Decision for dispute CAC-UDRP-100700

Case number	CAC-UDRP-100700
Time of filing	2013-11-06 18:36:39
Domain names	alamocars.biz, alamocarrentals.biz, alamorentcars.biz, alamorentalcars.biz, alamorentals.biz, enterprisecarhire.biz, enterpriseonline.biz, enterpriserentalcars.biz, nationalcarrentals.biz, nationalrentalcars.biz, nationalrentcars.biz

Case administrator

Name	Lada Válková (Case admin)

Complainant

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

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Name	Li Guorong

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other pending or decided proceedings which related to the disputed domain names.

IDENTIFICATION OF RIGHTS

Community Trademark Registration No. 000036394; Community Trademark Registration No. 1860592; UK Registration No. 00002017578.

FACTUAL BACKGROUND

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

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

This is a Class Complaint filed on behalf of (1) Enterprise Holdings, Inc. (“First Complainant” or “Enterprise”) and (2) Vanguard Trademark Holdings USA LLC (“Second Complainant” or “Vanguard”) 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 fourteen 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 names only to the individual Complainant on whose behalf such transfer is requested in the Class Complaint, in accordance with the policy.

As of the date of the commencement of this proceeding, “Li Guorong” is the record owner of the following domain names:

alamocars.biz
alamocarrentals.biz
alamorentcars.biz
alamorentalcars.biz
alamorentals.biz
enterprisecarhire.biz
enterpriseonline.biz
enterpriserentalcars.biz
nationalcarrentals.biz
nationalrentalcars.biz
nationalrentcars.biz

As of the date of the commencement of this proceeding, “li kai” is the registrant for the following domain names:

alamocoupons.org
ational.org

Here are the Registrant Details from the WHOIS record for “li kai”:

Registrant Name:li kai
Registrant Email:raich029850@gmail.com’
Registrant Organization:li kai
Registrant Street:baohudadaowuyingdaolou1206shi
Registrant City:xiamen
Registrant State/Province:Fujian
Registrant Postal Code:361000
Registrant Country:CN
Registrant Phone:+059.654236520
Registrant FAX: None provided

Hereinafter the 13 domain names listed above shall be referred to collectively as the “domain names at issue”.

Copies of WHOIS records for each of these domain names are attached collectively as Annex No. 1. A copy of the Uniform Dispute Resolution Policy incorporated by reference in the Registration Agreement for each of these domains is attached as Annex No. 2.

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

Single Respondent: ICANN Rule 3(c).

Under the Policy and the Rules a complaint cannot be brought against multiple respondents. Article 3(c) of the Rules states

that a complaint may be only be filed against multiple domain names if they are registered by the same entity. Enterprise Holdings, Inc. and Vanguard Trademark Holdings USA LLC ("Complainants") allege that the registered owners of the 13 domain names at issue are in fact the same person or entity, operating under several aliases ("Respondent").

In determining whether domain names owned by different record owners are in fact owned or controlled by a single entity Panels have reviewed the following factors:

(1) The use of common registration information such as administrative contact details, technical contact details, postal addresses, email addresses, IP addresses, and telephone and fax numbers;

(2) The use of the same or similar names in the registration information;

(3) Whether the domain names were registered during the same time period;

(4) That the disputed domain names resolve to the same or similar websites;

(5) The same domain name servers are used;

(6) The same Registrars are used; and

(7) That there is a close similarity between the domain names at issue, each of which incorporates the trade mark in its entirety in conjunction with non-distinctive, generic or geographical terms.

See Seiko Holdings Kabushiki Kaisha v. L. Collins Travis, C. Turner Jose, et al., D2013-0994 (WIPO August 6, 2013) (Finding "In these circumstances the Panel is prepared to infer that on the balance of probabilities it is most likely that the disputed domain names are controlled by the same person or entity and that as a result and considering the aims and objectives of the Policy, it is in this case procedurally efficient and appropriate under the Rules to consolidate the cases into this single proceeding"). See also Co-Dependents Anonymous, Inc. v. CODA MEXICO / Fernado Jaramillo Becerra / Alejandra Luna / Rad Lab, FA1499485 (Nat. Arb. Forum June 19, 2013) ("in absence of a Response by Respondent, the Panel accepts Complainant's evidence that the disputed domain names are controlled by the same entity and will proceed with this case.")

