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Awards and Recognitions

Various establishments and institutions across the world have recognized the selfless service of Brahma Kumaris which has been working for world peace and upliftment of humanity. Some are mentioned here.

- Brahma Kumaris is affiliated to the Department of Public Information (DPI) of the United Nations as a Non-Governmental Organisation (NGO).
- In the Economic and Social Council (ECOSOC) and the UNICEF of the UN, it holds the consultative status. The organization has an office at the UN.
- The United Nations "University for Peace" in Costa Rica receives its co-operation in the field of peace education by means of an official agreement.
- The Government of Mauritius has recognized it as a University by an Act of Parliament.
- The Government of Guyana has adopted the principle of starting the proceedings of their Parliament with three minutes Rajayoga Meditation as suggested by the institution.
- The Brahma Kumaris has been awarded UN Peace Medals for 1981 and 1986 and Chief of Brahma Kumaris, Dadi Prakashmani, was awarded International Peace Messenger Award from Secretary General of UN in 1987. Five more National Peace Messenger Awards have also been received by Brahma Kumaris centres in Australia, Kenya etc.
- Dadi Prakashmani was honoured by Mohanlal Sukhadia University, Udaipur, India by conferring Doctorate Degree in Literature for her outstanding contribution to the cause of learning, spreading and development of spiritual, moral and human values.
- The Chief of Brahma Kumaris was invited by the World Parliament of Religions to participate and deliver Presidential Address in its Centenary Celebrations at Chicago on 31st August 1993. She was also signatory to the Global Ethics Document adopted by the leaders of World Religions in the said programme.
- Dadi Prakashmani has been honoured by being presented 'City Medal', 'Key to City' etc.. by Mayors of New York, Los Angeles, Sao Paulo, Tuskegee, Bulwayo, Nairobi, Frankfurt, etc..
- Dadi Prakashmani has been honoured by being presented "Dharma Ratna" award on religion by World Religious Parliament, New Delhi, a 'Trophy' for her outstanding contribution for the welfare of humanity and 'Global Peace' by Shri C.Subrahmanyam. Governor of Maharashtra at the Felicitation Function arranged by Priyadarshani Academy Bombay. She was invited as a State Guest on several occasions during her tour of Maharashtra, Karnataka, Orissa, Gujarat and Rajasthan.

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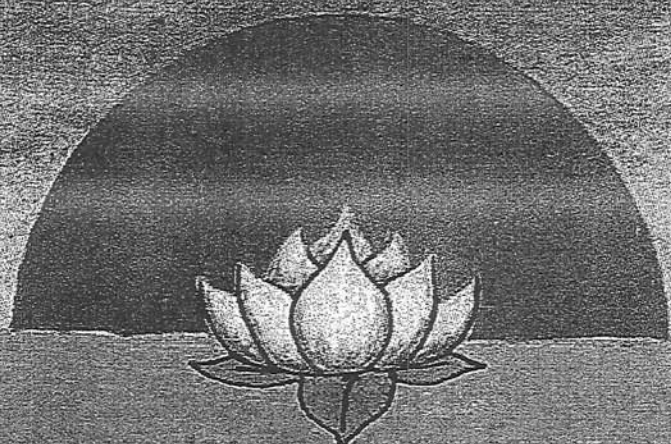
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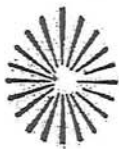


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PENGAD-Bayonne, N. J.
EXHIBIT
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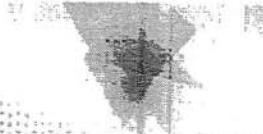
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Case Details for WIPO Case D2005-0637

WIPO Case Summary

WIPO Case Number	D2005-0637
DDomain name(s)	ukbet.com ukbet.org
Complainant	UK Betting PLC
Respondent	Pam Oldfield
Panelist	Willoughby, Tony
Decision Date	31-Aug-2005
Decision	<u>Complaint denied</u>

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was August 17, 2005. The Response was filed with the Center on August 5, 2005.

The Center appointed Tony Willoughby as the sole panelist in this matter on August 22, 2005. 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, UK Betting PLC, is a company incorporated in the United Kingdom. It provides online betting services. The Complaint contains next to no information on the company save that it has been trading under the name UK Betting PLC for seven years and operates "the UK's leading sport content and betting sites".

