainant submitted that it has never authorized the Respondent to use any of its intellectual property. The Respondent has the burden of proof to establish that he has rights or legitimate interests in the Contested Domain Name. However, since the Respondent defaulted in contesting the Complainant’s allegations, with no evidence to the contrary, I accept the Complainant’s submissions that:

(1) the Respondent’s use of the Contested Domain Name is not in connection with a bona fide offering of goods or services;

(2) the Respondent has not been commonly known by the Contested Domain Name. Further there has been no evidence to show that the Respondent has acquired any trademark or service mark rights and/or reputations in connection with the mark through bona fide use of the Contested Domain Name.

I am therefore satisfied that the Respondent has no rights or legitimate interest to register and use the Contested Domain Name.

(3). Bad faith

The Complainant alleged that the unlawful use of the Contested Domain Name by the Respondent constitutes infringement of the Complainant’s trade marks in Hong Kong.
I notice that the same Respondent has registered <dpd.hk> before and the website constructed under the Contested Domain Name in above shows that the Respondent must be well-aware of the Complainant and the business of the Complainant and even tried to pass its business off as the Complainant. The wholesale infringement or even fraudulent use of the Contested Domain Name by the Respondent is well calculated. I accept that Respondent has attempted to confuse or deceive Internet users that they will receive services from the Complainant or its affiliated companies.

As such, I am satisfied that the Respondent has registered and used the Disputed Domain Name in bad faith with an intention to take advantage of the Complainant's business and reputation.

(4). If the Disputed Domain Name is registered by an individual person, the Registrant does not meet the registration requirements for that individual category of domain name

Not applicable to this case.

6. Conclusions

In conclusion, the Complainant has satisfied all the grounds laid down in the Policy. I therefore order that the Contested Domain Name be transferred to the Complainant.

William Law

Dated June 15, 2017