In the present case 11 eleven of the domain names at issue are registered with GoDaddy.com and are owned by "Li Guorong" and share common registration information such as administrative contact details, technical contact details, postal addresses, email addresses, IP addresses, and telephone and fax numbers. The domain names alamocoupons.org and ational.org are registered with PDR Ltd. and are owned by "Li Kai and share common registration information.

Although the 13 domain names at issue are split between two different record owners and two different Registrars, it must be noted that:

- All 13 of the domain names at issue resolve to the same or similar websites;

- All 13 of the domain names at issue use the same name servers;

- All of the domain names were registered during a sixteen day period between December 20, 2012 and January 5, 2013; and

- There is a close similarity between the disputed domain names, each of which is confusingly similar to a mark that is well-known in the field of car rentals and resolves to a web page that has links to other sites that offer car rental services.

In addition, Complainants have received emails relating to the domains alamocoupons.org and ational.org, that use the same name "Li Guorong",as the owner of the other 11 domain names at issue. Attached as Annex No. 3 are two almost identical emails dated August 8, 2013 soliciting offers to purchase the domain names alamocoupons.org and ational.org and advising that the seller's email is "liguorong@hotmail".

Based upon the evidence cited above, Complainants assert, particularly if Respondent fails to present any evidence to the contrary, that all of the domain names at issue are controlled by the same person or entity, using the aliases “Li Guorong” and “li kai”.

Similar conclusions have been reached by previous panels that based upon a preponderance of the evidence multiple domain names having different record owners are controlled by the same person or entity and can be consolidated in a single complaint and proceeding. See FragranceX.com v. Argosweb Corp. a/k/a Oleg Techino in this name and under various aliases et al., D2010-1237 (WIPO Sept. 17, 2010) (Finding that complaint involving thirty seven disputed domain names and twenty four respondents could be properly decided as a single case).

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

First Complainant, Enterprise Holdings, Inc., is the owner of the ENTERPRISE mark which it licenses to Enterprise Rent-A-Car operating companies. ENTERPRISE is very well-known in the car rental business. First Complainant began renting cars in 1957 and has used the ENTERPRISE mark for car rental services in the United States since 1969 and Canada since 1984. First Complainant expanded its car rental business to Europe in 1994 and has operations in the United Kingdom, Germany and Ireland. Enterprise Rent-A-Car operates on-line car rental sites using various domain names. A copy of the Enterprise German home page from www.enterprise.de is attached as Annex 4.

First Complainant is the owner of the following Community Trademark registration:

European Community Trademark Registration No. 000036394 dated 01 December 1998 for ENTERPRISE for, among other goods and services, “Vehicle rental services; vehicle leasing services; vehicle towing services; vehicle breakdown recovery services; recovery of vehicles; vehicle rental and leasing, and reservation services for vehicle rental and/or leasing.”

(Information regarding this Community Trademark Registration from the OHIM database is attached as Annex No. 5.)

Second Complainant, Vanguard Trademark Holdings USA, LLC, is the owner of the ALAMO mark which 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 car rental locations throughout the United States, Canada, Mexico, the Caribbean, Latin America and Asia. Alamo Rent A Car operates an online car rental site at alamo.com that offers airport car rentals. A copy of this webpage is attached as Annex No. 6.

Second Complainant is the owner of the following Community Trademark Registration:

European Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, among other goods and 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. automobile rental and reservation services."

(Information regarding this Community Trademark Registration from OHIM database is attached as Annex No. 7.)

Second Complainant is also the owner of the NATIONAL mark which it licenses to the National Car Rental operating companies. Started in 1948, National Car Rental is a premium, internationally recognized brand serving the daily rental needs of the frequent airport business traveler throughout the United States, Canada, Mexico, the Caribbean, Latin America, Asia, and the Pacific Rim. Complainant’s licensee operates an online car rental site at nationalcar.com. A copy of this webpage is attached as Annex No. 8.

Second Complainant is the owner of the following United Kingdom registration:

UK Registration No. 00002017578 for issued 1 March 1996 for NATIONAL & Design mark for “automobile rental and reservation services” in International Class 39.

(Information regarding the above-referenced UK Trademark Registration from UK Intellectual Property Office database is attached as Annex No. 9.)

