

ADMINISTRATIVE PANEL DECISION

Muitas Ltd v. Milen Radumilo

Case No. D2022-4979

1. The Parties

Complainant is Muias Ltd, Cyprus, represented by Silverstein Legal, United States of America (“United States”).

Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <clips4dsale.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2022. On December 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 28, 2022, 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 (Contact Privacy Inc. Customer 0165584120) and contact information in the Complaint. The Center sent an email communication to Complainant on December 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on December 29, 2022.

The Center verified that the Complaint together with the amendment to the 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 Respondent of the Complaint, and the proceedings commenced on January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 26, 2023.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on January 31, 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

Complainant is a company organized under the laws of the United States that is active in the pornographic industry.

Complainant has provided evidence that it owns rights by assignment in various trademarks relating to the designations "Clips4Sale" as well as "Clips4Sale.com", including, but not limited, to the following:

- word mark CLIPS4SALE, United States Patent and Trademark Office (USPTO), registration number: 3,554,200, registration date: December 30, 2008, status: active;
- word mark CLIPS4SALE.COM, USPTO, registration number: 3,508,680, registration date: September 30, 2008, status: active.

Moreover, Complainant has demonstrated to own the domain name <clips4sale.com>, registered by Complainant's predecessor-in-interest on July 21, 2003, which resolves to Complainant's main website at "www.clips4sale.com", where Complainant offers, *inter alia*, pornographic video clips for online sale.

Respondent, according to the disclosed Whois information for the disputed domain name, is located in Romania and registered the disputed domain name on October 31, 2022. Complainant has evidenced that, at some point before the filing of the Complaint, the disputed domain name resolved to a typical pay-per-click (PPC) website containing a variety of rotating web links to third parties' active websites unaffiliated with Complainant.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends to have extensively used for many years its domain name <clips4sale.com> to operate Complainant's official website at "www.clips4sale.com" thereunder.

Complainant submits that the disputed domain name is at least confusingly similar to Complainant's CLIPS4SALE trademark, as it incorporates the entirety of the latter, thereby misspelling Complainant's trademark by adding the letter "d" after the term "clips4". Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent registered the disputed domain name long after Complainant acquired trademark rights in CLIPS4SALE and started using such trademark, (2) Respondent is not a licensee of Complainant and is not otherwise authorized to use Complainant's CLIPS4SALE trademark for any purpose, and (3) Respondent is offering PPC links under the disputed domain name in an apparent scheme to derive commissions from "affiliate marketing" programs. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) the disputed domain name is a typo-squatted version of Complainant's CLIPS4SALE trademark, (2) Respondent knowingly registered the disputed domain name containing at least an almost exact reproduction of Complainant's well-known CLIPS4SALE trademark and to capitalize on related consumer recognition, and (3) Respondent is using the disputed domain name in connection with a revenue-generating scheme under which Respondent receives some compensation from revenues generated by redirects through the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

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

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name <clips4dsale.com> is confusingly similar to the CLIPS4SALE trademark in which Complainant has rights.

The disputed domain name incorporates Complainant's entire CLIPS4SALE trademark in a misspelled/typo-squatted version by adding the letter "d" after the term "clips4". Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, the fact that the disputed domain name obviously includes an intentional misspelling of Complainant's CLIPS4SALE trademark is not at all inconsistent with such finding of confusing similarity. Typo-squatted domain names are, on the contrary, intended to be confusing so that Internet users, who unwittingly make common type errors, will enter the typo-squatted domain name instead of the correct spelled trademark (see *e.g.*, *National Association of Professional Baseball Leagues, Inc, d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. [D2002-1011](#)). Accordingly, UDRP panels agree that domain names which consist *e.g.* of an intentional misspelling of a trademark are considered to be confusingly similar under the UDRP (see [WIPO Overview 3.0](#), section 1.9).

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has not been authorized to use Complainant's CLIPS4SALE trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the terms "clips4sale.com" and/or "clips4dsale.com" on its own. Finally, Respondent obviously has neither used the disputed domain name for a *bona fide* offering of goods or services nor for a legitimate noncommercial or fair purpose. On the contrary, the disputed domain name, which constitutes a

typo-squatted version of Complainant's undisputedly well-known CLIPS4SALE trademark, at some point before the filing of the Complaint resolved to a typical PPC website containing a variety of rotating web links to third parties' active websites unaffiliated with Complainant, for the obvious purpose of generating PPC revenues. UDRP panels agree that using a domain name to host a PPC website does not present a *bona fide* offering where such PPC links capitalize on the reputation and goodwill of the complainant's trademark or otherwise mislead Internet users (see [WIPO Overview 3.0](#), section 2.9).

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

Given that the disputed domain name constitutes an intentional typo-squatting of Complainant's undisputedly well-known CLIPS4SALE trademark, the Panel finds that Respondent was well aware of Complainant's trademark rights when registering the disputed domain name and that the latter is directly targeting such trademark. Moreover, resolving the disputed domain name, which is confusingly similar to Complainant's undisputedly well-known CLIPS4SALE trademark, to a typical PPC website showing a variety of rotating web links to third parties' active websites unaffiliated with Complainant, for the obvious purpose of generating PPC revenues, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's CLIPS4SALE trademark as to the source, sponsorship, affiliation or endorsement of this website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated January 5, 2023, could not be delivered due to a bad address. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy as set forth in paragraph 4(a)(iii).

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 <clips4dsale.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: February 14, 2023