Decision for dispute CAC-UDRP-100285

Case number	CAC-UDRP-100285
Time of filing	2011-07-19 00:00:00
Domain names	nationalcrrental.com, alomorental.com, alamaorentacar.com, enterpriesrentacar.com, entripriserentacar.com

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	Vanguard Trademark Holdings USA, LLC
Organization	Enterprise Holdings, Inc.

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Organization	Bret Fausett, Court-Appointed Receiver

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings relating to the domain names

IDENTIFICATION OF RIGHTS

First Complainant is the record owner of the following registration for the NATIONAL CAR RENTAL mark in the United States:

Registration No. 1,540,913 issued 23 May 1989 for NATIONAL CAR RENTAL (“Car Rental” disclaimed) in International Class 39 for “automobile rental services.”

In addition to its registrations in the European Community and the United States, First Complainant has registered the NATIONAL CAR RENTAL mark for vehicle rental services in many other countries.

First Complainant has also registered its ALAMO and ALAMO RENT-A-CAR marks for rental car services and owns the following registrations:

UK Trademark Registration No. 2002527 – registration date 16 February 1996 for ALAMO RENT-A-CAR in International Class 39 for "car renting, leasing and hire services."

European Community Trademark Registration No. 1860592 dated 16 February 2002 for ALAMO in International Classes 12, 16, 36 and in International Class 39 for the following services: “provision of transport services including for both leisure and business purposes; hiring of transport vehicles including the provision of such services to the functioning of airports; loaning of vehicles; vehicle parking; hiring of vehicle accessories; inspection of vehicles before transport; travel for and escorting of travellers; provision of information about the transport of goods and information relating to tariffs, timetables and methods of transport; transport reservation and arranging services; vehicle rental, reservation and leasing services; relating online services; and related promotional and discount services; automobile rental and leasing services; car leasing services; vehicle rental, reservation and leasing services.”

In addition, First Complainant has registered and owns the following United States registrations:

Registration No. 1,097,722 issued 25 July 1978 ALAMO in International Class 39 for “automotive renting and leasing services.”

Registration No. 2,805,426 issued 13 January 2004 ALAMO.COM in International Class 35 for “promoting the goods and services and of others through a membership benefit program which entitles members to receive discounts on renting and leasing vehicles” and in International Class 39 for “vehicle renting and reservation services; vehicle leasing services.”

In addition to its registrations in the United Kingdom, European Community and the United States, Complainant has registered the ALAMO mark for vehicle rental services in many other countries.

Second Complainant, Enterprise Holdings, Inc., has registered its ENTERPRISE and ENTERPRISE RENT-A-CAR marks and owns the following trademark registrations:

UK Trademark Registration No. 2033436 – registration date 23 August 1996 for ENTERPRISE RENT-A-CAR & Design in International Class 12 for "land vehicles; apparatus for locomotion by land; parts and fittings for all the aforesaid" and International Class 39 for " Vehicle rental services, vehicle leasing services; vehicle towing services; vehicle breakdown recovery services; recovery of vehicles; vehicle leasing and rental services and reservation services for the rental and leasing of vehicles; all the foregoing relating to land vehicles; information and/or advisory services relating to the aforesaid."

European Community Trademark Registration No. 36384 dated 1 December 1998 for ENTERPRISE in Classes 12, 36 and 39, including “Vehicle rental services.”

Second Complainant is also the record owner of the following registrations for the ENTERPRISE and ENTERPRISE RENT-A-CAR marks in the United States:

Registration No. 1,343,167 issued 18 June 18 1985 ENTERPRISE in International Classes 35, 37, 39 and 42, including “short-term rental and leasing of automobiles and trucks” and "automotive dealership services."

Registration No. 2,371,192 issued 25 July 2000 ENTERPRISE RENT-A-CAR in International Class 39 (“RENT-A-CAR” disclaimed apart from the mark as shown) for “vehicle rental and leasing services, and reservation services for the rental and leasing of vehicles.”