Certainly from its main betting sites at "www.ukbetting.com" and "www.totalbet.com" it appears to conduct substantial business within its field of operation.

The Respondent registered the Domain Names on February 11, 2004, and March 24, 2005 respectively. Both of the Domain Names are connected to Sedo directory parking pages featuring links to a variety of betting sites.

On March 8, 2005, the Respondent wrote to the Complainant offering to sell the domain name, <ukbet.com>, for £25,000. The Complainant rejected the offer. Over the following two months, the Respondent made several other approaches to the Complainant offering to sell the Domain Names for ever reducing sums of money. The last offer dated May 19, 2005, nominated a price of £7,950 for the pair.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Names are confusingly similar to its corporate name UK Betting PLC and its domain name <ukbetting.com>, names which it claims are trade marks in which the Complainant owns unregistered rights.

In its original form the Complaint contains no specific claim to any trade mark rights. In its amendment to the Complaint, the relevant claim reads as follows:

"UK Betting PLC operates the UK's leading sports content and betting sites and is a public company listed on the London Stock Exchange Alternative Investment Market (AIM) and therefore have [sic] an active investment in associated branding and have [sic] established substantial goodwill and reputation in connection with the name.

UKBETTING.COM is not a registered trade mark, however it is the UK registered company name used in connection with the online betting services provided by this business."

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Names.

The Complainant contends that the Respondent is not commonly known by the Domain Names, nor does the Respondent offer any directly related services. The Sedo parking pages connected to the Domain Names are simply directory pages featuring links to betting sites of others.

At the time that the first version of the Complaint was sent to the Respondent, the Sedo parking pages indicated that the Domain Names were for sale.

The Complainant contends that in doing what she is doing the Respondent is not making a legitimate, non-commercial or fair use of the Domain Names.

The Complainant contends that there is potential for diversion of the Complainant's clientele to the Complainant's competitors, links to whose site feature on the Sedo parking pages.

The Complainant also refers to the correspondence in which the Respondent has been straining every nerve to sell the Domain Names to the Complainant for a substantial profit.

The Complainant contends that this is not indicative of a Respondent with rights or legitimate interests in respect of the Domain Names.

The Complainant further contends that the Domain Names were registered in bad faith and are being used in bad faith.

The Complainant points to the correspondence and contends that the Respondent registered the Domain Names for one reason only, namely to sell them to the Complainant at a substantial profit.

B. Respondent

The Respondent denies that the Domain Names are identical or confusingly similar to any trade mark or service mark in which the Complainant has rights. The Complainant contends that she conducted searches prior to registering the domain name <ukbet.com> and found no trace of any trade mark comprising "UKBET".

The Respondent contends that the Domain Names are composed solely of the common descriptive term "UK BET", a term featuring the ordinary words "uk" and "bet". The Respondent contends that the Domain Names are generic and commonly descriptive.

The Respondent draws attention to other descriptive domain names where slight variants are owned by different registrants e.g. <ukdomain.com> and <ukdomains.com> and <ukshop.com>, <ukshops.com> and <ukshopping.com>, all of which are separately owned.

The Respondent contends that she has rights or legitimate interests in respect of the Domain Names. She says that she registered <ukbet.com> on February 11, 2004, with a view to developing it as a gambling website. For various reasons she was unable to pursue her objective.

The Respondent says that she only listed the Domain Names for sale after discussions with interested parties had ended. The interested parties to which she refers are gambling services companies with which she was hoping to co-operate.

The Respondent produces a draft of a webpage that she said she was hoping to develop with a website developer at the time that the WIPO Complaint was received.

The Respondent denies that the Domain Names were registered in bad faith and are being used in bad faith. She says that when she was trying to sell the Domain Names she had not singled out UK Betting PLC. She had approached a number of other companies. She produces in evidence a copy of an email from Coral Eurobet Holdings Limited indicating that that company was interested in purchasing the domain name <ukbet.com> providing that the price was right. That email was dated February 19, 2004. The Respondent observes that it is not unlawful for a domain name registrant to seek to sell a generic domain name. The Respondent states that she registered <ukbet.org> in order to protect the main domain name, <ukbet.com>.

The Complainant contends that she is not using the Domain Names in bad faith. They are being used to provide directory links to gambling companies and thereby provide a legitimate service to the public.

