

ADMINISTRATIVE PANEL DECISION

Muitas Ltd v. Domain Administrator, Sugarcane Internet Nigeria Limited and Milen Radumilo
Case No. D2022-4978

1. The Parties

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

Respondents are Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria (“Previous Respondent”), and Milen Radumilo, Romania (“Subsequent Respondent”).

2. The Domain Name and Registrar

The disputed domain name <clipaforsale.com> at the time of filing the Complaint was registered with Cosmotown, Inc. (the “Registrar”).

After appointment of the Panel, a cyberflight occurred and the disputed domain name was transferred to FrontStreetDomains.com LLC (the “New 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 29, 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 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 Previous Respondent of the Complaint, and the proceedings commenced on January 4, 2023. In accordance with the Rules,

paragraph 5, the due date for Response was January 24, 2023. Previous Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 25, 2023.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on January 30, 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.

The Center discovered that cyberflight has occurred, namely, the Registrar and registrant of the disputed domain name had changed to FrontStreetDomains.com LLC and Milen Radumilo respectively on February 13, 2023. By the time the Center and the Panel became aware of the cyberflight, the Panel had already completed reviewing the documents in this proceeding. The Center's attempt to have the initial registration details for the disputed domain name to be restored by the Registrars, Cosmotown, Inc., and FrontStreetDomains.com LLC, by email on February 14, 2023, has been unsuccessful.

On February 20, 2023, the Panel issued Administrative Panel Procedural Order No. 1 which – notwithstanding an apparent breach of the Registrar's and New Registrar's ICANN obligations – ordered, *inter alia*, that the Complaint with Annexes, the amendment to the Complaint and the Panel Order be delivered to Subsequent Respondent for comments and Response to be submitted by March 2, 2023. The Center duly delivered the Complaint with Annexes, the amendment to the Complaint and the Panel Order to Subsequent Respondent. Subsequent Respondent did not submit any comments or Response by March 2, 2023.

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.

Previous Respondent, according to the disclosed Whois information for the disputed domain name, is located in Nigeria and registered the disputed domain name on November 17, 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. After the occurrence of the cyberflight, the disputed domain name resolved to a website with similar content.

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 replacing the letter "s" in the term "clips" with the letter "a" and by replacing the number "4" in the term "4sale" with the word "for". Moreover, Complainant asserts that Previous Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Previous Respondent registered the disputed domain name long after Complainant acquired trademark rights in CLIPS4SALE and started using such trademark, (2) Previous Respondent is not a licensee of Complainant and is not otherwise authorized to use Complainant's CLIPS4SALE trademark for any purpose, and (3) Previous 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 Previous 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) Previous 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) Previous Respondent is using the disputed domain name in connection with a revenue generating scheme under which Previous Respondent receives some compensation from revenues generated by redirects through the disputed domain name.

B. Respondents

Respondents 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 Respondents have 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.

Respondents' 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 Respondents do 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 Respondents' failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name 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 replacing the letter "s" in the term "clips" with the letter "a" and by replacing the number "4" in the term "4sale" with the word "for". 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 Respondents have not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor have Respondents been commonly known by the disputed domain name, nor can it be found that Respondents have made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Previous Respondent has not been authorized to use Complainant’s CLIPS4SALE trademark, either as a domain name or in any other way. There is similarly no evidence that Subsequent Respondent is affiliated with Complainant or authorized to receive the transfer of the dispute domain name from Previous Respondent. Also, there is no reason to believe that Respondents’ names somehow correspond with the disputed domain name and Respondents do not appear to have any trademark rights associated with the terms “clips4sale.com” and/or “clipaforsale.com” on its own. Finally, Respondents obviously have 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 Respondents have no rights or legitimate interests in the disputed domain name. Now, the burden of production shifts to Respondents to come forward with appropriate evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondents have defaulted, they have 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 Respondents 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 Previous Respondent was well aware of Complainant’s trademark rights when registering the disputed domain name and that the latter is directly targeting such trademark, and that Subsequent Respondent, in taking over as registrant, must be imputed with the same awareness. 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 Respondents intentionally attempted to attract, for commercial gain, Internet users to their 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. Finally, the cyberflight of the disputed domain name is a further indication of registration and use of this domain name in bad faith.

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 <clipaforsale.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: March 10, 2023