In addition to its registrations in the United Kingdom, European Community and the United States, Second Complainant has registered the ENTERPRISE and ENTERPRISE RENT-A-CAR marks for vehicle rental services in many other countries.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

UDRP Complaint

Vanguard Trademark Holdings USA LLC and Enterprise Holdings, Inc. v. Bret Fausett, Court-Appointed Receiver c/o Adorno Yoss

FACTUAL AND LEGAL GROUNDS. ICANN Rule 3(b)(ix).

This is a Class Complaint filed on behalf of (1) Vanguard Trademark Holdings USA LLC and (2) Enterprise Holdings, Inc. and is filed pursuant to Paragraph 4, Art. 3 of the Supplemental Rules in that it is:

Based on legal arguments applicable equally, or substantially in the same manner, to all five of the disputed domain names;

The person representing both Complainants joined in the Class Complaint is authorized to act on behalf of each of the Complainants; and

The Panel can order transfer of any of the disputed domain name(s) only to the individual Complainant on which behalf such transfer is requested in the Class Complaint, in accordance with the Policy.

As of the date of Complainants' commencement of this proceeding, all five domain names at issue, nationalcrrental.com, alomorental.com, alamaorentacar.com, enterpriesrentacar.com, and entripriserentacar.com are owned of record by the same entity, Bret Fausett, Court-Appointed Receiver c/o Adorno Yoss. Copies of the WHOIS records from Dynadot, LLC, the Registrar of record for all five of the domain names at issue are attached collectively as Annex 1.

This Complaint is based on the following factual and legal grounds:

Vanguard Trademark Holdings USA LLC ("First Complainant ") is the owner of the NATIONAL CAR RENTAL mark for vehicle rental services including car rental services, that it licenses to National Car Rental.

Since long prior to the registration of the nationalcrrental.com domain name on 15 March 2005, National Car Rental has been engaged in the rental car business under the NATIONAL CAR RENTAL mark. Started in 1948, National Car Rental is a premium, internationally recognized brand serving the daily car rental needs of the frequent airport business traveler through locations in the United States, Canada, Mexico, the Caribbean, Europe, Latin America, Asia and the Pacific Rim. Over the years, National Car Rental has initiated a number of "firsts" in the vehicle rental business. In 1954, it became the first car rental brand to offer one-way rentals for those wishing to rent cars in one town and leave them in another. In 1966, it became the first car rental company to bring computers into daily reservation operations. In 1976, National Car Rental became the first car rental company to offer flat rates to car renters.

In 1987, National Car Rental introduced the industry's first, comprehensive frequent-renter program, "Emerald Club", along with the "Paperless Express Rental Agreement," which made car rental faster by using information stored in the computer to process the whole transaction in seconds. National Car Rental continued to develop ways to make the car rental process more efficient to time-sensitive travelers. Those innovations include the "Emerald Aisle," where members select their own cars and are on their way without filling out any paperwork, allowing members to completely bypass the rental counter.

National Car Rental operates an on-line car rental site at nationalcar.com to which nationalcarrental.com also resolves. A copy of the NATIONAL CAR RENTAL web page is attached as Annex 2.

First Complainant is also the owner of the ALAMO RENT A CAR mark that it licenses to Alamo Rent A Car. Started in 1974, Alamo Rent A Car has locations in more than 42 countries worldwide, with more than 1,200 Alamo Rent A Car locations throughout the United States, Canada, Mexico, the Caribbean, Latin America and Asia. Alamo Rent A Car started the car rental industry's first real-time Internet booking engine in 1995 and the first online check-in system in 2005. Alamo Rent A Car is the largest car rental provider to international travelers visiting North America and is the "Official Rental Car" of Walt Disney World ® Resort and Disneyland® Resort.

Since long prior to the registration of the alomorental.com and alamaorentacar.com domain names on 12 June 2007 and 16

July 2007, Alamo Rent A Car has been engaged in the car rental business under the ALAMO and ALAMO RENT A CAR marks. Alamo Rent A Car, operates an on-line car rental site at alamo.com. The domain names alamorental.com and alamorentacar.com both resolve to the Alamo Rent A Car home page. A copy of the alamo.com web page is attached as Annex 3.