6. Discussion and Findings

General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove that

- (i) The Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) The Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) The Domain Name has been registered in bad faith and is being used in bad faith.

A. Identical or Confusingly Similar

The first hurdle that the Complainant has to overcome is to prove that it has relevant trade mark rights. There are no registered rights, but are there unregistered rights?

Unregistered trade mark rights are rights to stop unauthorized third parties using a name or mark which is likely to lead to deception. In other words, they are common law rights in passing off.

To succeed in a passing off action one has to prove (*inter alia*) a reputation and goodwill in respect of the name or mark in question. Descriptive names are capable of acquiring distinctiveness (e.g. BRITISH AIRWAYS and BRITISH PETROLEUM), but the more descriptive the name, the more by way of evidence that a court will require to establish reputation and goodwill; moreover, the more descriptive the name, the narrower the ambit of protection that a court will afford to the name.

Accordingly, to demonstrate a reputation and goodwill in respect of a name as descriptive as 'UK BETTING', the court will require details of trading such as length of trading under the name, volume of sales under the name, advertising expenditure in respect of the name, independent evidence from traders, customers etc, etc. For the purposes of an administrative proceeding such as this, the relevant information can be provided in short form, but the Panel still needs to be satisfied that the relevant reputation and goodwill subsists in respect of the name or mark.

While the Panel has no information of that kind before it, at the invitation of the Complainant the Panel has visited the principal websites of the Complainant and, as indicated above, it is plain that substantial business is conducted through those sites. The Panel has visited that part of the site at "www.ukbetting.com" featuring corporate information on the Complainant and accepts that if a third party were to start up in competition with the Complainant under the name UK Betting, the Complainant would be likely to succeed in a passing off action to restrain that third party.

On that basis the Panel finds that on the balance of probabilities the Complainant has trade mark rights in the name UK BETTING.

However, as indicated above, where the name in question is very descriptive, the ambit of protection to be afforded to it is likely to be very narrow.

UK BETTING is a highly descriptive name. Such rights as subsist in the name will be weak. The Panel doubts that a Court would restrain use of a name such as UK BET at the suit of the Complainant without cogent evidence of likelihood of confusion/deception. The Complaint contains no evidence of any likelihood of confusion or deception, simply an unsupported assertion that there is potential for diversion of business. Interestingly, under the heading of 'Bad faith registration and use' (paragraph 4(a)(i) of the Policy), the Complaint contains no allegation along the lines of paragraph 4 (b)(iv) of the Policy (i.e. broadly, use of a domain name to deceive Internet users for commercial gain), but simply a contention that the Respondent registered the Domain Names with a view to selling them to the Complainant or a competitor for profit (paragraph 4(b)(i) of the Policy).

At all events, the Complainant has failed to satisfy the Panel that the Domain Names are confusingly similar to the Complainant's trade mark UK BETTING and the Complaint fails.

This case has raised an interesting point. As indicated below, the Panel is by no means certain that the Respondent can fairly be said to have rights or legitimate interests in respect of the Domain Names and finds on the evidence adduced, notwithstanding the Respondent's assertions to the contrary, that the Respondent registered the Domain Names in order to sell them at a profit to someone engaged in the business of online gambling in the United Kingdom (i.e. either the Complainant or a competitor of the Complainant). On that basis, had the Complainant been able to overcome this, the first hurdle, which is generally recognized to be a low hurdle, the Complaint might well have succeeded and the Respondent would have been deprived of two manifestly descriptive domain names.

In the view of this Panel, in circumstances such as this where the Complainant's trade mark is at the descriptive end of the scale of distinctiveness, the extent of the Complainant's trade mark rights and the issue of confusing similarity needs to be looked at very carefully, if injustice is not to result.

B. Rights or Legitimate Interests

Given the finding of no confusing similarity, it is unnecessary for the Panel to make a finding under this head. However, the Panel's doubts expressed above as to whether the Respondent can fairly be said to have rights or legitimate interests in respect of the Domain Names, call for an explanation.

The issue is as to whether the Respondent's use of the Domain Names constitutes a *bona fide* offering of a service within the meaning of paragraph 4(c)(i) of the Policy.

