

**.ie Alternative Dispute Resolution
NETNEUTRALS DISPUTE RESOLUTION SERVICE**

Decision of Independent Specialist

Case Number: 758

1. The Parties:

Complainant:	Dr. Mohd Hafiz Mohd Ali
Registrant:	John Poller

2. The Domain Name(s):

doctor.ie	(‘the Domain Name’)
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3. Procedural History:

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

The procedural history is as follows:

Action	Comment / date
Dispute received	3 rd January 2025
Complaint validated	3 rd January 2025
Notification of complaint sent to Complainant	7 th January 2025
Notification of complaint sent to Respondent	7 th January 2025
Phone calls to respondent	
Letter sent to respondent	
Forum Opened	7 th January 2025
Complaint Form received	27 th January 2025
Response received	9 th February 2025
Forum Closed	7 th March 2025
Adjudication Started	10 th March 2025
Adjudication Decision Posted	12 th March 2025
Specialist Decision published	12 th March 2025

4. Factual Background

The Complainant is a medical doctor in Ennis, Co. Clare. The Complainant is affiliated with an Irish company, Symbiosis Healthcare Ltd. (“Symbiosis”). The complaint appears to suggest he is a shareholder in that company, however the exact nature of his affiliation is not clear from his complaint. Symbiosis provides various general practitioner services online using the domain dooctor.ie, which it registered in 2023.

The Registrant registered the domain name doctor.ie in 2010 alongside other medical domain names registered on behalf of his brother and (now deceased) father, both medical doctors. His brother, Dr. David Poller, is registered with the Medical Council of Ireland.

The domain name has been parked since 2020 with Parkingcrew.net (Team Internet) and has served pay per click advertising since then for various medical services.

In July 2024 the Complainant contacted the Registrant through an agent (concealing his relationship with dooctor.ie) and sought to purchase the domain. During correspondence from July until December 2024 the Registrant quoted €20,000 as a selling price for the domain and the Complainant ultimately offered €15,000.

5. Parties’ Contentions

Complaint

A summary of the Complaint is as follows:

The Complainant submits that:

- “We can be perceived as not being a legitimate GP services because of the perception of the spelling of our brand (Dooctor.ie) causing concerns and confusions among our patients. We are known as Doctor.ie in pronunciation and with all verbal communications between our staff and patients either in our medical practices or by phone, even though our brand spells Dooctor.ie. This causes negative impacts on our Company resulting in huge financial loss.”
- The domain name causes confusion to patients who try to access dooctor.ie but instead use third party services which advertise on the pay per click landing page.
- The Registrant has changed the services listed on the landing page after he sought to buy the domain.
- The Registrant is seeking payment of a sum greater than the registration fee.
- The domain was primarily registered to prevent the Registrant from using it in the future.

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Response

A summary of the Response is as follows:

The Registrant submits that:

- The domain name is a generic term which predates the Complainant's service by over a decade. Its registration cannot be in bad faith or aimed at preventing the Complainant from registering the domain.
- Given the generic nature of the domain name the pay per click landing page will naturally list medical related services. Furthermore those links will change automatically over time change based on factors such as visitor interaction with the site without any action by the Registrant.
- "It is unfortunate that the complainant did not fully investigate possible future sources of visitor confusion when they themselves decided to register in 2023 a name for their online business which is a typographical error of the dictionary word 'doctor' and is confusingly similar to my prior registered domain name."
- The complainant ought to have established a business on a domain name with a more distinctive name in the patients' or public's mind rather than one that is so confusingly similar to the generic term 'Doctor'.
- "The complainant has attempted in 2024 to acquire the name via a 3rd party at a 'knock down price' and when his efforts came to nothing – has started a 'domain dispute' with the IEDR in an attempt to 'reverse hijack' the domain name and seeks to acquire it again at minimal cost by an abuse of the complaints process. For these reasons this case should be dismissed at an early stage as having no merit and vexatious in nature."

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6. Discussions and Findings

Matters to be proved:

Under paragraph 4.1 of the Alternative Dispute Resolution Policy ('ADRP') the burden of proof is on the Complainant who must prove three elements, specifically that:

- A. the Complainant would ordinarily be eligible to register the domain name in question if it was not already registered by the Registrant, and
- B. the Complainant
 - (i) has rights in the domain name or in marks or identifiers very similar to it, or
 - (ii) that the Complainant's rights have been negatively impacted by the registration, and
- C. the registration of the domain should be revoked as it has been registered or used abusively or in bad faith.

A. Complainant Eligibility to Register the Domain Name

The Complainant is resident and practises in Ireland. I therefore find that he has a sufficient connection with the island of Ireland as required by the *IEDR Policy on Registration and Naming in the .IE Namespace* (effective 21 March 2018) and would be eligible to register the domain name if it was not already registered.

B. Complainant's Rights in the Domain Name

(i) Rights in the domain name or in marks or identifiers very similar to it

Paragraph 4.1.B(i) of the ADRP defines the term "right", so far as relevant, to provide that:

Any legal or other enforceable right can be considered, including but not limited to:

- Trade and service marks protected in the island of Ireland, or [...]
- Unregistered rights acquired through use.

Both of these will be considered in turn.

Trade/Service Mark

The Complainant has not alleged that he or Symbiosis holds any trade or service mark in doctor.ie or dooctor.ie. It should be noted that a registered business name from the Companies Registration Office does not confer any rights in the name.