Enterprise Holdings, Inc. (“Second Complainant “) is the owner of the ENTERPRISE and ENTERPRISE RENT-A-CAR marks for car rental and related services that it licensees to Enterprise Rent-A-Car.

Since long prior to the registration of the enterpriesrentacar.com, and entripriserentacar.com domain names on 16 July 2007 and 08 January 2007 respectively, Enterprise Rent-A-Car has been engaged in the car rental business under the ENTERPRISE and ENTERPRISE RENT-A-CAR marks. Enterprise Rent-A-Car began renting cars in 1957 and has used the ENTERPRISE mark for car rental services in the United States since 1969. Enterprise Rent-A-Car is the largest vehicle rental company in North America and one of the largest vehicle rental companies in the world. Enterprise Rent-A-Car expanded its car rental business to Europe in 1994 and has operations in the United Kingdom, Germany and Ireland. Enterprise Rent-Car has yearly revenues in excess of $8 billion and operates over 6,000 car rental locations in the United States, Canada, the U.K., Ireland and Germany with more than 850,000 vehicles. Enterprise Rent-A-Car operates an on-line car rental site at enterprise.com to which the domain name enterpriserentacar.com also resolves. A copy of the Enterprise Rent-A-Car home page is attached as Annex 4.

Trademark/Service Mark Information: ICANN Rule 3(b)(viii).

First Complainant, Vanguard Trademark Holdings USA LLC, is the record owner of the following registration for the NATIONAL CAR RENTAL mark in the European Community:

Registration No. 000190439 - application date 1 April 1996, issued 12 March 2003 for NATIONAL CAR RENTAL for “automobile rental and reservation services in International Class 39.”

A print-out from the records of the Office for Harmonization of Internal Markets (“OHIM”) showing the current status of this registration is attached collectively as Annex 5.

First Complainant is the record owner of the following registration for the NATIONAL CAR RENTAL mark in the United States:

Registration No. 1,540,913 issued 23 May 1989 for NATIONAL CAR RENTAL (“Car Rental” disclaimed) in International Class 39 for “automobile rental services.”

A print-out from the records of the United States Patent and Trademark Office showing the current status of this registration is attached as Annex 6.

In addition to its registrations in the European Community and the United States, First Complainant has registered the NATIONAL CAR RENTAL mark for vehicle rental services in many other countries.

Complainant has registered its ALAMO and ALAMO RENT-A-CAR marks for rental car services and owns the following registrations:

UK Trademark Registration No. 2002527 – registration date 16 February 1996 for ALAMO RENT-A-CAR in International Class 39 for "car renting, leasing and hire services."

A print-out with details regarding this registration from the UK Intellectual Property Office data base is attached as Annex 7.

European Community Trademark Registration No. 1860592 dated 16 February 2002 for ALAMO in International Classes 12, 16, 36 and in International Class 39 for the following services: “provision of transport services including for both leisure and business purposes; hiring of transport vehicles including the provision of such services to the functioning of airports; loaning

of vehicles; vehicle parking; hiring of vehicle accessories; inspection of vehicles before transport; travel for and escorting of travellers; provision of information about the transport of goods and information relating to tariffs, timetables and methods of transport; transport reservation and arranging services; vehicle rental, reservation and leasing services; relating online services; and related promotional and discount services; automobile rental and leasing services; car leasing services; vehicle rental, reservation and leasing services."

A print-out with details regarding this registration from the Office for Harmonization of Internal Markets ("OHIM") data base is attached as Annex 8.

In addition, First Complainant has registered and owns the following United States registrations:

Registration No. 1,097,722 issued 25 July 1978
ALAMO in International Class 39 for "automotive renting and leasing services."

Registration No. 2,805,426 issued 13 January 2004
ALAMO.COM in International Class 35 for "promoting the goods and services and of others through a membership benefit program which entitles members to receive discounts on renting and leasing vehicles" and in International Class 39 for "vehicle renting and reservation services; vehicle leasing services."

Copies of print-outs from the records of the United States Patent and Trademark Office showing the current status of each of these registrations are attached collectively as Annex 9.