The Respondent claims that she registered the Domain Names as descriptive names in order to use them for "a gambling website, which would have a Casino and Poker room". There is no evidence of any substance before the Panel to demonstrate that the Respondent was seriously proposing to do anything of the sort, simply a couple of undated and very rudimentary draft webpages, which could have been generated at any time. If operating a gambling website was truly her purpose, there should be in existence a wealth of other and more convincing material to demonstrate her plans.

Instead, the Respondent has parked the Domain Names on a Sedo directory site featuring prominent links to a variety of gambling-related sites and less prominent links to a number of other trading sites. Initially, the Sedo page indicated that the Domain Names were for sale. She claims that she "removed the domain for sale feature three days before receiving the WIPO complaint". However, the email which she produces to support that claim is inconclusive, and the fact remains that she did offer the Domain Names for sale.

While there is no reason in principle why the use of a predominantly descriptive domain name for the purpose of a directory service appropriate to the domain name should not constitute a *bona fide* service within the meaning of paragraph 4(c)(i) of the Policy, the circumstances set out above do not make such a finding easy in this case.

C. Registered and Used in Bad Faith

Again, there is no need for a finding under this head. However, and notwithstanding the protestations of the Respondent to the contrary, the Panel is satisfied that the Respondent registered the Domain Names in order to sell them to a business engaged in the field of online betting services in the United Kingdom, in other words to the Complainant or a competitor of the Complainant.

As the Respondent points out, there is nothing reprehensible in trading in generic names, but the fact is that if a complainant succeeds in overcoming the first two hurdles under paragraph 4(a) of the Policy, paragraph 4(b)(i) of the Policy will bite irrespective of whether or not the domain name in question is generic.

7. Decision

The Complaint is dismissed.

Tony Willoughby
Sole Panelist

Dated: August 31, 2005

Domain Name Dispute Proceedings and Decisions

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Search Results for Domain Dispute Cases

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Case No.	Domain(s)	Case Name	Domain Policy	Commenced	Status	Decision Date
102724	hannoverre.com	Hannover Ruckversicherungs- Aktiengesellschaft v Hyunki Ryu	UDRP	12/11/2001	<u>Transferred</u>	1/7/2002

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DECISION

Hannover Ruckversicherungs-Aktiengesellschaft v. Hyungki Ryu
Claim Number: FA0112000102724

PARTIES

Complainant is **Hannover Ruckversicherungs-Aktiengesellschaft**, Hannover ("Complainant") represented by **Robert A. Badgley**, of **Lord, Bissell & Brook**. Respondent is **Hyungki Ryu**, Guro Gu ("Respondent").

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**hannoverre.com**>, registered with **Gabia, Inc.**

PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge, has no known conflict in serving as Panelist in this proceeding.

Hon. Ralph Yachnin as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum (the "Forum") electronically on December 4, 2001; the Forum received a hard copy of the Complaint on December 6, 2001. The Complaint was submitted in both Korean and English.

On December 5, 2001, Gabia, Inc. confirmed by e-mail to the Forum that the domain name <**hannoverre.com**> is registered with Gabia, Inc. and that Respondent is the current registrant of the name. Gabia, Inc. has verified that Respondent is bound by the Gabia, Inc. registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On December 11, 2001, a Korean language Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of December 31, 2001 by which Respondent could file a Response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts, and to postmaster@hannoverre.com by e-mail.

Having received no Response from Respondent, using the same contact details and methods as were used for the Commencement Notification, the Forum transmitted to the parties a Notification of Respondent Default.

On January 4, 2001, pursuant to Complainant's request to have the dispute decided by a single-

member Panel, the Forum appointed Hon. Ralph Yachnin as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its Decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any Response from Respondent.

Pursuant to Rule 11(a) the Panel determines that the language requirement has been satisfied through the Korean language Complaint and Commencement Notification and, absent a Response, determines that the remainder of the proceedings may be conducted in English.

RELIEF SOUGHT

Complainant requests that the domain name be transferred from the Respondent to the Complainant.

PARTIES' CONTENTIONS

A. Complainant

The disputed domain name <**hannoverre.com**> is identical to the HANNOVER RE mark, in which Complainant holds rights.

Respondent has no rights or legitimate interests in respect of the disputed domain name.

Respondent registered and used the disputed domain name in bad faith.

B. Respondent

Respondent did not submit a Response in this proceeding.

