

ADMINISTRATIVE PANEL DECISION

Tyler Cormney v. Uri Blackman
Case No. D2023-2199

1. The Parties

The Complainant is Tyler Cormney, United States of America ("United States"), self-represented.

The Respondent is Uri Blackman, United States, self-represented.

2. The Domain Name and Registrar

The disputed domain name <cormney.com> 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 19, 2023. On May 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 2023, 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 the Complainant on May 23, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on the same day.

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 the Respondent of the Complaint, and the proceedings commenced on June 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2023. The Response was filed with the Center on June 17, 2023. The Complainant submitted an unsolicited supplemental filing on June 19, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on June 22, 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.

Both Parties subsequently submitted replies in response to Administrative Panel Procedural Order Number 1, asking the Parties to submit additional evidence on the Complainant's claimed use of his personal name as an unregistered mark and on the Respondent's claimed practice of registering and using the names of individual Stacy Blackman Consulting consultants for SEO marketing purposes.

4. Factual Background

The Complainant Tyler Cormney is an individual in Beverly Hills, California, United States, who is in the business of advising applicants to "top-ranked business schools". The Complainant does not claim a registered trademark. He states that he has used his rare and distinctive last name, Cormney, in business since 1992. In reply to the Panel's Procedural Order, the Complainant furnished a copy of his City of Los Angeles business tax registration certificate, issued June 23, 2013, which lists two names for his business: CORMNEY CONSULTING LLC and TYLER CORMNEY CONSULTING. The license indicates that the business started on October 17, 1999. The Complainant explains that he moved to Los Angeles, United States in 1999 and started generating income as an independent contractor at that time. The Complainant states that he formerly provided consulting services for business school applicants as an independent contractor for Stacy Blackman Consulting until "in or around 2012". The Complainant is currently the sole proprietor of Cormney Consulting, LLC, a California limited liability company established in March 2013. The Complainant operates a website (the "Complainant's website") at "www.tylercormney.com" (registered April 15, 2010), to which the Complainant's domain name "www.cormneyconsulting.com" (registered June 11, 2014) also redirects.

The Complainant's website advertises the services of "TYLER CORMNEY, MBA Admissions Expert", promoting the Complainant's expertise and services in assisting applicants for graduate studies programs leading to Master of Business Administration ("MBA") degrees from universities such as Harvard, Stanford, and Wharton. According to the Complainant's website, the Complainant has been "a full-time MBA admissions consultant since 2006" and is the author of the book "HOW TO APPLY FOR AN MBA" (2012), which is available on Amazon. The Complainant's website includes a summary of the Complainant's qualifications; testimonials from unnamed clients; and descriptions of the Complainant's approach, service packages, and pricing. The website highlights the Complainant's accolades: a listing among the "Top 10 MBA Admission Consultants" by Poets & Quants in 2022 and more than 80 five-star reviews verified by GMAT Club or Poets & Quants.

The Registrar reports that the disputed domain name was created on February 5, 2008, and is registered to the Respondent, Uri Blackman, listing no organization, a postal address in the State of California, United States, and a Gmail administrative contact email address. It is undisputed that the Respondent Uri Blackman is the husband of Stacy Blackman, for whom the Complainant was working at that time as an independent contractor of Stacy Blackman Consulting.

The Panel notes that the submitted screenshots from the Internet Archive's Wayback Machine show that at times in 2008 the disputed domain name resolved to a parking page with news stories, and in 2010 to a parking page at "www.information.com" with pay-per-click ("PPC") third-party advertising. For several years, there were no archived screenshots associated with the disputed domain name.

The Complaint attaches emails and screenshots showing that in 2017 the Respondent redirected the disputed domain name to a website operated by the Respondent, "www.weshit.com", with photos of human defecation and feces. In an email dated March 22, 2017, with the subject line, "mortified", Stacy Blackman wrote as follows to the Complainant:

"Tyler,

Well this is embarrassing. Uri forwarded me your email and although this is between the two of you I did want to jump in. I know I am throwing Uri under the bridge but I thought it important for you to know I truly had nothing to do with this and did not know about it! I was at dinner when I saw the email and my reply was: 'huh? that was dumb.' It was dumb, what can I say; no excuses here.