In addition to its registrations in the United Kingdom, European Community and the United States, Complainant has registered the ALAMO mark for vehicle rental services in many other countries.

Second Complainant, Enterprise Holdings, Inc., has registered its ENTERPRISE and ENTERPRISE RENT-A-CAR marks and owns the following trademark registrations:

UK Trademark Registration No. 2033436 – registration date 23 August 1996 for ENTERPRISE RENT-A-CAR & Design in International Class 12 for "land vehicles; apparatus for locomotion by land; parts and fittings for all the aforesaid" and International Class 39 for " Vehicle rental services, vehicle leasing services; vehicle towing services; vehicle breakdown recovery services; recovery of vehicles; vehicle leasing and rental services and reservation services for the rental and leasing of vehicles; all the foregoing relating to land vehicles; information and/or advisory services relating to the aforesaid."

A print-out with details regarding this registration from the UK Intellectual Property Office data base is attached as Annex 10.

European Community Trademark Registration No. 36384 dated 1 December 1998 for ENTERPRISE in Classes 12, 36 and 39, including "Vehicle rental services."

A copy of a print-out from the records of the Office for Harmonization of Internal Markets ("OHIM") for that registration is attached as Annex 11.

Second Complainant is also the record owner of the following registrations for the ENTERPRISE and ENTERPRISE RENT-A-CAR marks in the United States:

Registration No. 1,343,167 issued 18 June 18 1985
ENTERPRISE in International Classes 35, 37, 39 and 42, including "short-term rental and leasing of automobiles and trucks" and "automotive dealership services."

Registration No. 2,371,192 issued 25 July 2000
ENTERPRISE RENT-A-CAR in International Class 39
("RENT-A-CAR" disclaimed apart from the mark as shown) for "vehicle rental and leasing services, and reservation services

for the rental and leasing of vehicles."

Copies of print-outs from the records of the United States Patent and Trademark Office showing the current status of each of those registrations are attached collectively as Annex 12.

In addition to its registrations in the United Kingdom, European Community and the United States, Second Complainant has registered the ENTERPRISE and ENTERPRISE RENT-A-CAR marks for vehicle rental services in many other countries.

1. Confusing similarity. ICANN Rule 3(b)(ix)(i); ICANN Policy ¶4(a)(i).

Each of the domain names at issue is a "typo" version of one of the Complainants' marks or in the case of alomorental.com, combines a "typo" of the ALAMO mark with a term descriptive of Alamo Rent A Car's car rental business:
- in nationalcrrental.com the "a" in "car" is omitted.

- in alamaorentalacar.com "alamo" is misspelled by adding an "a" between the "m" and "o" in "alamo."

- in enterpriesrentacar.com the "e" and "s" at the end of "enterprise" are switched "

- in entripriserentacar.com "enter" is misspelled as "entri."

See Victoria's Secret v. Zuccarini, FA 95762 (Nat. Arb. Forum Nov. 18, 2000) (finding that, by misspelling words and adding letters to words, a respondent does not create a distinct mark but nevertheless renders the domain name confusingly similar to the complainant's marks). See also Google Inc. v. Jon G., FA 106084 (Nat. Arb. Forum Apr. 26, 2002) (finding <googel.com> to be confusingly similar to the complainant's GOOGLE mark and noting that "[t]he transposition of two letters does not create a distinct mark capable of overcoming a claim of confusing similarity, as the result reflects a very probable typographical error"). See also Delta Corporate Identity, Inc. v. SearchTerms, FA 590678 (Nat. Arb. Forum Dec. 14, 2005) (concluding that the <dleta.com> domain name was confusingly similar to the complainant's DELTA mark).

- in alomorental.com "alamo" is misspelled as "alomo" added to the generic term "rental" that is descriptive of Alamo Rent A Car's car rental business.