Complainants’ registration for the ENTERPRISE, ALAMO and NATIONAL marks (“Complainants’ Mark”) all pre-date the December, 2012 and January, 2013 initial registration dates of the domain names at issue by many years.

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

Complainants’ registrations and extensive use of Complainants’ Marks for car rental services sufficiently establish their rights in the marks pursuant to Policy ¶ 4(a)(i). See Vivendi Universal Games v. XBNetVentures Inc., FA 198803 (Nat. Arb. Forum Nov. 11, 2003) (“Complainant’s federal trademark registrations establish Complainant’s rights in the BLIZZARD mark.”); see also Mothers Against Drunk Driving v. phix, FA 174052 (Nat. Arb. Forum Sept. 25, 2003) (finding that a complainant’s registration of the MADD mark with the United States Patent and Trademark Office established its rights in the mark for purposes of Policy ¶ 4(a)(i)).

According to the WHOIS records for the domain names at issue the Respondent resides in China, however, Policy ¶ 4(a)(i) does not require Complainants to show registration in any particular location so long as they can establish rights in some jurisdiction. See Koninklijke KPN N.V. v. Telepathy Inc., D2001-0217 (WIPO May 7, 2001) (finding that the Policy does not require that the mark be registered in the country in which the respondent operates and it is sufficient that the complainant can demonstrate a mark in some jurisdiction).

Each of the domain names at issue is confusingly similar to one or more trademarks owned by the Complainants. With the exception of ational.org, all of the domain names at issue include one of Complainants’ Marks in its entirety together with a term such as “cars”, “car rentals”, “car hire”, “coupon” or “on line” (or some variation of those terms) that clearly describe aspects of Complainants’ car rental businesses. In the case of ational.org, Respondent is using a common “typo” of the NATIONAL mark.

All of the domain names also add a generic top level domain which is also insufficient to distinguish the domain names at issue from Complainants’ Marks. See Jerry Damson, Inc. v. Tex. Int’l Prop. Assocs., FA 916991 (Nat. Arb. Forum Apr. 10, 2007) (“The mere addition of a generic top-level domain (“gTLD”) “.com” does not serve to adequately distinguish the Domain Name from the mark.”

It is also well established that combining a mark with terms that describes or is related to a Complainant’s business is an inadequate change to prevent confusing similarity. See Gillette Co. v. RFK Assocs., FA 492867 (Nat. Arb. Forum July 28, 2005) (finding that the additions of the term “batteries,” which described the complainant’s products, and the generic top-level domain “.com” were insufficient to distinguish the respondent’s <duracellbatteries.com> from the complainant’s DURACELL mark). See also Target Brands, Inc. v. E Travel Marketing, FA 0602000647041 (Nat. Arb. Forum April 4, 2006) (finding targetcoupons.com and targetcoupons.net confusingly similar to Complainant’s TARGET mark); see also Homer TLC, Inc. v. Arnold Brod, FA 0809001222948 (Nat. Arb. Forum October 7, 2008) (finding that the domain name, homedepotcoupons.info was confusingly similar to Complainant’s HOME DEPOT mark). See also Microsoft Corporation v. li zi / li zi li zi / li zi pan / li zi pan li zi pan, FA1104001382743 (Nat. Arb. Forum May 24, 2011) (finding that addition of “online” in xboxpointsonline.com did not prevent confusing similarity to complainant’s XBOX mark).

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

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

In light of the long-standing use and registration of Complainants' Marks in connection with car rental services, Respondent cannot have any legitimate rights in the domain names at issue when used in connection with websites that seek to divert users from the Enterprise Rent-A-Car, Alamo Rent A Car, and National Car Rental home pages to sites offering links to websites offering goods and services from entities unrelated to Complainants. As more fully explained in the section of this Complaint regarding bad faith, there is clear evidence from Respondent's conduct that when these domain names were registered Respondent was well aware of the existence of Complainants and their respective rights in the ENTERPRISE, ALAMO, and NATIONAL marks in connection with car rental services.

With the exception of ational.org discussed below, on October 24, 2013 all of the domain names at issue resolved to a home page that had "related links" which are primarily links to competing car rental websites and "sponsored listings" which includes links to the respective Complainant's website as well as those of competing rental car websites.