FINDINGS

Complainant is the world's fifth largest reinsurance company, headquartered in Hannover, Germany. Similar to other reinsurance companies (*e.g.* Swiss Re, Munich Re, Transatlantic Re, etc.), Complainant is commonly known as Hannover Re. Complainant asserts that by doing business all over the globe and having received international recognition and acclaim, its name enjoys worldwide fame. Among its various international locations, Complainant holds an office in Seoul, Korea, which is Respondent's apparent place of residence.

Complainant holds several registered trademarks throughout the world incorporating the words HANNOVER and RE. Complainant registered the trademark HANNOVER RE in Germany as a "well-known mark" (Durchgesetztes Zeichen) in International Class 36 in April 1980, as Registration No. 1,001,472. The mark was registered and has been used in connection with insurance and financial services.

Respondent registered the disputed domain name on October 21, 2000. At the time the Complaint was filed, Respondent had made no use of the domain name but to display an "under construction" page. By way of correspondence between the two parties, Respondent asserted that it intended to form, but that it had not yet formed, a real estate company in Korea named after the city of Hannover, Germany. In the same letter, Respondent offered to transfer ownership of the domain name to Complainant for \$400,000 (USD).

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

In view of Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(e), 14(a) and 15(a) of the Rules.

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

Complainant has sufficiently established its rights in the HANNOVER RE mark through registration with the German government. It is immaterial that Respondent is not a German resident, as Policy ¶ 4(a)(i) is satisfied when a Complainant registers its mark with any governmental agency. *See Koninklijke KPN N.V. v. Telepathy Inc.*, D2001-0217 (WIPO May 7, 2001) (finding that the Policy does not require that the mark be registered in the country in which a Respondent operates; it is sufficient that a Complainant can demonstrate a mark in some jurisdiction); *see also Smart Design LLC v. Hughes*, D2000-0993 (WIPO Oct. 18, 2000) (holding that ICANN Policy ¶ 4(a)(i) does not require Complainant to demonstrate exclusive rights, but only that complainant has a bona fide basis for making the complaint in the first place).

The disputed domain name <hannoverre.com> is identical to Complainant's HANNOVER RE mark, as spaces are impermissible in domain names and a generic top-level domain such as “.com” or “.net” is required in domain names. *See Wembley Nat'l Stadium Ltd. v. Thomson*, D2000-1233 (WIPO Nov. 16, 2000) (finding that the domain name <wembleystadium.net> is identical to the WEMBLEY STADIUM mark); *see also Croatia Airlines v. Kwen Kijong*, AF-0302 (eResolution Sept. 25, 2000) (finding that the domain name <croatiaairlines.com> is identical to the Complainant's CROATIA AIRLINES trademark).

Accordingly, the Panel finds that Policy ¶ 4(a)(i) has been satisfied.

Rights or Legitimate Interests

Complainant has established that it has rights to and legitimate interests in the HANNOVER RE mark. Because Respondent has failed to submit a Response in this proceeding, the Panel may presume that Respondent has no rights or legitimate interests in the disputed domain name. *See Pavillion Agency, Inc. v. Greenhouse Agency Ltd.*, D2000-1221 (WIPO Dec. 4, 2000) (finding that Respondents' failure to respond can be construed as an admission that they have no legitimate interest in the domain names).

Respondent has made no use of the domain name for over a year after registration. Such non-use amounts to passive holding, which suggests that Respondent has no rights or legitimate interests in the disputed domain name. *See American Home Prod. Corp. v. Malgioglio*, D2000-1602 (WIPO Feb. 19, 2001) (finding no rights or legitimate interests in the domain name <solgarvitamins.com> where Respondent merely passively held the domain name); *see also*

Bloomberg L.P. v. Sandhu, FA 96261 (Nat. Arb. Forum Feb. 12, 2001) (finding that no rights or legitimate interest can be found when Respondent fails to use disputed domain names in any way).