"A general rule under [ICANN] Policy 4¶(a)(1) is that a domain name is confusingly similar to a third-party mark where the domain name fully incorporates the mark and simply adds additional words that correspond to the goods or services offered by the third party under the mark." Sony Kabushiki Kaisha v. 0-0 Adult Video Corp., FA 475214 (Nat. Arb. Forum June 27, 2005). See also Kohler Co. v. Curley, FA 890812 (Nat. Arb. Forum Mar. 5, 2007) (finding confusing similarity where <kohlerbaths.com>, the disputed domain name, contained the complainant's mark in its entirety adding "the descriptive term 'baths,' which is an obvious allusion to complainant's business.");

See also Reuters Ltd. v. Global Net 2000, Inc., D2000-0441 (WIPO July 13, 2000) (finding that a domain name which differs by only one letter from a trademark has a greater tendency to be confusingly similar to the trademark where the trademark is highly distinctive). See also Space Imaging LLC v. Brownell, AF-0298 (eResolution Sept. 22, 2000) (finding confusing similarity where the respondent's domain name combines the complainant's mark with a generic term that has an obvious relationship to the complainant's business).

It is clear that each of the domain names at issue, nationalcrrental.com, alomorental.com, alamaorentacar.com, enterpriesrentacar.com, and entripriserentacar.com, is confusingly similar to one of Complainants' marks under Policy ¶ 4(a)(i).

2. Right to or Legitimate Interests. ICANN Rule 3(b)(ix)(2); ICANN Policy ¶4(a)(ii).

The Respondent has no rights or legitimate interests in the disputed domain names.

All five of the domain names at issue are on the same domain name servers "ns1.dsredirection.com" and "ns2.dsrediction.com" and resolve to virtually identical generic web pages commonly used by domain name owners seeking to “monetize” their domain names through “click-through” fees.

Each one of the domain names at issue resolves to a web page with a heading that uses the domain name followed by the phrase "What you need, when you need it.”

On the enterpriesrentacar.com and nationalcrrental.com home pages, there is a horizontal list of “Related Searches” with listings/links to Enterprise Rent-A-Car or National Car Rental, as well as to competitor of Complainants' licensees (Budget Car Rental) and travel sites that offers car rental services from various competitor's of Complainant's licensees. Copies of web pages at enterpriesrentacar.com and nationalcrrental.com are attached as Annex 13.

On the alomorental.com, alamaorentacar.com, and entripriserentacar.com home pages there is a vertical list of "Related Searches" in the center of the web page. The first link on each page is “Rent A Car.” Clicking on “Rent a Car” takes the user to another generic web page with links to the home pages of various competitors of Complainants' licensees, such as Hertz, as well as to the home page of one the Complainants' licensees and travel web sites that offers car rental services from both Complainants' licensees and their competitors. Copies of the web page at alomorental.com, alamaorentacar.com, and entripriserentacar.com and the web page linked to “Rent a Car” on each home page are attached as Annex 14.

In light of the long-standing use and registration of the NATIONAL CAR RENTAL, ALAMO, ALAMO RENT-A-CAR, ENTERPRISE and ENTERPRISE RENT A CAR marks in connection with vehicle rental services throughout the world, Respondent or his predecessors-in-interest cannot have any legitimate rights in the domain names at issue when used in connection with web sites that offer vehicle rental services or links to other competitive providers of vehicle rental services. The fact that the web pages to which the domain names at issue resolve all include links to various sites in the vehicle rental business (including in some cases the web sites of one or more of Complainants' licensees) is clear evidence that when these domain names were registered, Respondent’s predecessors-in-interest were well aware of the existence of Complainants and their respective rights in the NATIONAL CAR RENTAL, ALAMO, ALAMO RENT-A-CAR, ENTERPRISE and ENTERPRISE RENT A CAR marks in connection with vehicle rental services.

The use of the domain names at issue is neither a bona fide offering of goods or services pursuant to Policy ¶4(c)(i) nor a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii). See Golden Bear Int’l, Inc. v. Kangdeock-ho, FA 190644 (Nat. Arb Forum Oct. 17, 2003)(“Respondent’s use of a domain name confusingly similar to Complainant’s mark(s) to divert Internet users to websites unrelated to Complainant’s business does not represent a bona fide offering of goods or services under Policy ¶4(c)(i) or a legitimate noncommercial or fair use under Policy ¶4(c)(iii).”); see also Disney Eners., Inc. v. Dot Stop, FA 145227 (Nat. Arb. Forum Mar. 17, 2003)(finding that the respondent’s diversionary use of the complainant’s mark(s) to attract Internet users to its own website, which contained a series of hyperlinks to unrelated websites, was neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain names).

