



**CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE**  
**DOMAIN NAME DISPUTE**  
**ADMINISTRATIVE PANEL**  
**DECISION**

|                               |   |                                |
|-------------------------------|---|--------------------------------|
| CIIDRC case number:           | 18327-CDRP  | Decision date: October 4, 2022 |
| Domain Name:                  | <b>sedationdentalgroup.ca</b>                     |                                |
| Panel:                        | <b>Anton Melnyk, KC</b>                           |                                |
| Complainant:                  | <b>Dania Alkhani Dentistry Professional Corp.</b> |                                |
| Complainant's representative: | <b>Mario Torres of Brazeau Seller Law</b>         |                                |
| Registrant:                   | <b>Hazim Alkhani</b>                              |                                |

#### 1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel:

The particulars of the case are as follows:

1. On August 10, 2022, the above-named Complainant filed a Complaint pursuant to the CDRP and the Resolution Rules. The identity of the Registrant is not published in the public WHOIS database; therefore, the Registrant's name was not included in the Complaint.
2. On August 10, 2022, CIRA was notified of this proceeding, and on the same date, CIRA transmitted by email to CIIDRC its verification response informing who is the Registrant of the disputed domain name. CIRA also confirmed that the <**sedationdentalgroup ca**> domain name was placed on a Registrar LOCK.
3. On August 10, 2022, CIIDRC, as Service Provider, confirmed compliance of the Complaint and commencement of the dispute resolution process.
4. The Complainant did not file any further submissions with respect to the issue of the Registrant's legitimate interest (or lack thereof) in the disputed domain name, as permitted by section 11.1 of the CIRA Domain Name Dispute Resolution Rules Version 1.5.

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5. Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded a Notice with login information and the link to the Complaint to the Registrant on August 10, 2022.
6. The Registrant failed to file its response by the due date of August 30, 2022.
7. The Complainant in this administrative proceeding has elected for a Panel consisting of a single-member.
8. On September 8, 2022 I was appointed sole panelist.
9. On September 15, 2022 the Complainant filed supplemental submissions.
10. On September 28, 2022 I extended the time for the Decision to October 4, 2022.

The Domain Name was registered on .May 24, 2021

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

## 2. FACTS ALLEGED BY THE COMPLAINANT

By a Share Purchase Agreement dated October 3, 2019, the Complainant purchased from Diane Dmytrowski all her shares in D. Dmytrowski Dentistry Professional Corporation, which, on the same date, purchased all the assets of Diane Dmytrowski, Dentistry Professional Corporation.

The definition of "assets" in the Share Purchase Agreement in Article 1 includes:

- (h) "Assets" means all of the assets, real and personal, tangible and intangible, and undertaking of the Corporation, including without limiting the foregoing:
- i) The goodwill of each Dental Practice, including all records, patient charts, x-rays and models pertaining to the Dental Practices (subject to the rights of patients) and including the use of any practice names used by the Corporation, DPC1 or the Vendor in the Dental Practices;

The trade name, "Sedation Dental Group" was thus included in the purchase.

Subsequent to the purchase of the shares and dental practice, the Registrant registered the domain name and it appears that on May 24, 2021 he extended the registration.

At the time of the registration, the Registrant was an employee of the Complainant.

On May 25, 2022, in a letter, the Registrant's employment with the Complainant was terminated and he was advised:

"In addition, we need you to immediately facilitate a transfer of the credentials/access to the clinic's website: <https://sedationdentalgroup.ca/> by Friday, June 3, 2022. We asked you on several occasions for this, but you have refused to do so. Please contact me to effect this transfer so the clinic can have the necessary access to its website which, as you know, is vital to its operations."

The Registrant did not transfer the Domain Name to the Complainant.

### **3. CONTENTIONS OF THE COMPLAINANT**

The Complainant asserts that the Registrant has no legitimate interest in the Domain Name.

### **4. DISCUSSION AND FINDINGS**

#### **4.1 Eligibility**

The Complainant is an eligible complainant under paragraph 1.4 of the CDRP which provides:

**“1.4 Eligible Complainants.** The person initiating a Proceeding (the **“Complainant”**) must, at the time of submitting a complaint (the **“Complaint”**), satisfy the Canadian Presence Requirements for Registrants (the **“CPR”**) in respect of the domain name that is the subject of the Proceeding unless the Complaint relates to a trade-mark registered in the Canadian Intellectual Property Office (**“CIPO”**) and the Complainant is the owner of the trade-mark.”

Paragraph 2(d) of the Canadian Presence Requirements for Registrants, Version 1.3 provides:

“2. (d) Corporation. A corporation under the laws of Canada or any province or territory of Canada;”

The Complainant satisfies this requirement.

#### **4.2 Requirements**

In accordance with Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove:

That the Domain Name is Confusingly Similar to a trademark or service mark in which the Complainant has rights:

That the Registrant has no legitimate interests in the Domain Name; and

That the Domain Name has been registered in bad faith.

The Panel will consider each of these requirements in turn.

#### **4.3 Analysis**

##### **4.3.1 That the Domain Name is Confusingly Similar to a Mark in which the Complainant has Rights**

The Complainant's Trade Name and the Domain Name are identical and are confusingly similar.

