

ADMINISTRATIVE PANEL DECISION

InQuik IP Holdings Pty Ltd v. DPLiqGr

Case No. D2023-2293

1. The Parties

Complainant is InQuik IP Holdings Pty Ltd, United States of America (“United States”), represented by Coleman Greig Lawyers, Australia.

Respondent is DPLiqGr, United States, represented by Schepps Law Offices, United States.

2. The Domain Name and Registrar

The disputed domain name <inquik.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2023. The Complaint identified two disputed domain names, one of which has since been withdrawn from the proceeding. On May 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for one of the disputed domain names which differed from the named Respondent (NameSilo, LLC and Gransy, s.r.o) and contact information in the Complaint. On May 29, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the other disputed domain name which differed from the named Respondent (NameSilo, LLC and Gransy, s.r.o) and contact information in the Complaint.

The Center sent an email to Complainant on June 1, 2023, 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 June 6, 2023. The amended Complaint withdrew one domain name from the case and continued with the Domain Name.

The Center verified that the Complaint together with the amendment to the Complaint and the amended 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 June 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2023. Respondent sent emails to the Center on July 24 and 25, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on July 27, 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 an affiliate of InQuik Pty Ltd (“IQPL”), a supplier of bridging products and technology. The Panel will refer to Complainant and IQPL collectively as “Complainant” unless the context requires otherwise. Complainant began operating in 2016, initially using its “innovative InQuik bridging technology...with the vision of providing disaster relief in the form of temporary bridges”. Over time, Complainant’s products and services are used for “more permanent structures, which [are] quicker, safer, resilient and more cost-effective to build”.

Complainant holds various trademark registrations for the mark INQUIK, including Australian Reg. No. 1796027, with a priority date of September 13, 2016, and United States Reg. No. 5,582,662, with a registration date of March 13, 2017.

Complainant has owned the domain name <inquik.com.au> since February 4, 2017, and Complainant uses that domain name to host a commercial website.

According to the Complaint:

“Since launching in 2016, the Complainant alongside IQPL has developed a highly respected and expansive customer network across Australia, New Zealand and the United States of America. The Complainant, through IPQL, has expended a considerable sum of money to date and has, in its view, successfully created a significant reputation in the bridge construction industry and in the trade mark INQUIK. The Complainant through IPQL has become renowned globally for its INQUIK bridge construction technology and in 2019 was awarded the T.C. Graham Prize from the Association for Iron and Steel Technologies and in 2021 was awarded the Most Innovative Accelerated Bridge Construction Product by the Accelerated Bridge Construction Conference.”

Apart from the two aforementioned, and fairly esoteric, industry awards from 2019 and 2021, Complainant offers no details or evidence about the extent of its advertising of the INQUIK mark or the actual degree of consumer renown attaching to that mark.

The Domain Name was registered on January 7, 2006. It does not appear that the Domain Name has ever resolved to a well-developed website, or been put to any other active use. A screenshot of the website to which the Domain Name resolves, taken by the Center on June 28, 2023, shows a most rudimentary site with the following apparent hyperlinks: “HP Printer Ink cartridges”, “Fast”, and “Quick Lube Nearby”.

Complainant asserts that, through its domain name broker, it approached Respondent with an offer to buy the Domain Name for USD 1,000. Respondent never replied to this offer or to any follow-up message from the domain name broker.

5. Parties' Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not file a formal Response. In the Respondent's emails, the Respondent requested an extension to file a Response. Respondent did note, however, that it had registered the Domain Name ten years before Complainant came into existence and began using the INQUIK mark.

In view of the facts of the proceeding, the Panel has decided not to grant the Respondent's extension request and will instead proceed with the below Decision.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark INQUIK through registration demonstrated in the record. The Panel also concludes that the Domain Name is identical to that mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel need not address this element, given its conclusion below on the "bad faith" issue.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes, on this record, that Complainant has failed to carry its burden of proving that Respondent registered and used the Domain Name in bad faith within the meaning of the Policy.

The record shows that the Domain Name was registered a full decade before Complainant even came into existence and began using the INQUIK mark. There is no basis in the record to suspect, much less conclude, that ownership of the Domain Name changed hands from a prior owner to Respondent at some potentially relevant point in time, *i.e.*, after Complainant began using the INQUIK mark.

The record is also devoid of evidence supporting any allegation that the INQUIK mark is sufficiently well known that one might reasonably conclude that Respondent, about whom little is known, was more likely than not aware of the mark when registering the Domain Name.

Absent any evidence of bad faith registration of the Domain Name by Respondent, the Complaint must fail.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: July 29, 2023