Neither of the Complainants has licensed or otherwise permitted Respondent or his predecessors-in-interest to use the NATIONAL CAR RENTAL, ALAMO, ALAMO RENT-A-CAR, ENTERPRISE or ENTERPRISE RENT A CAR marks (or variations thereof) in connection with car rentals or rental car services or any other goods or services or to apply for any domain name incorporating the NATIONAL CAR RENTAL, ALAMO RENT-A-CAR or ENTERPRISE RENT A CAR marks.

Because of the commercial nature of the web sites to which the domain names at issue resolve, it seems beyond question that the use of the domain names at issue is not a noncommercial or fair use under the Policy. Respondent is clearly not making any legitimate noncommercial or fair use of “Enterpries Rent A Car,” “Entriprise Rent A Car,” National Cr Rental,” "Alomorental" or Alamaorentacar." Any claim in that regard is easily dismissed since the web pages to which these domain names resolve are virtually identical generic web pages commonly used by domain name owners seeking to “monetize” their domain names through “click-through” fees. See Compagnie de Saint Gobain v. Com-Union Corp., D2000-0020 (WIPO Mar. 14, 2000)(finding no rights or legitimate interest where the respondent was not commonly known by the mark and never applied for a license or permission from the complainant to use the trademarked name); see also Charles Jourdan Holding AG v. AAIM, D2000-0403 (WIPO June 27, 2000)(finding no rights or legitimate interests where (1) the respondent is not a

licensee of the complainant; (2) the complainant's prior rights in the domain name precede the respondent's registration; (3) the respondent is not commonly known by the domain name in question).

There is nothing to indicate that Respondent or any of his predecessors-in-interest is commonly known as "Enterpriesrentacar," "Entripriserentacar," "National Cr Rental," "Alomorental" or "Alamaorentacar." See Compagnie de Saint Gobain v. Com-Union Corp., D2000-0020 (WIPO Mar. 14, 2000) (finding no rights or legitimate interest where the respondent was not commonly known by the mark and never applied for a license or permission from the complainant to use the trademarked name); see also Charles Jourdan Holding AG v. AAIM, D2000-0403 (WIPO June 27, 2000) (finding no rights or legitimate interests where (1) the respondent is not a licensee of the complainant; (2) the complainant's prior rights in the domain name precede the respondent's registration; (3) the respondent is not commonly known by the domain name in question).

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3. Registered and Used in Bad Faith. ICANN Rule 3(b)(ix)(3); ICANN Policy ¶4(a)(iii).

Initially, it should noted that Respondent is the court-appointed receiver in a court action in which he was authorized to take possession of certain "domain name assets" of Lead Networks Domains Private Limited ("Lead Networks") including the domain names at issue in this proceeding. Respondent was appointed receiver over those assets of Lead Networks because Lead Networks was operating "a massive cybersquatting operation" and "actively participated and assisted in the cybersquatting" by others in clear violation of trademark rights.

Under US law a receiver is considered to be a person placed in the custodial responsibility for the property of others, including tangible and intangible assets and rights. A receiver does not hold the assets of the others for himself but with a clear purpose. Therefore the rights and obligations of the others concerning the certain assets in the custodial responsibility of the receiver are to be exercised by the receiver itself. In other UDRP actions before WIPO, the National Arbitration Forum and Czech Arbitration panels involving Respondent in his capacity as Receiver, those panels determined that the UDRP action may proceed regarding the domain names held by Respondent as Receiver. See Vanguard Trademark Holdings USA LLC v. Bret Fausett, Court-Appointed Receiver c/o Adorno Yoss, FA 332174 (Nat. Arb. Forum August 9, 2010):

In these proceedings, the receiver for the disputed domain name is able to stand for the rights and obligations in connection to this disputed domain name of the registrant from which it took over in custody the said domain name and the Panel sees no reason to leave the decision to transfer the disputed domain name to the Complainant at a later stage based solely on the decision of such receiver. The facts of record suggest and support a finding that Respondent both registered and is using the domain names at issue in bad faith.