Although Respondent once claimed that it intended to use the disputed domain name for a commercial purpose, Complainant asserts that this explanation was pretextual, as evidenced by Respondent's willingness to sell the domain name. See *J. Paul Getty Trust v. Domain 4 Sale & Co.*, FA 95262 (Nat. Arb. Forum Sept. 7, 2000) (finding rights or legitimate interests do not exist when one has made no use of the websites that are located at the domain names at issue, other than to sell the domain names for profit). As Respondent has not come forward to rebut Complainant's assertion, the Panel will accept it as true. See *Talk City, Inc. v. Robertson*, D2000-0009, (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint"); see also *AT&T Corp. v. Domains by Brian Evans*, D2000-0790 (WIPO Sept. 27, 2000) (finding no rights or legitimate interests where Respondent alleged that it intended to use the domain name <attweb.com> for a company called "At the Web" but failed to provide any evidence as to the existence of the company).

The Panel thus finds that Policy ¶ 4(a)(ii) has been satisfied and that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Registration and Use in Bad Faith

Respondent's offer to sell the disputed domain name for \$400,000 is strong evidence of bad faith registration and use under Policy ¶ 4(b)(i). See *Matmut v. Tweed*, D2000-1183 (WIPO Nov. 27, 2000) (finding bad faith under Policy ¶ 4(b)(i) where Respondent stated in communication with Complainant, "if you are interested in buying this domain name, we would be ready to sell it for \$10,000"); see also *Grundfos A/S v. Lokale*, D2000-1347 (WIPO Nov. 27, 2000) (finding that Respondent's failure to use the domain name in any context other than to offer it for sale to Complainant amounts to a use of the domain name in bad faith).

Respondent's intentional selection of a domain name that wholly incorporated Complainant's well known mark provides further evidence of registration and use in bad faith, as Respondent should have been aware of the proprietary nature of the mark. See *Singapore Airlines Ltd v. P & P Servicios de Comunicacion S.L.*, D2000-0643 (WIPO Aug. 29, 2000) ("The domain name <singaporeairlines.com> is so obviously connected with a well-known airline that its very registration and use by someone with no connection to the airline suggests opportunistic bad faith"); see also *Samsonite Corp. v. Colony Holding*, FA 94313 (Nat. Arb. Forum Apr. 17, 2000) (finding that evidence of bad faith includes actual or constructive knowledge of a commonly known mark at the time of registration).

Finally, Respondent's passive holding of the disputed domain name for over a year also indicates bad faith under the Policy. See *Clerical Med. Inv. Group Ltd. v. Clericalmedical.com*, D2000-1228 (WIPO Nov. 28, 2000) (finding that merely holding an infringing domain name without active use can constitute use in bad faith); see also *DCI S.A. v. Link Commercial Corp.*, D2000-1232 (WIPO Dec. 7, 2000) (concluding that the Respondent's passive holding of the domain name satisfies the requirement of paragraph 4(a)(iii) of the Policy).

Accordingly, the Panel finds that Policy ¶ 4(a)(iii) has been satisfied.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that the requested relief should be hereby **granted**.

Accordingly, it is Ordered that the <**hannoverre.com**> domain name be **transferred** from Respondent to Complainant.

Hon. Ralph Yachnin, Panelist
Justice, Supreme Court, NY (Ret.)

Dated: January 7, 2001

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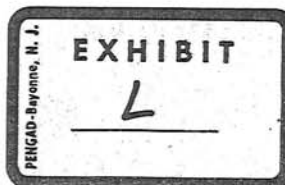
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Records 1 to 1 of 1

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DECISION

The Prudential Insurance Company of America v. Douglas Irvine

Claim Number: FA0010000095768

PARTIES

The Complainant is **The Prudential Insurance Company of America**, Newark, NJ, USA ("Complainant") represented by **Maribel Figueredo, The Prudential Company of America**. The Respondent is **Douglas Irvine**, West Palm Beach, FL, USA ("Respondent").

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is **prudentialonline.com** registered with **Network Solutions**.

PANELIST

On November 3, 2000 pursuant to Complainant's request to have the dispute decided by a One Member panel, the Forum appointed James P. Buchele as Panelist.

The Panelist certifies that he has acted independently and impartially and to the best of his knowledge, has no known conflict in serving as the panelist in this proceeding.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum ("the Forum") electronically on October 6, 2000; The Forum received a hard copy of the Complaint on October 6, 2000.

On October 9, 2000, Network Solutions confirmed by e-mail to the Forum that the domain name **prudentialonline.com** is registered with Network Solutions and that the Respondent is the current registrant of the name. Network Solutions has verified that Respondent is bound by the Network Solutions 5.0 registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN's UDRP.