Using the alamocars.biz domain name as an example, that domain name resolved to a webpage with the following "Related Links":

Luxury Cars Rent
Rental Cars in Miami
Rental Cars Auckland Airport
Alamo Car Rental Insurance
Cheap Rental Cars Florida
Best Deals on Rental Cars
Rental Cars Knoxville TN
Rental Cars Myrtle Beach
Hire Cars
Rental Cars Lowest Price

The "Sponsored Listings" were:

Alamo® Official Site
Used Cars For Sale
Car Rental USA - $8/day
Auto rent 4 less

A copy of the webpage to which the alamocars.biz domain name resolved on October 24, 2013 is attached as Annex No. 10. Copies of the web pages for all of the other domain names at issue are attached collectively as Annex No. 11. (On October 24, 2013 the ational.org domain name resolved to a virtually blank webpage.)

Respondent's uses of the domain names at issue are 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).

Complainants have not licensed or otherwise permitted Respondent to use Complainants' Marks in connection with car rental services or any other goods or services or to apply for any domain name incorporating Complainants' Marks. In addition, Respondent is clearly not making any legitimate noncommercial or fair use of "ENTERPRISE," "ALAMO," or "NATIONAL." In fact, any claim in that regard is easily dismissed since the domain names at issue resolve to webpages that

are a generic type of webpage 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).

As previously indicated Complainants' licensees operates online car rental websites at enterprise.de, alamo.com, and nationalcarrental.com. It is clear that the Respondent has no legitimate rights in the domain names at issue and is attempting to divert Internet traffic to the domain names at issue when Internet users are in fact trying to reach the legitimate Enterprise Rent-A-Car, Alamo Rent A Car, and National Car Rental websites and such a use constitutes a lack of rights or legitimate interest in the disputed domain names under ICANN Policy ¶¶ 4(c)(i) and (ii). See Big Dog Holdings, Inc. v. Day, FA93554 (Nat. Arb. Forum Mar. 9, 2000) (finding no legitimate use when respondent was diverting consumers to its own website by using complainant's trademark(s)): see also MSNBC Cable, LLC v. Tysys.com, D2000-1204 (WIPO Dec. 8, 2000) (finding no rights or legitimate interest in the famous MSNBC mark where respondent attempted to profit using complainant's mark by redirecting Internet traffic to its own website).

Clearly Respondent does not operate businesses known as "Alamo Cars," "Alamo Car Rentals," "Alamo Rent Cars," "Alamo Rental Cars," "Alamo Rentals," "Enterprise Car Hire," "Enterprise Online," "Enterprise Rental Cars," "National Car Rentals," "National Rental Cars," "National Rent Cars," "Alamo Coupons," or "Ational,". To the best of Complainants' knowledge, Respondent does not advertise under the names "Alamo Cars," "Alamo Car Rentals," "Alamo Rent Cars," "Alamo Rental Cars," "Alamo Rentals," "Enterprise Car Hire," "Enterprise Online," "Enterprise Rental Cars," "National Car Rentals," "National Rental Cars," "National Rent Cars," "Alamo Coupons" or "Ational", nor are they commonly known as "Alamo Cars," "Alamo Car Rentals," "Alamo Rent Cars," "Alamo Rental Cars," "Alamo Rentals," "Enterprise Car Hire," "Enterprise Online," "Enterprise Rental Cars," "National Car Rentals," "National Rental Cars," "Alamo Coupons," or "Ational".

The domain name ational.org currently resolves to a virtually blank screen. However, particularly since the record owner of ational.org also owns alamocoupons.com, any use Respondent will make of the ational.org domain name incorporating a typo of Second Complainant's NATIONAL mark would most likely violate the exclusive trademark rights which the Second Complainant has long held in its mark. See Deutsche Bank Aktiengesellschaft v. New York TV Tickets Inc., D2001-1314 (WIPO Feb. 12, 2002) (finding that, "given the notoriety of the Complainant's Deutsche Bank Mark, any use which the Respondent would make of any domain name, as here, that incorporated the Complainant's Deutsche Bank Mark, or one confusingly similar thereto, would likely violate the exclusive trademark rights which the Complainant has long held in its mark.").

