Decision for dispute CAC-UDRP-100709

Case number	CAC-UDRP-100709
Time of filing	2013-11-20 14:32:27
Domain names	octomore.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	BRUICHLADDICH DISTILLERY COMPANY LIMITED

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Name	Tim Bachelder

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings pending.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various trademark registrations for OCTOMORE. It is inter alia the owner of UK Trademark Registration No. 2258225 of January 17, 2001 OCTOMORE in class 33.

FACTUAL BACKGROUND

Bruichladdich Distillery Company Limited is a Scottish alcohol manufacturer that produces a wide range of high-quality Scotch whisky named OCTOMORE. It is a 100%-owned subsidiary if the REMY COINTREAU Group.
It owns several trademarks including the distinctive word OCTOMORE.
The disputed domain name <octomore.com> was registered on August 9, 2002.
The Complainant has attempted to contact the Respondent several times but received no reply.

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

The Panel finds that the disputed domain name <octomore.com> is identical to the Complainant's trademarks OCTOMORE.

The Complainant contends that Respondent is not affiliated with him nor authorized by him in any way. The Complainant also states that the Respondent has no right nor legitimate interest in the disputed domain name and that he is not related in any way to his business. The Complainant also asserts that he does not carry out any activity for, nor has business with the Respondent.

The Panel notes the domain name's holder name or contact details contain no reference to OCTOMORE or similar word or name. The domain name is used for a website announcing the owner has no intention of either using this domain name maliciously or for leverage for financial gain but also evoking a compensation. The Complainant has tried to contact the Respondent but received no reply.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no right or legitimate interest in respect of <octomore.com>.

The use of the domain name establishes the Respondent had knowledge of the Complainant and its trademark OCTOMORE at the time of the registration of said domain name. The Respondent did not reply to Complainant when the Complainant tried to contact him to request the transfer of the domain name. The registration of this domain name by the Respondent prevents the Complainant from reflecting its trademark OCTOMORE in corresponding domain name. The Respondent has also suggested he expects a compensation beyond his out-of-pocket costs on the website connected to the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **OCTOMORE.COM**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2013-12-30