On October 9, 2000, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of October 30, 2000 by which Respondent could file a Response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts, and to postmaster@prudentialonline.com by

e-mail.

Having received no Response from Respondent, using the same contact details and methods as were used for the Commencement Notification, the Forum transmitted to the parties a Notification of Respondent Default.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the Forum has discharged its responsibility under Paragraph 2(a) of the Uniform Rules "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its Decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the Forum's Supplemental Rules and any rules and principles of law that the panel deems applicable, without the benefit of any Response from the Respondent.

RELIEF SOUGHT

The Complainant requests that the domain name be transferred from the Respondent to the Complainant.

PARTIES' CONTENTIONS

A. Complainant

Respondent's registration of the Domain Name violates the ICANN Policy because:

1. the domain name is identical to or confusingly similar to the trademark of the Complainant; (2) the Respondent has no rights or legitimate interests in or to the domain name; and (3) the Respondent registered and is using the domain name in bad faith. *See* ICANN Policy ¶ 4.a.

B. Respondent

The Respondent did not submit a response to the Complaint or otherwise contest the Complainant's assertions. Under paragraph 14(b) of the Rules, the Panel shall draw such inferences from the Respondent's default, as it considers appropriate. Nevertheless, the Panel can only rule in the Complainant's favor after it has proven that the requisite three elements listed below are present.

FINDINGS

1. For 125 years, Complainant has used its well-known PRUDENTIAL name and mark in connection with a wide variety of insurance, securities, investment, financial and real estate services throughout the United States and the world.
2. The PRUDENTIAL trademark is the subject of trademark registrations in over 50 countries, including the United States. In the United States, Complainant owns over 100 U.S. trademark registrations for its PRUDENTIAL and PRUDENTIAL combination marks, including PRUDENTIAL ONLINE (registered 12/02/97; No. 2118060).
3. Since January 1996, Complainant, through its wholly owned subsidiary Prudential Securities Incorporated, has offered its customers online access to their account information and bill payment over the Internet under the trademark PRUDENTIAL ONLINE. The PRUDENTIAL

ONLINE capabilities have been expanded so that Complainant's customers can now access information regarding their mutual funds and variable universal life insurance policies 24 hours/7days a week.

4. The Complainant owns many websites that contain its famous marks, for example, <www.prudential.com> and <www.prudentialsecurities.com> (US web sites); and <www.prudential-bache.com>; <www.prudential.co.kr> (Korean web site); <www.prudential.co.jp> and <www.prufa.co> (Japanese web sites); and <www.prudentialbradesco.com.br> (Brazilian web site).
5. On January 28, 2000, the Respondent registered the domain name, **prudentialonline.com**.
6. The Respondent is not affiliated with the Complainant and has not been licensed or otherwise authorized to use the PRUDENTIAL name.
7. On or about May 11, 2000, Complainant learned that the Domain Name had been registered by the Respondent and was being used by him in connection with a business called Prudential National Leasing Inc., an equipment leasing and financing business.
8. On May 17, 2000, Complainant's counsel sent a cease & desist letter, to Respondent via electronic mail and certified mail, return receipt requested, both at the addresses identified in the domain name's "Whois" data.
9. Complainant received a letter dated June 2, 2000 from Respondent's counsel indicating a willingness to transfer the domain name in question to the Complainant.
10. During an August 28, 2000 telephone call between Respondent and Complainant's counsel, Respondent told Complainant's counsel that: (a) he was no longer represented by counsel for this matter, (b) his company, Prudential National Leasing, was no longer operational and that he was phasing out the company name, which should be completed in 3 months, (c) that he refused to transfer the domain name to Complainant without adequate compensation because his webmaster told him it was valuable. Later in the day on August 28, 2000, Respondent sent a fax dated August 25, 2000 stating that Prudential National Leasing was winding down its business and stating: "With regard to the matter of www.prudentialonline.com it seems, by your correspondence, that your client may have an interest in owning that domain name and as such we would entertain any reasonable offer."
11. On August 31, 2000, Complainant's counsel sent a letter offering Respondent up to \$200 to reimburse him for registration expenses.
12. In his response fax dated September 22, 2000, Respondent told Complainant's counsel that such an offer was "not worth considering."
13. Upon information and belief, Respondent no longer makes use of the domain name.