Once Complainants make a prima facie case that Respondent lack rights and legitimate interests in the domain names at issue under Policy ¶ 4(a)(ii), the burden shifts to Respondent to show they do have rights or legitimate interests. See Hanna-Barbera Prods., Inc. v. Entm't Commentaries, FA 741828 (Nat. Arb. Forum Aug. 18, 2006) (holding that the complainant must first make a prima facie case that the respondent lacks rights and legitimate interests in the disputed domain name under UDRP ¶ 4(a)(ii) before the burden shifts to the respondent to show that it does have rights or legitimate interests in a domain name); see also AOL LLC v. Gerberg, FA 780200 (Nat. Arb. Forum Sept. 25, 2006) ("Complainant must first make a prima facie showing that Respondent does not have rights or legitimate interest in the subject domain names, which burden is light. If Complainant satisfies its burden, then the burden shifts to Respondent to show that it does have rights or legitimate interests in the subject domain names.").

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

The facts of record suggest and support a finding that Respondent both registered and is using the domain names at issue in bad faith. Respondent's registration of domain names that combine Complainants' Marks with generic terms descriptive of Complainants' business or a common "typo" of the NATIONAL mark for websites that attempt to attract Internet users to Respondent's websites, evidences a clear intent to trade upon the goodwill associated with Complainant's ENTERPRISE,

ALAMO, and NATIONAL marks for car rental services. Respondent is deliberately using domain names that are confusingly similar to Complainants' Marks to attract, for commercial gain, Internet users to Respondent's websites, by creating a likelihood of confusion with Complainants' Marks as to the source, sponsorship, affiliation or endorsement of its websites and the services offered at such websites.

The webpages to which the domain names at issue resolve appear to be "pay-per-click" webpages. They contain online advertising that will provide the Respondent with revenue from "click-through" fees from Internet users who find their way to the webpages at the domain names at issue. Many Internet visitors to Respondent's webpages at the domain names at issue will either not realize that they have been unwittingly directed to a website that has no affiliation to Complainants or not care that they are not at the "official" Enterprise, Alamo, or National website and will "click through" to Complainants' website or websites of its competitors linked on Respondent's webpages.

The domain name for ational.org may currently be inactive, but when considering Second Complainant's worldwide reputation for car rental services under its NATIONAL marks, Respondent can be found to have registered the disputed domains with full knowledge of Second Complainant's rights in the NATIONAL mark. The registration of a well-known trademark, such as NATIONAL, as a domain name by an entity that has no legitimate relationship with the mark suggests bad faith registration. See Swarovski Aktiengesellschaft v. Liu Ji, D2011-0445 (WIPO April 19, 2011).

In addition, as evidenced by the emails attached as Annex No. 3, Respondent clearly registered the ational.org and alamocoupons.org domain names primarily for the purpose of selling those domains to Complainant Vanguard for valuable consideration in excess of Respondent out-of-pocket costs.

The business model based upon use of an infringing domain name to attract users to Respondent's websites is clear evidence that Respondent registered and is using the domain names at issue in bad faith pursuant to Policy ¶ 4(b)(iv). 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 website without permission from that complainant).

No matter how it is viewed, the very essence of setting up the websites at the domain names at issue must be that it does result in commercial gain from Respondent's use of the domain names at issue and the related websites.

In addition, Respondent's bad faith is clearly evident from the fact that the webpages for the domain names at issue include links to the real Enterprise, Alamo, or National websites and for which Complainants must pay a click-through fee if that link is used. The link to the real Enterprise, Alamo, and National websites on the webpages to which the domain names at issue resolve even contain the ® symbol indicating recognition of Complaints' rights in the ALAMO, ENTERPRISE and NATIONAL marks.

Respondent may claim ignorance regarding the use being made of the domain names at issue. However, under the UDRP, absent a showing of some good faith attempt prior to receiving the UDRP complaint, to stop the inclusion of advertising or links which profit from trading on third party trademarks, a domain name owner will be deemed responsible for content appearing on the website at the domain names they own. This is true even if the owner is not exercising direct control over such content - for example, in the case of advertising links appearing on an "automatically" generated basis, such as may be the case here. See Villeroy & Boch AG v. Mario Pingerma, D2007-1912 (WIPO Feb. 14, 2008) (finding domain owner responsible for parking page created by the Registrar even though Respondent had no knowledge of the contents of the parking page's contents).

