Decision for dispute CAC-UDRP-102534

Case number	CAC-UDRP-102534
Time of filing	2019-10-24 11:39:57
Domain names	INTERSCOPEFILMS.COM, INTERSCOPEMODELS.COM, INTERSCOPEARTISTS.COM, INTERSCOPEPRODUCTIONS.COM

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	UMG Recordings, Inc.
Organization	Interscope Records

Complainant representative

Organization	RiskIQ, Inc. c/o Jonathan Matkowsky

Respondent

Organization	Private

OTHER LEGAL PROCEEDINGS

The Complainant is not aware of pending or decided legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant proved to be the owner of the trademarks INTERSCOPE and INTERSCOPE RECORDS, in class 9, including registrations in the United States (US Reg No. 1727177 filed on May 9, 1991 and registered on October 27th, 1992; US Reg. No. 3992152 filed on May 17, 2010 and registered on July 12th, 2011) and in the European Union (Reg. no. 4465753 filed on May 23 2005 and registered on July 13 2006).

FACTUAL BACKGROUND

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

The Complainant is a US based corporation active in the music industry under multiple labels. One of these labels is Interscope Records, which was founded in the 90' and operates the website <interscope.com>.

The disputed domain names were registered on December 15th, 2018 as regards <INTERSCOPEARTISTS.COM>, on November 30th, 2018 as regards <INTERSCOPEFILMS.COM> and <INTERSCOPEPRODUCTIONS.COM>, and on March 30th,

2019 as regards <INTERSCOPEMODELS.COM>.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant supports that the disputed domain names should be considered "confusingly similar" for the purposes of UDRP standings as they incorporate the entirety of the trademarks. Furthermore, the addition of generic words and the .com top level domain is not sufficient to exclude the finding of confusing similarity.

The Respondent is not commonly known by the disputed domain names nor has the Complainant authorized, licensed or otherwise permitted the Respondent to use the trademarks. Furthermore the current use of the disputed domain names (i.e. parking page) does not confer to the Respondent any right or legitimate interest for the purposes of the UDRP.

Finally, registration and use in bad faith is inferred by the fact that the disputed domain names all incorporate a well known trademark and that the Registrant's contact details are shielded by privacy protection service.

RESPONDENT:

No administratively compliant Response was filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are 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 that the Respondent to have no rights or legitimate interests in respect of the disputed domain names (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 names have been registered and are 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

1. The disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

The Complainant has proved, to the satisfaction of the Panel, that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of par. 4(a)(i) of the Policy).

As a matter of fact, the disputed domain names all include the Complainant's trademark INTERSCOPE which is combined with generic/descriptive words such as "films", "models", "artists" and "productions".

Previous Panels concluded that when domain names incorporate the entirety of a trademark, or where at least a dominant

feature of the relevant mark is recognizable in the domain name, the domain name will be considered confusingly similar to that mark for the purposes of UDRP standing.

Moreover, the addition of a generic term is generally not sufficient to exclude the finding of confusing similarity (see e.g. WIPO AMC D2016.0299) as well as the domain name extension which is disregarded in view of its technical function.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. Once such a prima facie case is made, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, the Panel finds that the Complainant's submitted evidence and allegations are sufficient to establish a prima facie case of Respondent's lack of rights and legitimate interests in the disputed domain names.

According to the information provided by the Complainant, and not contested, the Respondent is not commonly known by the disputed domain name nor has he been authorized to use the Complainant's trademark "INTERSCOPE".

The Panel agrees that the current use of the disputed domain names does not amount to a bona fide offering of goods and services nor it could be qualified as a legitimate fair and non-commercial use as all the disputed domain names link to "under construction" or "coming soon" websites.

Moreover, the webpages to which the disputed domain names redirect, contain links to www.squarespace.com and such circumstance does not amount to a bona fide offering of goods and services nor to a legitimate fair and non-commercial use of the domains. As a matter of fact, the trademark INTERSCOPE is used, as part of a domain name, in order to direct users to third party's websites.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain names for the purposes of the Policy.

3. The disputed domain names have been registered and are being used in bad faith.

The Panel finds the following circumstances as material in order to establish the Respondent's bad faith in the registration of the disputed domain names:

(i) the disputed domain names were all registered well after the Complainant acquired rights on the trademark INTERSCOPE;

(ii) the disputed domain names are all composed by generic/descriptive terms which are related to the Complainant's business; this circumstance makes it very improbable that the Respondent was not aware of the Complainant's business under the trademark INTERSCOPE;

(iii) the Respondent has registered multiple domain names all composed by the trademark INTERSCOPE; the Panel considers such as a pattern of conduct of preventing a trademark holder from reflecting its mark in a domain name.

Currently, the disputed domain names are not actively used as they all link to parking pages. It is consensus view among the UDRP panels, that non-use of a domain name does not prevent a finding of use in bad faith (WIPO Case No. 2000-0003). In this case, the Panel considers the following circumstances as material to conclude that the disputed domain names are used in bad faith:

(i) the degree of distinctiveness and reputation of the Complainant's trademark which makes it very improbable that the disputed domain names could be used in good faith;

(ii) the Respondent had the chance to explain the reason of the registration/use of the disputed domain names in this administrative proceeding but failed to do so;

(iii) according to the Complainant submissions, the disputed domain names redirected to a third party's website, active in the same field as the Complainant, thus creating confusion to the internet users;

(iv) the Respondent shielded its contact details using a privacy protection service which combined with the other elements is a further index of use in bad faith.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain names for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTERSCOPEFILMS.COM**: Transferred
2. **INTERSCOPEMODELS.COM**: Transferred
3. **INTERSCOPEARTISTS.COM**: Transferred
4. **INTERSCOPEPRODUCTIONS.COM**: Transferred

PANELLISTS

Name	**Andrea Mascetti**

DATE OF PANEL DECISION 2019-12-03

Publish the Decision