Decision for dispute CAC-UDRP-101655

Case number	**CAC-UDRP-101655**
Time of filing	**2017-08-30 00:00:00**
Domain names	**intergralads.com**

Case administrator

Name	**Aneta Jelenová (Case admin)**

Complainant

Organization	**Integral Ad Science, Inc.**

Complainant representative

Organization	**RODENBAUGH LAW**

Respondent

Name	**Joe Dalton**

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings concerning the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

INTEGRAL, US registration no. 4453395, first used in commerce on November 29, 2012, in International Class 42 (Providing advertisers, publishers and ad agencies on-line non-downloadable software for use in the field of advertising for the purpose of rating media of others so that marketers and advertisers can determine the suitability of the media for online advertising and marketing purposes, and that enables them to control where online advertising appears, and enables publishers to certify the ratings of media)

Worldwide registrations and applications include the below listed marks:

INTEGRAL, Canada, registration no. TMA927113, registered on 26.1.2016

INTEGRAL, EUTM, application no. 011717303, filed on 5.4.2013

INTEGRAL AD SCIENCE, EUTM, registration no. 013904801, registered on 21.3.2016

FACTUAL BACKGROUND

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

Founded in 2009, Integral Ad Science, Inc. (“IAS” or “Complainant”) is a global technology and data company that operates within the advertising industry to help clients reach consumers everywhere, on every device. IAS’s website can be found at <integralads.com>.

IAS has continuously used the INTEGRAL and INTEGRAL AD SCIENCE marks in commerce since at least November 29, 2012. Since that time, IAS has registered both the INTEGRAL and INTEGRAL AD SCIENCE marks in various jurisdictions throughout the world, including United States registrations: INTEGRAL, registration no. 4453395, first used in commerce on November 29, 2012, in International Class 42 (Providing advertisers, publishers and ad agencies on-line non-downloadable software for use in the field of advertising for the purpose of rating media of others so that marketers and advertisers can determine the suitability of the media for online advertising and marketing purposes, and that enables them to control where online advertising appears, and enables publishers to certify the ratings of media), Worldwide registrations and applications include the below listed marks:

INTEGRAL, Canada, registration no. TMA927113

INTEGRAL, EUTM, application no. 011717303

INTEGRAL AD SCIENCE, EUTM, registration no. 013904801

The Whois record reveals that the Disputed Domain was created on January 25, 2017. Id. On January 26, 2017, the day after the Disputed Domain was created, IAS employee Bill Phelps received an email at his IAS email address (bphelps@integralads.com) purportedly from Scott Knoll, President and Chief Executive Officer of IAS. The email inquires as to whether Bill received a purportedly previously sent email and whether Bill had mailed out a check. Id. The contents of the body of the email are below:

Bill,
Did you receive my last email regarding the check that need to mail out
today?
Please email back and advice [sic] asap.
Thanks,
Scott
--
Scott Knoll
President and Chief Executive Officer
Integral Ad Science
scott@integralads.com

Id. While the email appears to originate from Mr. Knoll, the header of the email indicates that the email was actually sent from the email address scott@intergralads.com, which contains a deliberate, yet subtle misspelling of Complainant’s own domain adding an additional letter ‘r’ to the term ‘integral’. Id.

The complainant asserts and provides documentary evidence that (i) the The Disputed Domain is confusingly similar to Complainant’s INTEGRAL AD SCIENCE mark; (ii) Respondent has no rights or legitimate interest in the Disputed Domain; (iii) the Disputed Domain was registered and is being used in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain 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). Complainant's US trademark registrations for the INTEGRAL and INTEGRAL AD SCIENCE marks establishes IAS's prior rights pursuant to paragraph 4(a)(i) of the Policy. Complainant's trademark rights in both the INTEGRAL and INTEGRAL AD SCIENCE marks date back to at least as early as November 2012, when Complainant began using such marks in commerce; whereas, the <intergralads.com> Disputed Domain was not even created until January 2017, well over four years after Complainant began using the INTEGRAL mark in commerce.

A simple comparison of Complainant's INTEGRAL mark and the Disputed Domain demonstrates that the Disputed Domain is confusingly similar to Complainant's INTEGRAL mark as Respondent did nothing more than insert the letter 'r' within the term 'integral' and add the trailing, generic term 'ads'. The inclusion of an additional letter 'r' to the term 'integral' (i.e. 'intergral' as used in the Disputed Domain) does nothing to avoid a finding of confusing similarity. See, e.g. Airbnb, Inc. v. Domain Privacy Service FBO Registrant, Case No. 100968 (CAC June 4, 2015). Moreover, the addition of the generic top-level domain ".com" does nothing to distinguish the Disputed Domain from either of Complainant's Marks. See, e.g., InfoSpace.com, Inc. v. Ofer, D2000-0075 (WIPO Apr. 27, 2000).

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 Disputed Domain (within the meaning of paragraph 4(a)(ii)of the Policy).The second element of a UDRP claim only requires that the complainant make a prima facie showing that respondent lacks a right or legitimate interest in the disputed domain name. Accor v. Eren Atesmen, Case No. D2009-0701 (WIPO Jul. 10, 2009). Once a complainant has made such a showing, the burden shifts to the respondent to demonstrate that it has rights or legitimate interest in the disputed domain name. See Mile, Inc. v. Michael Burg, Case No. D2010-2011 (WIPO Feb. 7, 2011). In this case, Respondent has no rights or legitimate interest in the Disputed Domain.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy). The use of a disputed domain to commit fraud is not a legitimate or non-commercial fair use. Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, WIPO Case No. D2009-1017 (Oct. 2, 2009). In this case, the Respondent cannot be said to have attempted to commit a fraud as evidenced by the email sent to Complainant's employee posing as Scott Knoll, President and Chief Executive Office of IAS. It could yet not be proven that the Respondent has really send the email. But nevertheless his whole behaviour amounts to bad faith in registering and using the Disputed Domain. He has not used any approach to join the procedure and did not react to the Complainant and his complaint. He does not use the Disputed Domain actively especially for a website. Finally it s not very clear whether the Disputed Domain registered for the domain Joe Dalton is really existing..The circumstances of the case show thus that the Respondent is acting in bad faith (seeTelstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>, Westdev Limited v. Private Data, WIPO Case No. D2007-1903, <numberone.com>)

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 Respondent has no rights or legitimate interest in the Disputed Domain. As such, the burden shifts to the Respondent to rebut Complainant's showing. However, the evidence strongly demonstrates that Respondent lacks any rights or legitimate interest in the Disputed Domain and will be unable to meet this burden: it is also behaving in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTERGRALADS.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2017-10-01

Publish the Decision