As a result, Respondent's 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 ENTERPRISE, ALAMO and NATIONAL marks in connection with car rental services. The domain names at issue are confusingly similar to Complainants’ Marks for car rental services. Respondents have no legitimate rights in the domain names at issue. Respondent has registered and is using the domain names at issue to capitalize on the goodwill that Complainants have developed in their ENTERPRISE, ENTERPRISE, ALAMO and NATIONAL marks to drive Internet traffic inappropriately to other websites for commercial gain.

Index of Annexes
Enterprise Holdings, Inc. and Vanguard Trademark Holdings USA LLC v.
Li Guorong a/k/a Li Kai

Annex No. 1 Copies of WHOIS records for the domain names at issue

Annex No. 2 Copy of ICANN’s Uniform Dispute Resolution Policy

Annex No. 3 Copies of emails from liguorong@hotmail.com regarding the alamocoupons.org and ational.org domain names

Annex No. 4 Copy of the Enterprise Rent-A-Car Germany webpage

Annex No. 5 Copy of the Alamo Rent A Car webpage

Annex No. 6 Copy of the National Car Rental webpage

Annex No. 7 Copy of the record from the OHIM database showing the status of First Complainant’s CTM Registration for ENTERPRISE

Annex No. 8 Copy of the record from the OHIM database showing the status of Second Complainant’s CTM Registration for ALAMO

Annex No. 9 Copy of the record from the UK Intellectual Property Office showing the status of Second Complainant’s UK Registration for NATIONAL & Design

Annex No. 10 Copy of web page to which the alamocars.biz domain name resolves

Annex No. 11 Copies of the web pages to which the alamocarrentals.biz, alamorentcars.biz, alamorentalcars.biz, alamorentals.biz, enterprisecarhire.biz, enterpriseonline.biz, enterpriserentalcars.biz, nationalcarrentals.biz, nationalrentalcars.biz, nationalrentcars.biz, alamocoupons.org and ational.org domain names resolve

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

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

As to the merits the Panel's view is based on the following considerations:

1. alamocars.biz

The domain name is confusingly similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services". It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a "negative fact", which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant's prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows "related links" which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a "pay-per-click" webpage. It contains online advertising that will provide the Respondent with revenue from "click-through" fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent) the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

2. alamocarrentals.biz

The domain name is confusingly similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services". It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at

least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent) the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

3. alamorentcars.biz

The domain name is confusingly similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent) the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be

transferred to the Complainant.

4. alamorentalcars.biz

The domain name is confusingly similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services". It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a "negative fact", which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant's prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows "related links" which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a "pay-per-click" webpage. It contains online advertising that will provide the Respondent with revenue from "click-through" fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent) the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

5. alamorentals.biz

The domain name is confusingly similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services". It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, that there is at least a sufficient degree of similarity.

The Respondent does not have the Panel finds rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a "negative fact", which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant's prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not

discharge its onus of proof.
The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

6. enterprisecarhire.biz

The domain name is confusingly similar to Community Trademark Registration No. 000036394 dated 01 December 1998 for ENTERPRISE, registered amongst others for “Vehicle rental services; vehicle leasing services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

7. enterpriseonline.biz

The domain name is confusingly similar to Community Trademark Registration No. 000036394 dated 01 December 1998 for ENTERPRISE, registered amongst others for “Vehicle rental services; vehicle leasing services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily

within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant's prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows "related links" which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a "pay-per-click" webpage. It contains online advertising that will provide the Respondent with revenue from "click-through" fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

8. enterpriserentalcars.biz

The domain name is confusingly similar to Community Trademark Registration No. 000036394 dated 01 December 1998 for ENTERPRISE, registered amongst others for "Vehicle rental services; vehicle leasing services". It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, I find that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a "negative fact", which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant's prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows "related links" which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a "pay-per-click" webpage. It contains online advertising that will provide the Respondent with revenue from "click-through" fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent) the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

9. nationalcarrentals.biz

The domain name is confusingly similar to UK Registration No. 00002017578 registered 1 March 1996 for NATIONAL &

Design mark for “automobile rental and reservation services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. The fact that the mark is a device mark has no influence on the assessment of similarity but only becomes relevant when assessing possible legitimate interests of a respondent. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