DISCUSSION

Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Policy ("Policy") requires that the complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
 - (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
1. the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

With respect to the first ICANN factor, the domain name is identical and confusingly similar to the Complainant's registered marks. The domain name is identical to the Complainant's PRUDENTIAL ONLINE trademark. In addition, the root of the domain name, namely the word "Prudential," is identical to the PRUDENTIAL and PRUDENTIAL combination marks owed by Complainant. Thus, the domain name in its entirety is confusingly similar to the family of PRUDENTIAL and PRUDENTIAL combination trademarks, owned by Complainant. *See, e.g., Cardservice Int'l, Inc. v. McGee*, 950 F.Supp. 737 (E.D. Va.), *aff'd*, 129 F.3d 1258 (4th Cir. 1997) ("cardservice.com" confusingly similar to "Card Service" trademark; permanent injunction granted); *Public Service of New Mexico v. Nexus Energy Software, Inc.*, 36 F.Supp. 2d 436 (D. Mass. 1999) ("www.energyplace.com" confusingly similar to trademark "Energy Place"; preliminary injunction granted); *Washington Speakers Bureau, Inc. v. Leading Authorities, Inc.*, 49 F. Supp. 2d 496 (E.D. Va. 1999) ("washingtonspeakers.com" confusingly similar to trademark "Washington Speakers Bureau"; preliminary injunction granted). As such, the first element of the ICANN test is satisfied.

Rights or Legitimate Interests

With respect to the second ICANN factor, the Panel concludes that the Respondent has no rights or legitimate interests in the domain name in question. In conversation with the Complainant, the Respondent indicated that he registered the domain name in connection with his company, Prudential National Leasing. However, the Respondent also indicated that his company was no longer operational and was willing to transfer the domain name.

While that Respondent might have once had rights in the domain name, it is evident that he no longer has any legitimate interest in using the domain name. He is not currently using the domain name for any commercial or noncommercial purpose. Policy ¶ 4.c.(i), (iii). It seems he is only holding the domain name in order to make a profit by selling it to the highest bidder.

He is also no longer known by the term Prudential National Leasing given that his company is no longer operational. Thus, he could not possibly be commonly known by the term PRUDENTIAL ONLINE anymore. Policy ¶ 4.c.(ii).

In addition to the above, the Respondent has not responded to the Complainant's assertions. *See Canadian Imperial Bank of Commerce v. D3M Virtual Reality Inc. and D3M Domain Sales*, AF-0336 (eResolution Sept. 23, 2000) (finding no rights or legitimate interest where no such right or interest is immediately apparent to the Panel and Respondent has not come forward to suggest any such right or interest that it may possess). As such, the second element of the ICANN test is satisfied.

Registration and Use in Bad Faith

With respect to the third ICANN factor, the Panel concludes that the Respondent has registered and used the domain name in bad faith. The Respondent's refusal to accept the Complainant's reasonable offer for reimbursement of the domain name registration costs and the Respondent's statements indicate that the Respondent is holding the domain name in order to sell it to the highest bidder. This is evidence of bad faith registration and use based on Policy ¶ 4.b.(i). *See World Wrestling Fed. Entertainment, Inc. v. Bosman*, D0099-0001 (WIPO Jan. 14, 2000) (finding that Respondent used the domain name in bad faith

because he offered to sell the domain name for valuable consideration in excess of any out of pocket costs); *VARTEC TELECOM, INC. v. Jim Olenbush*, D2000-1092 (WIPO Sept. 28, 2000) (finding bad faith registration where the Respondent registered the domain in order to sell it "for far more than he paid for it" by sending a general email to the Complainant offering the domain name for sale).

As such, the third element of the ICANN test is satisfied.

DECISION

Having established all three elements required by the ICANN Policy Rule 4(a), it is the decision of the panel that the requested relief be granted.

Accordingly, for all of the foregoing reasons, it is ordered that the domain name **prudentialonline.com** be transferred from the Respondent to the Complainant.

James P. Buchele, Arbitrator

Dated: November 6, 2000

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Expires on: 27-Mar-08
Last Updated on: 10-Mar-07

Administrative Contact:
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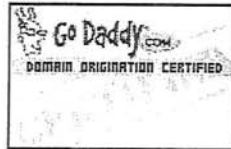
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(Complainant))

v.)

(Respondent))
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Case No. FA0709001075486

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