If I were in your shoes, given that we are competitors, I would be pretty pissed off and thinking that it was done maliciously. But truthfully, I keep my head down and don't pay much attention to other companies or spend time on these types of petty things. So I want to say I am sorry that this happened and I am sorry about the perception that we may be targeting you or trying to harm you. That's really truly not the case!

The redirect was taken down immediately last night.

Uri has a big portfolio of random URLs, including cormney.com, which he registered in 2008 when you were working with me, as part of SEO efforts. It was directed to StacyBlackman.com at that time. A few years ago, at some point on a whim, he decided to do something silly (= dumb) and redirect to the other website. He completely forgot about it until last night.

This email is merely sent as an apology on behalf of my husband and to clear the air between the two of us, as I have no ill will and don't want you to either."

The Complainant promptly replied as follows:

"Hi Stacy - I appreciate you reaching out and your apology. I was already giving you the benefit of the doubt by contacting Uri directly. I noticed he removed the redirect, which I am, of course, happy about. I am just awaiting a transfer to me of the cormney.com domain and any other domains he might have in his portfolio that are linked to me in any way. To the extent you can help expedite this step, I'd really appreciate it."

In an email exchange between the Complainant and the Respondent on March 22, 2017, Uri Blackman wrote as follows:

"Sorry about the redirect. It was done in jest, but I forgot about it, and fixed it last night. Would be happy to transfer the domain to you for a fair price. I've been sitting on it for quite a while."

The Respondent did not transfer the disputed domain name but redirected it again to the same offensive website after a time. This conduct apparently recurred, as reflected in emails between the Parties dated September 30, 2022:

"Uri - Kindly remove the redirect of cormney.com to weshit.com.

You claimed you forgot about setting this redirect up years ago after I discover you were behind it. Now you've done it again and appears again on a website with a 2022 copyright.

It's been more than a dozen years since you first registered my last name and then linked it to weshit.com. I don't know what your state of mind is here but it's really offensive. You stopped last time I asked, and I still have the emails of you admitting the wrongdoing.

I think the easiest path forward is that you take the redirect down right now, please. Then we both move on.

Let me know.

Sincerely -Tyler"

"Hi Tyler,
Sorry about that. It was an April fools joke that went on too long.

I've changed the redirect.

Cheers, Uri"

The Complainant finally offered to buy the disputed domain name in May 2023, but the Respondent wanted something more than a “lowball figure” and this proceeding followed:

May 16, 2023:

“Uri - Let’s talk. I want to buy cormney.com . The URL has no worth to you, and I know at heart you must be a good person because we have a number of mutual friends ... I want to move on from this. I will offer you \$250.

Tyler Cormney”

May 18, 2023:

“Hi Tyler

I’m sorry. I know this has been annoying for you but your responses have provided a good source of entertainment.

I’m open to selling the domain but I would need to have an incentive. Your offer should be based on what the domain is worth to you not some lowball figure.

Cheers Uri”

Since the Complaint was filed in this proceeding, the disputed domain name has been redirected first to the Stacy Blackman Consulting website and then to a page on the Amazon website advertising prints of a Cormney coat of arms.

5. Parties’ Contentions

A. Complainant

The Complainant, who is self-represented, does not expressly assert common law trademark rights but states that he has “a strong reputation for providing quality services under my last name, and prospective clients often recognize me by that name.” He points out that the disputed domain name is identical to his last name, apart from the addition of the general Top-Level Domain (“gTLD”) suffix “.com”.

The Complainant contends that while he formerly worked with the Respondent’s wife, Stacy Blackman, he has never been affiliated with the Respondent. The Complainant argues that the Respondent has no legitimate interest in using the Complainant’s name in an identical domain name and particularly not to tarnish it by association with an objectively offensive website filled with images of nudity and defecation. The Complainant urges a finding of bad faith, as the Respondent knowingly attacked the Complainant, who worked for the Respondent’s wife and then became a business competitor.