See also Visa Europe Limited v. Bret Fausett, D2010-1534 (WIPO January 18, 2011) and Vanguard Trademark Holdings USA LLC and Enterprise Holdings, Inc. v. Bret Fausett, Court-Appointed Receiver c/o Adorno Yoss, Case No. 100254 (Czech Arbitration Court 28 June 2011):.

The bad faith in both registering and using the domain names at issue is well documented. At pages 5 -7 of the order granting a preliminary injunction in the proceeding that resulted in the appointment of Respondent as the receiver of Lead Network's assets it was stated:

"21. Many of [Lead Network's] Domain Names are confusingly similar to trademarks owned by others…including trademarks that also serve as the names of some of the world's most well-known companies…

23. Defendants register and use these confusingly similar domain names to lure Internet users who are searching for genuine websites associated with famous or distinctive trademarks. The websites hosted at most of these confusingly similar domain names display links featuring goods or services directly competitive with those sold or provided in connection with the famous or distinctive trademarks…Advertisers, search engines and affiliate programs make a payment each time an advertisement is displayed or a link is clicked on that domain name.

24. Defendants identify available domain names they believe will be profitable because of anticipated Internet traffic resulting from “typosquatting”-domains names containing typographical variations other others’ marks-and the consumer confusion it causes. Defendants also register and use domain names that combine others’ marks (or variations thereof) with generic or descriptive terms."

Copies of the relevant portions of that order are attached as Annex 15.

Respondent’s predecessors-in-interest registered and used the domain names, each of which is confusingly similar to trademarks owned by the Complainants. This evidences a clear intent to trade upon the goodwill associated with Complainants' NATIONAL CAR RENTAL, ALAMO, ALAMO RENT-A-CAR, ENTERPRISE and ENTERPRISE RENT A CAR marks for car rental services. Respondent’s predecessors-in-interest deliberately registered and used domain names that are confusingly similar to Complainants' marks to attract, for commercial gain, Internet users to its web sites, by creating a likelihood of confusion with Complainants' marks as to the source, sponsorship, affiliation or endorsement of its web sites and the services offered at such web sites.

The bad faith regarding the registration and use of the domain names at issue is clearly evident from the fact that the links on the web pages to which the domain names at issue resolved and continue to resolve to web sites offering car rental services, thereby continuing the charade by trying to trick people into believing they reached the real NATIONAL CAR RENTAL, ALAMO RENT-A-CAR or ENTERPRISE web sites or some other web sites affiliated with Complainants. See Annexes 13 and 14.

A review of web pages for the domain names at issue makes it very clear that Respondent's predecessors-in-interest set up those web sites with a view to commercial gain from “click-through” payments from Internet users who make mistakes typing when trying to reach the NATIONAL CAR RENTAL, ALAMO RENT A CAR or ENTERPRISE RENT-A-CAR vehicle rental web sites. Although some visitors may realize their mistake, there will inevitably be a number who do “click through”. The very essence of setting up the web sites to which the domain names at issue resolve must be that it does result in commercial gain from Internet users accessing the links through the web sites to which the domain names at issue resolve. Clearly, neither Respondent nor his predecessors-in-interest operate businesses known as “Enterpriesrentacar,” “Entripriserentacar,” "National Cr Rental," "Alomorental" or "Alamaorentacar,” nor, to the best of Complainants' knowledge, neither Respondent nor his predecessors-in-interest do any advertising under any of those names.

