Decision for dispute CAC-UDRP-100620

Case number	**CAC-UDRP-100620**
Time of filing	**2014-01-15 08:15:01**
Domain names	**happyhomefurniture.net**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Happy Home Furniture**

Respondent

Name	**Patel**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

Complainant has ownership of multiple trademark registrations, including:
HAPPY HOME FURNITURE, for CLASS 20 Reg. No. 1311103 registration date 24 September 2004 (Indian trademark).

FACTUAL BACKGROUND

According to the information provided by Complainant, Happy Home Furniture has been operating since 1989. Its head office is situated in the city of Gandhinagar (located a few kilometers from Ahmedabad) in the state of Gujarat, India. Respondent has only provided as its address the city of Ahmedabad, Gujarat, India. No street address was provided by Respondent.
Complainant Happy Home Furniture is also operational as Happy Home Furniture Limited In England and New Zealand, and as HappyHomeFurniture In Australia. During more than twenty five years Complainant has gained an important fame among consumers in Gujarat. It is now a major merchant in Gujarat whose integrity and reliability are known to consumers.
Complainant has ownership of multiple trademark registrations, including:
HAPPY HOME FURNITURE, for CLASS 20 Reg. No. 1311103 registration date 24 September 2004 (Indian trademark). The domain name <happyhomefurniture.co.in> of Complainant was registered by Complainant on 3 May 2010. The disputed domain name <happyhomefurniture.net> was registered on 16 February 2012 by Respondent.
The disputed domain name contains Complainant's HAPPY HOME FURNITUE trademark in full. According to Complainant the disputed domain name is identical or confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(1)).

According to Complainant, Respondent has no legitimate interest in the disputed domain name as the website under the disputed domain name is being used to defraud users into purchasing products that are never delivered. Complainant has received numerous calls from consumers chasing delivery of their products. Complainant had to inform the consumers that the delivery of the products and the website the consumers ordered the products from are not in any way associated with Complainant. Complainant has no relationship with Respondent. Accordingly, Respondent has no rights or legitimate

interests in respect of the disputed domain name (Policy, Par. 4 (a)(11)).

According to Complainant the disputed domain name is registered in bad faith as the sole purpose for its registration was and is to trick users into believing that they have arrived at a site which is owned by or associated with a reputable company i.e. Complainant. According to Complainant the disputed domain name has been registered and is being used in bad faith (Policy, Par. 4(a)(iii)).

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

In the opinion of the Panel the disputed domain name is identical or confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(1)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety. The trademark of Complainant predates by several years the registration date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register domain names incorporating its marks. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel also finds that the disputed domain name has been registered and is being used in bad faith by Respondent. This is particularly true as Respondent intentionally attempts to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or of a product on its website or location. In addition, Respondent has not responded to the allegation of Complainant that the website of Respondent is used to defraud consumers promoting the same kind of products that are sold by Complainant on its website.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HAPPYHOMEFURNITURE.NET**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2014-02-18

Publish the Decision