Unregistered rights acquired through use

To establish an unregistered right, a complainant must show that it would be entitled to bring an action for passing off in relation to the disputed domain name. This requires that the complainant runs a business on the island of Ireland and has goodwill in this business, and that the unregistered trade mark is a distinctive identifier of that business. (See Case No. DIE2013-0002, *Budget Energy Limited (Budget Energy ROI) and Budget Energy Limited (Budget Energy NI) v. Prepay Power Limited.*)

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The Complainant has provided evidence that Symbiosis has traded using the domain name dooctor.ie since 2023. However he has not indicated that he himself has any rights in the domain name, nor the exact nature of his connection with the company, nor his authority to represent it.

The Complainant has provided limited evidence which would tend to show goodwill and rights in dooctor.ie – i.e. that it has become a distinctive identifier which consumers would associate with Symbiosis. In particular the Complainant has provided some examples of advertising. However, particularly where the business is so new, one would expect to see further evidence of public reputation such as “(i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, or (v) consumer surveys” (*WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition para.1.3), and no such evidence has been provided. The Complainant does appear to have uploaded some financial data via screenshots; however those screenshots were so pixellated as to be unreadable.

The Complainant’s case of goodwill in dooctor.ie is also entirely undermined by his own statement that “We are known as Doctor.ie in pronunciation and with all verbal communications between our staff and patients either in our medical practices or by phone, even though our brand spells Dooctor.ie”.

Nevertheless for the purposes of this decision I will assume without deciding that the Complainant is authorised to bring this complaint on behalf of Symbiosis, that Symbiosis does have a sufficient public reputation in dooctor.ie to have rights in that name, and that dooctor.ie is very similar to doctor.ie.

(ii) Complainant’s rights negatively impacted by registration

Given the assumption that the Complainant has “rights in the domain name or in marks or identifiers very similar to it” it is not necessary to consider this point.

C. Domain Used or Registered Abusively or in Bad Faith

Under paragraph 4.1 of the ADRP the Complainant must prove that ‘the registration of the domain should be revoked as it has been registered or used abusively or in bad faith’. These terms are defined in paragraph 1 of the ADRP which provides that:

‘Abusively registered’ refers to a domain name which was registered or used to take unfair advantage of or was unfairly detrimental to the Complainant’s Rights; [and]

‘Bad Faith’ means a domain name which was registered or used without legitimate intent, and/or to engage in deceptive conduct [...]

Paragraph 4.1.C of the ADRP includes a non-exhaustive list of examples of abuse and bad faith, and as far as relevant provides that:

‘A Complainant can demonstrate that the domain has been registered or is being used Abusively or in Bad Faith by the Registrant if it can provide evidence that:

- The domain name was registered or is being used with the primary purpose of

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selling or renting it specifically to the Complainant (or a competitor) for more than the Registrant paid for it, or

- The domain name was registered or is being used with the primary purpose of preventing the Complainant registering a name or mark in which the Complainant has rights, or
- The domain name was registered or is being used with the primary purpose of unfairly disrupting or interfering with the Complainant's business, or
- The domain name is being used in a way that is likely to confuse people or businesses into believing that it is registered to, operated or authorised by, or otherwise connected with the Complainant'

The Complainant has not put forward any evidence of any sort tending to show abusive registration or bad faith.

The Complainant asserts that "The domain was primarily registered to prevent the Registrant from using it in the future". This is plainly wrong as the domain name was registered more than a decade prior to dooctor.ie being registered.

The Complainant relies on the fact that the Registrant has not made use of the domain name beyond a parking page. However paragraph 4.1.C of the ADRP specifically provides that this is not of itself evidence of abuse or bad faith. In addition, the Complainant states that 'domain owner has no genuine use for the domain, yet refuses to release it, likely because they are holding out for a premium price from the right buyer.' However this fundamentally misunderstands the burden of proof under the ADRP. It is for the Complainant to demonstrate abuse or bad faith, not for the Registrant to demonstrate any intention to use the domain name.

The Complainant also alleges that the Registrant has changed the advertising hosted on the landing page which visitors see. However the Complainant has provided no evidence tending to show this. The automated nature of pay per click advertising services is well known and I accept the Registrant's point that advertising on those services will change over time, without any input from the domain owner, due to factors such as user behaviour and advertiser bidding. The Registrant has provided uncontradicted evidence that Parkingcrew.net (Team Internet) has managed the advertising on the parking page since 2000, including a number of screenshots at various times over this period, and I accept his evidence on this point.

Finally, the Registrant has stated that this complaint is an example of reverse domain name hijacking and an abuse of the complaints process. In considering the issue of abuse and bad faith it is appropriate to consider the behaviour of the Complainant also, and I accept the submission that this complaint is itself abusive. The behaviour of the Complainant in registering a domain name so close to the Registrant's and then complaining of consumer confusion is reminiscent of the old definition of chutzpah as "that quality enshrined in a man who, having killed his mother and father, throws himself on the mercy of the court because he is an orphan." (Rosten, *The Joys of Yiddish* (1968)). However as the ADRP does not include a provision regarding reverse domain name hijacking I decline to make a finding on that specific point.

I therefore find that the Complainant has not established abuse or bad faith and I do not need to consider any further points which might be made by the Registrant under paragraph 4.2.A.

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7. Decision

For the foregoing reasons the Complaint is denied.

Signed: Dr. TJ McIntyre

Dated: 11 March 2025
