Decision for dispute CAC-UDRP-100603

Case number	CAC-UDRP-100603
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Domain names	mrtillroll.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Mr Paper Ltd

Respondent

Name	Arshad Ahmed

OTHER LEGAL PROCEEDINGS

No legal proceedings exist.

IDENTIFICATION OF RIGHTS

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FACTUAL BACKGROUND

The Complainant is a long time user of the domain names similar to the domain name “mrtillroll.com” which he is using for his business of paper and till rolls trading.

It was brought to the attention of the Complainant on May 14, 2013, that a site “mrtillroll.com” was trading and this site included a logo with a waving man made out of the rolls similar to the design on the Complainant’s site. The Complainant feels that this is contrary to section 4b) iv) of the Uniform Domain Name Dispute Resolution Policy (“UDRP”).

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

RESPONDENT:

RIGHTS

A) Complainant

The Complainant is a long time trading paper and till roll company using two active websites at mrpaper.co.uk and

mrtillrolls.co.uk and the website mrtillroll.com is confusing to the Complainants customers looking for Complainant company (mrtillroll.co.uk) or by searching for the company using “Mr. Till Rolls” the name that the Complainant is commonly known as.

On top of that the Complainant has historically registered all similar domain names that divert to the Complainant’s website, these being:

mrtillroll.co.uk
mrtillroll.net
mrtillrolls.co.uk
mrtillrolls.com
mrtillrolls.net
mr-till-roll.co.uk
mr-till-rolls.co.uk
mrpapertillrolls.co.uk
mrpapertillrolls.com
mrpapertillrolls.net
mrpaperoll.co.uk
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mrpaperrolls.com
mrpaperrolls.net
mister-paper.co.uk
mister-paper.com
mister-paper.eu
mister-paper.net
misterpaper.co.uk
misterpaper.net
mr-paper.co
mr-paper.co.uk
mr-paper.net
mrpaper.co
mrpaper.co.uk
mrpaper.eu
mrpaper.mobi
mrpaper.tel
mrpaper.tv
mrpapers.co.uk
mrspaper.co.uk
mrpaper.org

The Complainant is the owner of the registered UK limited company Mr. Paper Ltd. and Mr. Till Roll Ltd. with websites mrpaper.co.uk and mrtillrolls.co.uk.

The website mrtillroll.com is confusing the customers searching for Mr. Till Rolls especially taking into account it having a confusingly similar logo.

It is in the Complainants opinion, clearly there to attract the customers looking for the Complainant. In addition the site has

many empty sections without products which could result in customers searching for new suppliers as it could make the Complainant look very unprofessional.

The Complainant has written to the registrant/Respondent a Cease and Desist letter but has received no reply. The Complainant has tried to call the Respondent on the numbers on the website but one of these was an invalid number and the other was not answered.

Mr. Paper Limited has been trading since 2003 in the business of selling till rolls. The Complainant is commonly known throughout the UK as Mr. Paper, Mr. Paper Till Rolls and Mr. Till Rolls. Due to the Complainant becoming more commonly known as Mr. Till Rolls, this name was incorporated into the homepage on the website mrpaper.co.uk on the April 21, 2011. The Complainant has spent over EUR 90,000 on advertising building its brand.

The Complainant feels that using the disputed domain name is contrary to section 4 b) iv) of the UDRP. This site appears to have been active since April 19, 2012, and is designed to attract and confuse customers searching for website of the Complainant.

For all the above grounds the Complainant is seeking a transfer of the domain name mrtillroll.com to himself.

B) Respondent

The Respondent strongly disagrees with the allegations made by the Complainant and asks the Complaint to be dismissed.

The main reasons are the following:

There has never been an intention of masquerading, steeling or muscling in another company's business as Complainant/Mr. Knight is stating (bad faith). The disputed domain name was available and before acquiring it the Respondent checked it searching on the internet, Companies House and Trademark Registration and finally the disputed domain name was purchased on March 16, 2011.

The major points that need to be considered in this case are the following:

1. www.mrtillroll.com was publically available and purchased on the 16th March 2011 via 123-reg.co.uk for a legitimate start up business.
2. www.mrtillrolls.co.uk is not an active website; it is a single page static site with the www.mrpaper.co.uk logo and colour branding with hyperlinks to www.mrpaper.co.uk.
3. Mr Knight holds the trademark and company registration to and predominantly trades as www.mrpaper.co.uk.
4. www.mrtillrolls.co.uk is not a protected trademark or a registered company.

Further it has to be stressed that no confusion can be associated between www.mrtillroll.com and www.mrtillrolls.co.uk because there is a completely different look, colour scheme and branding which can be clearly seen.

There is no registered trademark or trading name that apart from Mr. Paper that the Respondent has found.

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

PROCEDURAL FACTORS

All procedure requirements for administrative proceeding under UDRP were met.

PRINCIPAL REASONS FOR THE DECISION

1. The main issues under UDRP are whether:

i. the domain names are identical or confusingly similar to a domain name or a trademark or service mark in which the Complainant has rights; and
ii. the Respondent has no rights or legitimate interests with respect to the domain names; and
iii. the domain names has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant and the Respondent. The Panel also visited all available websites and public information concerning disputed domain name, namely the WHOIS database and related trademark register databases, specifically IN the UK internet space.

3. The Uniform Domain Names Dispute Resolution Policy in its Article 4 defines what has to be understood as an evidence of the registration and use of the domain name in bad faith.

Namely Article 4, letter b), para. iv) has to be considered in this case.

The Rules for Uniform Domain Name Dispute Resolution Policy clearly says in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a Complaint in accordance with the Policy describing according to para (ix), sub para (iii) why the domain name(s) should be considered as having been registered and being used in bad faith.

4. The panel therefore came to the following conclusions:

a) The Complainant has clearly proven that he is a long standing and successful company in the paper and till roll business also well known in the internet space. It is clear that his domain names are well known in the British environment and similar domain names are linked to the Complainant.

Domain names to be identical or confusingly similar

b) It is also clear and proven by the wording of the English language that there is a similarity between properly registered and used domain names of the Complainant and the disputed domain name as to the misspelling/typosquatting; phonetic similarity, optical similarity; conceptual/intellectual similarity.

Respondent not having rights or legitimate interest with respect to the disputed domain name

c) It has to be stressed that it was proven by documents delivered by the Complainant and also by the Respondent and from the factual situation on the internet that there is no legitimate interest of the Respondent in the disputed domain name.

Domain names have been registered and are used in bad faith

d) It was proven that the Respondent has acquired the disputed domain name only after the confusingly similar domain names of the Complainant has been registered and properly used in business.

e) It is therefore clear that there is a high probability of a speculative behaving of the Respondent. On top of that it was not proven that the owner of the domain name is active in the paper and till rolls business and therefore this based on the previous decision and practice of the arbitrators may lead to the conclusion that the use of this domain name is speculative by the Respondent.

f) From the IP law perspective it is clear that the similar confusing domain names were used by the Complainant for a long time before the disputed domain name was acquired and used by the Respondent.

g) Therefore it has to be concluded that the Respondent has registered/acquired the disputed domain name primarily for the purpose of his own benefit when disrupting the business of the Complainant and therefore the Respondent is using the domain name in a bad faith. The domain name shall be transferred to the Complainant without a delay.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MRTILLROLL.COM**: Transferred

PANELLISTS

Name	**Vít Horáček**

DATE OF PANEL DECISION 2013-08-08

Publish the Decision