The business model based upon use of an infringing domain name to attract users to web sites for the domain names at issue is clear evidence that Respondent's predecessors-in-interest registered and used the domain names at issue in bad faith pursuant to Policy ¶ 4(b)(iv). That bad faith uses is continuing. See Kmart v. Kahn, FA 127708 (Nat. Arb. Forum Nov. 22, 2002)(finding that if a respondent profits from its diversionary use of a complainant’s mark when a domain name resolves to commercial websites and that respondent fails to contest a complaint, it may be concluded that the respondent is using the domain name in bad faith pursuant to Policy ¶ 4(b)(iv)); see also State Farm Mut. Auto. Ins. Co. v. Northway FA 95464 (Nat. Arb. Forum Oct. 11, 2000)(finding that a respondent registered the domain name <statefarmnews.com> in bad faith because that respondent intended to use a complainant’s marks to attract the public to the web site without permission from that complainant).

As a result, the registration and use of the domain names at issue falls squarely within the parameters of ICANN Policy ¶ 4(b)(iv). See G.D. Searle & Co. v. Celebrex Drugstore, FA 123933 (Nat. Arb. Forum Nov. 21, 2002)(finding that respondent registered and used the domain name in bad faith pursuant to ICANN Policy ¶ 4(b)(iv) because respondent was using the confusingly similar domain to attract Internet users to its commercial website). See also Mattel, Inc., v. .COM. Co., FA 12683 (Nat. Arb. Forum Dec. 2, 2002) citing Pavillion Agency, Inc. v. Greenhouse Agency Ltd., D2000-1221 (WIPO Dec. 4, 2000) (finding that the “domain names are so obviously connected with the complainant that the use or registration by anyone other than complainant suggests ‘opportunistic bad faith’”).

In summary, it cannot be disputed that the Complainants have long standing and well-recognized rights and goodwill in their NATIONAL CAR RENTAL, ALAMO, ALAMO RENT A CAR, ENTERPRISE and ENTERPRISE RENT-A-CAR marks in connection

with vehicle rental services. The nationalcrrental.com, alomorental.com, alamaorentacar.com, enterpriesrentacar.com, and entripriserentacar.com domain names are confusingly similar to Complainants' NATIONAL CAR RENTAL, ALAMO, ALAMO RENT A CAR, ENTERPRISE and ENTERPRISE RENT A CAR marks. Neither Respondent nor his predecessors-in-interest has or had any legitimate rights in the domain names at issue. Respondent's predecessors-in-interest merely registered and then used and Respondent, solely as successor-in-interest to those domain names, continues to use the nationalcrrental.com, alomorental.com, alamaorentacar.com, enterpriesrentacar.com, and entripriserentacar.com domain names to capitalize on the goodwill that Complainants have developed in their NATIONAL CAR RENTAL, ALAMO, ALAMO RENT A CAR, ENTERPRISE and ENTERPRISE RENT A CAR marks to drive Internet traffic inappropriately to other websites for commercial gain.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1.
a) The Panel finds that the disputed domain names<nationalcrrental.com>, <alomorental.com> and alamaorentacar.com> are confusingly similar to the First Complainant's registered trade marks.

b) The Panel finds that the disputed domain names <enterpriesrentacar.com> and <entripriserentacar.com> are confusingly similar to the Second Complainant's registered trade marks.

2.
a) The Panel finds that the Respondent has made no use of, or demonstrable preparations to use, neither of the domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names, nor is commonly known under the disputed domain names.

b) The Panel notes that neither the domain names holder's name or his contact details nor his predecessor-in-interest name or contact details contain any reference to the domain names in dispute.

c) In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

3.

The Complainants also proved that the Respondent and/or his predecessor-in-interest deliberately registered and used domain names that are confusingly similar to Complainants' marks to attract, for commercial gain, Internet users to its web sites, by creating a likelihood of confusion with Complainants' marks as to the source, sponsorship, affiliation or endorsement of its website and the services offered at such websites.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **NATIONALCRRENTAL.COM**: Transferred
2. **ALOMORENTAL.COM**: Transferred
3. **ALAMAORENTACAR.COM**: Transferred
4. **ENTERPRIESRENTACAR.COM**: Transferred
5. **ENTRIPRISERENTACAR.COM**: Transferred

PANELLISTS

Name	**Jose Checa**

DATE OF PANEL DECISION 2011-08-31

Publish the Decision