Decision for dispute CAC-UDRP-102109

Case number	CAC-UDRP-102109
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Domain names	showroompriver.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	SHOWROOMPRIVE.COM

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Organization	Domain Privacy Guard Sociedad Anónima Ltd

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings, pending or decided, which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has evidenced to be the owner of the following trademark registrations:

• Word mark SHOWROOMPRIVE.COM, European Union Intellectual Property Office (EUIPO), Registration No.: 005761374, Registration Date: January 23, 2008, Status: Active;
• Word mark SHOWROOMPRIVE, INSTITUT NATIONAL DE LA PROPRIÉTÉ INDUSTRIELLE (INPI), Registration No. 3494511, Registration Date: April 13, 2007, Status: Active;
• Word mark SHOWROOMPRIVE.COM, INPI, Registration No. 3484175, Registration Date: February 26, 2007, Status: Active.

FACTUAL BACKGROUND

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

- FORUM Case No. 1787968, Capital One Financial Corp. v. Mason Monroe / Litts Construction ("Respondent's <capitaloone.online> Domain Name is confusingly similar to Complainant's CAPITAL ONE mark in that it fully incorporates the mark, albeit with an intentional misspelling (adding a superfluous "o"), and adds the ".online" gTLD. The misspelling of a complainant's mark and the inclusion of a gTLD in the domain name are insufficient to distinguish it from a complainant's

mark for the purposes of Policy 4(a)(i).");

- CAC Case No. 101832, SHOWROOMPRIVE.COM SARL v. Chargepal S.L., ("the Panel finds that the Complainant has established confusing similarity, as the Disputed Domain Name is nearly identical to the trademark, with the exception of one character.");

- CAC Case No. 102001, Intesa Sanpaolo S.p.A. v. Ciro Migliaccio ("Indeed, applying UDRP paragraph 4(c), Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users.");

- FORUM Case No. 1750157, Emerson Electric Co. v. Zhao Ke ("the Panel finds that Respondent's offer to sell the domain names for greater than out of pocket costs further evinces Respondent's lack of rights and legitimate interest in the domain names.");

- FORUM Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).");

- WIPO Case No. D2015-0008 Showroomprive.com SARL v. Hka c/o Dynadot Privacy ("the Respondent must have known of its interest in the mark SHOWROOMPRIVE before registering the effectively identical Domain Name, having regard to the distinctive character of this mark, the Complainant's operation of a commercial website at "www.showroomprive.com", and its registration of many other domain names with the same second level domain.").

- FORUM Case No. 1625332, Vanguard Trademark Holdings USA LLC v. Wang Liqun ("A respondent's general offer to sell a disputed domain name for an excess of out-of-pocket costs is evidence of bad faith under Policy 4(b)(i).");

- FORUM Case No. 1759512 Transamerica Corporation v. yangzhichao ("The Panel finds that Respondent used the disputed domain name to feature competing hyperlinks for Respondent's commercial gain, and the Panel agrees that Respondent registered and used the domain name in bad faith pursuant to Policy 4(b)(iv).");

CAC Case No. 102029, ArcelorMittal S.A. v. james frank ("It is quite evident that the typodomain name was registered only to disrupt the Complainat's activities Typosquatting in itself can be bad faith.").

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

THE COMPLAINANT:

The Complainant is a company domiciled in France that is active in the online private sales industry. The Complainant was created back in 2006 and is nowadays offering a daily selection of more than 2,000 brand partners on its mobile apps or online through its main website www.showroomprive.com in France and in eight other countries. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks as it includes them in its entirety with a mere misspelling by adding the letter "r" which, in turn, constitutes a clear case of typo-squatting. The Complainant, furthermore, argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) the Complainant does not carry out any activity for, nor has it any business with the Respondent and is not related with it in any way, (2) the Complainant has neither granted a license nor any other authorization to the Respondent to make any use of the Complainant's SHOWROOMPRIVE or SHOWROOMPRIVE.COM trademarks, (3) the disputed domain name resolves to a standardized parking page with Pay-Per-Click links and, therefore, is neither used in connection with a bona fide offering of goods or services nor for a legitimate, non-commercial or fair purpose. Finally, the Complainant states that the Respondent has registered and is using the disputed domain name in bad faith since (1) given the distinctiveness of the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks

and reputation, the Respondent obviously has registered the disputed domain name with full knowledge thereof and uses it for the purpose of misleading and diverting Internet traffic intending to selling, renting, or otherwise transferring the disputed domain name to the Complainant or attempting to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks as to the source, sponsorship, affiliation or endorsement of its website.

THE RESPONDENT:

No administratively compliant response has been submitted by the Respondent.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 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 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.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain name is confusingly similar to the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks since the disputed domain name incorporates the latter in its entirety and the mere addition of the letter "r", which may be qualified as an intended misspelling/typo-squatting, is not capable to dispel the confusing similarity arising from the Complainant's trademarks' incorporation in the disputed domain name.

Moreover, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is the Respondent commonly known thereunder. The Complainant has provided evidence that at some point before the filing of this Complaint the disputed domain name redirected to a standard Pay-Per-Click (PPC) website with hyperlinks to a variety of third parties' commercial websites, some of which apparently are competitors of the Complainant on the online private sales market. Many UDRP panels have found that the generation of PPC revenues by using a domain name that is confusingly similar to a trademark neither qualifies as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use under the UDRP. Accordingly, the Panel has no difficulty in finding that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, the Complainant argues, and the Panel agrees to this line of argumentation, that given the distinctiveness and undisputed reputation of the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks, it is likely that the Respondent has registered the disputed domain name with full knowledge of those trademarks, and uses the disputed domain name for the purpose of misleading and diverting Internet traffic either for the purpose of selling, renting or otherwise transferring the disputed domain name to the Complainant or, given that the disputed domain name resolves to typical PPC website, intending to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's SHOWROOMPRIVE and SHOWROOMPRIVE.COM trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Such circumstances shall be evidence of

registration and use of the disputed domain name in bad faith within the meaning of paragraphs 4(b)(i) as well as 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SHOWROOMPRIVER.COM**: Transferred

PANELLISTS

Name	**Stephanie G. Hartung, LL.M.**

DATE OF PANEL DECISION 2018-09-03

Publish the Decision