10. nationalrentalcars.biz

The domain name is confusingly similar to UK Registration No. 00002017578 registered 1 March 1996 for NATIONAL & Design mark for “automobile rental and reservation services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. The fact that the mark is a device mark has no influence on the assessment of similarity but only becomes relevant when assessing possible legitimate interests of a respondent. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to

the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

11. nationalrentcars.biz

The domain name is confusingly similar to UK Registration No. 00002017578 registered 1 March 1996 for NATIONAL & Design mark for “automobile rental and reservation services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. The fact that the mark is a device mark has no influence on the assessment of similarity but only becomes relevant when assessing possible legitimate interests of a respondent. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

12. alamocoupons.org

The domain name is similar to Community Trademark Registration No. 1860592 registered 16 September 2002 for ALAMO for, amongst others "vehicle rental, reservation and leasing services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The additional elements of the domain name are merely descriptive and cannot distinguish the domain name from the mark. Although not identical, the Panel finds that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 –

paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The domain name at issue leads to webpage that shows “related links” which are primarily links to competing car rental websites. The webpage to which the domain name at issue resolves is a “pay-per-click” webpage. It contains online advertising that will provide the Respondent with revenue from “click-through” fees from Internet users who find their way to the webpages at the domain names at issue. The Panel regards this as a use in bad faith and, on the basis of the facts presented by the Complainant (and not being contested by the Respondent), the Panel is also convinced that the Respondent registered the domain with such use in mind.

Consequently, the Panel is satisfied that the requirements of the UDRP are fulfilled and that the domain name is to be transferred to the Complainant.

13. ational.org

The domain name is confusingly similar to UK Registration No. 00002017578 registered 1 March 1996 for NATIONAL & Design mark for “automobile rental and reservation services”. It is accepted that the top level domain is not included in the comparison between mark and domain name. The missing letter “m” in the second level domain does not create a sufficient to the mark in order to be regarded as dissimilar. In particular with a view on mistyping which often occurs while trying to access webpages through their domain names, there is a similarity. The fact that the mark is a device mark has no influence on the assessment of similarity but only becomes relevant when assessing possible legitimate interests of a respondent. Although not identical, I find that there is at least a sufficient degree of similarity.

The Respondent does not have rights or legitimate interests in respect of the Domain Name according to Paragraph 4(a)(ii) UDRP. Although the onus of proof for this second requirement under the UDRP rests with the Complainant, the Panel follows the view that it is impossible for a complainant to prove a “negative fact”, which would require information that is primarily within the knowledge of the respondent. Therefore, a complainant is required to make out prima-facie case that the respondent lacks rights or legitimate interests and the onus of proof then shifts to the respondent to rebuke the complainant’s prima-facie case (c.f. e.g. CAC UDRP cases Nos. 100053 – enterprisecarrentalonline.info; 100084 – paiement-cic.com; 100092 – lerosmarina.com; 100099 – sublimedirections.com and WIPO cases Nos. D2003-0455 – croatiaairlines.com; D2004-0110 – belupo.com). The Complainant has elaborated on its long standing use of its marks for car rental services contending that no circumstances can be seen as to why the Respondent should have a legitimate interest or right to use the domain name. The Respondent has not submitted a response to that and, hence, did not discharge its onus of proof.

The Complainant received and email relating to the domain ational.org from the Respondent soliciting offers to purchase the domain name, as can be seen from Annex 3. The Panel is of the view that this amounts to a registration and use of the domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ALAMOCARS.BIZ**: Transferred
2. **ALAMOCOUPONS.ORG**: Transferred
3. **ALAMOCARRENTALS.BIZ**: Transferred
4. **ALAMORENTCARS.BIZ**: Transferred
5. **ALAMORENTALCARS.BIZ**: Transferred
6. **ALAMORENTALS.BIZ**: Transferred

7. **ENTERPRISECARHIRE.BIZ**: Transferred
8. **ENTERPRISEONLINE.BIZ**: Transferred
9. **ENTERPRISERENTALCARS.BIZ**: Transferred
10. **NATIONALCARRENTALS.BIZ**: Transferred
11. **NATIONALRENTALCARS.BIZ**: Transferred
12. **NATIONALRENTCARS.BIZ**: Transferred
13. **ATIONAL.ORG**: Transferred

PANELLISTS

Name	**Dr. Uli Foerstl, LL.M.**

DATE OF PANEL DECISION 2014-01-14

Publish the Decision