B. Respondent

The Respondent, also self-represented, argues that the Complainant has not established that he has trademark rights in his last name. The Respondent observes that he registered the disputed domain name in February 2008 when the Complainant was working for Stacy Blackman Consulting, *i.e.* before the Complainant launched his own website in 2010.

The Respondent states that “[t]he original purpose of the domain registration was to direct more traffic to Stacy Blackman Consulting and its consultants”, which would inure to the Complainant’s benefit at the time as well. According to the Respondent, “we” similarly registered domain names based on the names of other consultants working with Stacy Blackman Consulting, for search engine optimization (SEO) marketing purposes (a practice to which Stacy Blackman alluded in her March 2017 email quoted above. In response to the Panel’s procedural order, the Respondent demonstrates that at least two other consultants’ names

(besides the Complainant's and variations of Ms. Blackman's name) were registered as domain names and redirected to the Stacy Blackman Consulting LLC website.

The Response attaches an email exchange from August 2010 between Stacy Blackman and the Complainant, in which the Complainant apologized for copying text from the Stacy Blackman Consulting website in creating the beta version of his first website. The Response also attaches an invoice showing that the Respondent continued to perform some work for Stacy Blackman Consulting as late as August 2014.

The Respondent suggests that he had legitimate interests and good faith in registering the disputed domain name for use in connection with his wife's consulting business in 2008, when the Complainant was acting as a consultant in that business, and later in using the disputed domain name at times to redirect to his "humor site" and then to a site with information about Cornney family history. The Respondent points out that he held the disputed domain name for many years without attempting to sell it to the Complainant. The Respondent says it was the Complainant who raised the topic of selling the domain name. The Respondent attaches a more recent email exchange in which the Respondent suggested that the Complainant purchase the disputed domain name for an amount equivalent to the UDRP administrative fee, to save the parties further trouble and expense.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the domain name is identical or confusingly similar to a trademark 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 and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The first element of a UDRP complaint "functions primarily as a standing requirement" and entails "a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant does not have a registered trademark. However, complainants may show that an unregistered mark has acquired distinctiveness (secondary meaning) as an identifier that consumers associate with the complainant's goods or services, based on factors such as the duration and nature of use of the mark, the amount of sales under the mark, the nature and extent of advertising using the mark, the degree of actual public (e.g., consumer, industry, media) recognition, and consumer surveys. See [WIPO Overview 3.0](#), section 1.3. This is true as well where a complainant claims that his or her personal name has acquired distinctiveness as a trademark:

"The UDRP does not explicitly provide standing for personal names which are not registered or otherwise protected as trademarks. In situations however where a personal name is being used as a trademark-like identifier in trade or commerce, the complainant may be able to establish unregistered or common law rights in that name for purposes of standing to file a UDRP case where the name in question is used in commerce as a distinctive identifier of the complainant's goods or services." *Id.*, section 1.5.1.

The record here shows that the Complainant has been making commercial use of his personal names CORMNEY and TYLER CORMNEY in connection with business school application services since at least 2006 and gained greater recognition in 2012 when he published his book and started practicing more on his own and less as a consultant under the auspices of Stacy Blackman Consulting. It is not clear how much of this kind of consulting constituted his professional work before he moved to Los Angeles, United States in 1999 or his "independent contractor" business reported as starting in 1999 on his Los Angeles tax

registration. However, this MBA application consulting was his “full-time” profession by 2006 and was conducted largely if not wholly in association with Stacy Blackman Consulting by 2008 when the Respondent registered the disputed domain name ostensibly on behalf of that company. There is no evidence in the record of the volume of sales or advertising under the claimed CORMNEY common law mark, but there is evidence of ongoing business under that name and TYLER CORMNEY since at least 2006 with substantial industry recognition in a particular market niche, MBA admissions consulting.

On this basis, the Panel finds sufficient grounds for standing and observes that the disputed domain name is identical to the Complainant’s claimed CORMNEY mark and confusingly similar to the TYLER CORMNEY mark to which the Complainant could also likely lay claim.

