Decision for dispute CAC-UDRP-102910

Case number	CAC-UDRP-102910
Time of filing	2020-02-20 08:54:37
Domain names	SWINERTOM.COM

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Swinerton Incorporated

Complainant representative

Organization	RiskIQ, Inc. c/o Jonathan Matkowsky

Respondent

Name	Michael Bulter

OTHER LEGAL PROCEEDINGS

The panel is not informed of other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant, Swinerton, is the owner of several trademarks including "SWINERTON", such as:

- the US word trademark registration “SWINERTON”, no. 2284825, registered on 12 October 1999 in connection with class 35;
- the US word trademark registration “SWINERTON”, no. 2282855, registered on 5 October 1999 in connection with class 37;
- the US figurative trademark registration “SWINERTON”, no. 5756816, registered on 21 May 2010 in connection with classes 35 and 36.

("the Complainant's trademarks")

FACTUAL BACKGROUND

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

The Complainant, Swinerton, was founded in 1888. It has over 3500 employees and is currently one of the largest private companies across all industries providing commercial construction and construction management services throughout the U.S. The Complainant uses the domain name "swinerton.com".

In addition, the Complainant is the owner of several trademarks including the word "SWINERTON" ("the Complainant's trademarks").

In February 2020, the Complainant realized that the disputed domain name "swinertom.com" was registered on 23 December 2019, even though the Complainant did not grant any right to the Respondent to use the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 to have 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

I. The disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that the disputed domain name "swinertom.com" is confusingly similar to the Complainant's trademarks, because it contains "SWINERTON" entirely, differing only by a close, intentional misspelling.

The Panel finds that the disputed domain name "swinertom.com" is confusingly similar to the Complainant's trademarks.

II. & III. The Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith.

The Complainant asserts that the Respondent uses the disputed domain name for illegal activity. According to the Complainant, this is one of those cases where there are such clear signs of bad faith that there cannot be any rights or legitimate interests in respect of the disputed domain name.

The Complainant asserts that the Respondent registered the disputed domain name for the sole purpose of targeting its personnel, specifically those working for its subsidiaries, with some variation of a business email compromise (BEC) scam. Specifically, shortly after the disputed domain name was created, an email was sent from the disputed domain name to

personnel for one of the Complainant's subsidiaries impersonating its Chief Financial Officer regarding a specific payment that supposedly needed to be made.

Registration and use of a domain name for illegal activity is considered to be registration and use in bad faith and cannot confer rights or legitimate interest on a Respondent. The registrar verification response shows the disputed domain name was also registered with an invalid phone number beneath the proxy.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant also proved that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SWINERTOM.COM**: Transferred

PANELLISTS

Name	**Tom Joris Heremans**

DATE OF PANEL DECISION 2020-03-25

Publish the Decision