Decision for dispute CAC-UDRP-100899

Case number	**CAC-UDRP-100899**
Time of filing	**2015-01-29 10:43:40**
Domain names	**inwhitebridal.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**IN WHITE LLC**

Respondent

Organization	**clpik-studio.com Pawel Tykwinski**

OTHER LEGAL PROCEEDINGS

None.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the United States service mark “IN WHITE” in Class 35 for use in association with “retail store services featuring clothing and fashion accessories normally worn to weddings and other formal events” (Registration No. 4363689; Registration Date 9 July 2013).

The Complainant owns and uses the domain name <www.inwhite.com> and formerly owned and used <www.inwhitebridal.com> (the "Disputed Domain Name").

FACTUAL BACKGROUND

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

The Complainant claims that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The U.S. Patent and Trademark Office registered Complainant's service mark "IN WHITE" on 9 July 2013 for use in conjunction with "retail store services featuring clothing and fashion accessories normally worn to weddings and other formal events". Ref. Reg. No. 4,363,689. "Inwhitebridal.com" merely appends the high level domain ".com" and a term descriptive of Complainant's commercial service, "bridal". These additional terms are insufficient to avoid confusion with Complainant's mark.

According to the Complainant the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not demonstrated any association with the term "in white" or with bridal services or products. The Respondent is anonymous and is associated only with pornography. The Respondent registered the domain on 26 November 2014, the day after the Complainant lost the rights to the domain due to administrative error on the part of Complainant's web hosting service. The domain was previous registered to the Complainant for five years beginning in 2009.

Finally the Complainant contends the Respondent registered the domain name in bad faith for:

a) the Respondent has demonstrated a pattern of behaviour of registering domains potentially infringing on trademark rights and using them to host WordPress blogs containing links to Respondent's video-girls.info website. A Google search for "video-girls.info" returns over 2,000 such sites. For example:

- goldenwalkingtours.com (Golden Tours, provider of walking tours, is a registered UK trademark)
- bluebookdealer.net (Kelly Blue Book, provider of used automobile valuation to auto dealers, is a registered US trademark)
- ligonierequestrian.com (Ligonier Equestrian Center, horse riding services in US)
- ghostfactorymusic.com (Ghost Factory Music, live music venue in US)

None of these domains is in any way associated with Respondent's video-girls.info website to which they link.

b) the Respondent registered subject domain the same day it expired, suggested automated registration.

c) the Respondent is hiding behind proxy and privacy services.

d) disputed domain contains links to video-girls.info, a site related to adult content.

e) Internet users seeking to do business with In White LLC will be directed to the subject domain and ultimately to video-girls.com. This will result in some lost traffic to Complainant's website and tarnish the Complainant's brand.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Name is identical or confusingly similar to a 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 that the Respondent has no rights or legitimate interests in respect of the Disputed 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 that the Disputed 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.

Pursuant to paragraph 11 of the Rules the Panel exercises its discretion to confirm the Complainant’s request to admit these proceedings in English rather than in Polish (being the language of the Registration Agreement). The Panel is satisfied that English is the most convenient and appropriate language for the content of the webpage to which resolves the disputed domain name appears to be (at least partially) in English. Furthermore the disputed domain itself comprises of English words “in white bridal” and the Respondent has been given a fair chance to object to change of the language of the proceedings and yet has not done so. Therefore, the Panel is of the opinion that the Respondent can apparently understand the language of the complaint and the Complainant would be unfairly disadvantaged by being forced to translate.

PRINCIPAL REASONS FOR THE DECISION

Rights

The Panel accepts that the Complainant is the owner of the United States service mark “IN WHITE” in Class 35 for use in association with “retail store services featuring clothing and fashion accessories normally worn to weddings and other formal events” (Registration No. 4363689; Registration Date 9 July 2013).

The Complainant’s trademark IN WHITE is entirely incorporated into the Disputed Domain Name. Furthermore, it is the view of the Panel that the addition of “bridal” to IN WHITE does not change the overall impression created by <www.inwhitebridal.com> as “bridal” is a generic term that is commonly used in association with weddings and related services.

Considering the similarity between IN WHITE and <www.inwhitebridal.com> in terms of appearance and commercial impression, the Panel accepts that Internet users are likely to be confused into thinking that the Disputed Domain Name is owned or authorised by the Complainant. This is exacerbated by the fact that the Disputed Domain Name was formerly registered in the name of the Complainant and resolved to the Complainant’s principal website <www.inwhite.com>.

Accordingly, the Panel finds that the Complainant has shown that the Disputed Domain Name is confusingly similar to a service mark in which it has rights within the meaning of paragraph 4(a)(i) of the Policy.

No rights or legitimate interests

The Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. In the absence of a response from the Respondent, the Panel is entitled to draw certain adverse inferences against the Respondent that it has no rights or legitimate interests in the Disputed Domain Name.

There is no evidence before the Panel to suggest that the Respondent makes any bone fide use of the term “IN WHITE BRIDAL” or any combination or variation thereof, or evidence that the Respondent has been authorised or licensed by the Complainant to use its IN WHITE service mark in the Disputed Domain Name.

The Panel is satisfied that the Disputed Domain Name resolves to a website that contains a link to “Video-girls.info”. Although this link is currently broken, the Panel finds that the Complainant has provided sufficient prima facie evidence to suggest that “Video-girls.info” is associated with adult content. The Panel is influenced in this regard by the sexual language and images that are displayed upon clicking the Twitter and Facebook links provided by the Complainant in evidence. The term “Video-girls.info” is featured prominently amongst this sexual content. It appears to the Panel that, on the balance of probabilities, the Respondent is using the Disputed Domain Name to drive traffic to these websites.

Accordingly, the Panel accepts the arguments and evidence advanced by the Complainant that the Respondent has no rights or legitimate interests in the Disputed Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

Bad faith registration and use

Bad faith registration

The Panel has no reason to doubt that the Complainant lost the registration of the Disputed Domain Name due to an administrative error on the part of the Complainant’s hosting service. The Panel notes that the Disputed Domain Name was registered by the Respondent on the very same day that its registration in the name of the Complainant expired. This hardly appears to be co-incidental to the Panel. The Panel also notes the evidence that numerous other domain names, which contain trademarks and which appear to be completely random and innocuous, are connected to “Video-girls.info”.

This suggests to the Panel either a pattern of the Respondent choosing to register reputable trademarks as domain names in order to drive traffic to its websites or an automated process of registration upon expiration. Accordingly, without any

evidence to suggest otherwise, the Panel is satisfied that the Disputed Domain Name was registered in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

Bad faith use

The Panel notes that the Complainant emailed the Respondent (using the only email address available to the Complainant) on 3 December 2014 to request the transfer of the Disputed Domain Name. The Complainant has not received a reply to this email which further supports the Panel's inferences under paragraph 4(a)(iii) of the Policy.

The Panel finds that there is sufficient prima facie evidence to suggest that the link to "Video-girls.info" which is displayed on the home page of the Disputed Domain Name is associated with content of a sexual nature. Furthermore, it appears to the Panel that, on the balance of probabilities, the Respondent is using the Disputed Domain Name in order to attract, for commercial gain, Internet users to the "Video-girls.info" website by creating a likelihood of confusion with the Complainant's IN WHITE service mark, contrary to paragraph 4(b)(iv) of the Policy. In the view of the Panel, this is indicative of bad faith use of the Disputed Domain Name.

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

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INWHITEBRIDAL.COM**: Transferred

PANELLISTS

Name	**Alistair Payne**

DATE OF PANEL DECISION 2015-03-18

Publish the Decision