As usual, the addition of the gTLD “.com” may be disregarded as a standard registration requirement (see *id.* section 1.11.1).

The Panel concludes that the Complainant has established the first element of the Policy, which addresses only the Complainant’s standing to bring a UDRP complaint because of the Complainant’s current trademark rights. The status of those rights at the time of the registration of the disputed domain name is discussed further in connection with the second and third elements of the Complaint.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent’s 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) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is 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.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has demonstrated common law trademark rights at present, and the Respondent is not known by a corresponding name. The examples of rights and legitimate interests given in the Policy, paragraph 4(c) are not exhaustive. The Respondent has used the disputed domain name over time for general news feeds, PPC advertising, redirection to the Stacy Blackman Consulting website, and humor that is widely seen as offensive. These could be considered legitimate commercial uses or noncommercial fair use so long as they were not pretexts for exploiting or tarnishing the Complainant’s mark. See, e.g., [WIPO Overview 3.0](#), section 2.5.3. However, a respondent’s rights or legitimate interests are generally assessed at the time of the Policy proceeding (*id.*, section 2.11), and the Respondent does not make a compelling argument for rights or interests based on the Complainant’s former association with Stacy Blackman Consulting, which ended no later than 2014, or for other past uses of the disputed domain name. The most recent redirection of the disputed domain name to an Amazon page with Cornney family history materials, after the Complaint was filed in the Policy proceeding, appears to be merely a pretext for claiming a legitimate interest. The Respondent’s own emails suggest that he was more interested in tormenting the Complainant for his own “entertainment” than in pursuing any relevant alternative connection to the Cornney name.

Thus, on this record it does not appear that the Respondent meets his burden of production to demonstrate current rights or legitimate interests, and the Complainant therefore prevails on the second element of the Complaint.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that “shall be evidence of the registration and use of a domain name in bad faith”, including the following:

“(i) circumstances indicating that you [respondent] have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your [respondent’s] documented out-of-pocket costs directly related to the domain name; or ...

(iv) by using the domain name, you [respondent] have intentionally attempted to attract, for commercial gain, Internet users to your [respondent’s] web site or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your [respondent’s] website or location or of a product or service on your website or location.”

The Policy places the burden on the Complainant of establishing bad faith both in the registration and in the use of the disputed domain name. Much of the Respondent’s conduct in the *use* of the disputed domain name could be readily characterized as bad faith use – such as PPC parking, redirecting the disputed domain name to a website with offensive content and to the website of a direct competitor – if it were established that this was done with likely awareness of the Complainant’s trademark rights. This conclusion is often problematic when a complainant is claiming common law protection for his personal name as an unregistered trademark or service mark. The Panel notes that the Complainant has not previously given notice of such claims on his website or book, for example by displaying a “TM” or “SM” symbol. As discussed above, however, there is evidence that the Complainant used his names CORMNEY and TYLER CORMNEY professionally as an independent contractor from the 1990s onward and at least from 2006 full-time in the business of advising MBA candidates. It might be questioned whether the Complainant’s names had acquired distinctiveness in this context as early as February 2008, when the disputed domain name was registered, but the Respondent and his wife, Stacy Blackman, both said the disputed domain name was registered for its perceived SEO value to drive Internet searches to the Stacy Blackman Consulting website. Moreover, there is precedent for finding bad faith in registering a domain name targeting a personal name for its anticipated trademark value, even if that has not yet accrued, where the respondent has intimate knowledge of that probability, as was the case here. See, e.g., *Stoneygate 48 Limited and Wayne Mark Rooney v. Huw Marshall*, WIPO Case No. [D2006-0916](#).

On this record, the Panel finds that the Respondent more likely than not was aware of the common law trademark value, or anticipated value, of the Complainant’s professional name and meant ultimately to capitalize on it on behalf of Stacy Blackman Consulting or by selling the disputed domain name to the Complainant for an amount in excess of out-of-pocket costs. The Panel concludes that this represents bad faith within the meaning of the Policy.

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 <cormney.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: August 15, 2023