# Decision for dispute CAC-UDRP-103143

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| Case number | CAC-UDRP-103143 |
| Time of filing | 2020-06-30 11:00:05 |
| Domain names | harcourt-studio.com, photo-harcourt.com |

## Case administrator

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| Name | Šárka Glasslová (Case admin) |

## Complainant

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| Organization | STUDIO HARCOURT |

## Complainant representative

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| Organization | Nameshield (Enora Millocheau) |

## Respondent

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| Organization | ProLight International Ltd |

## Respondent representative

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| Organization | ProLight International Ltd |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of trademarks containing the name <HARCOURT>, of which the international trademarks <STUDIO HARCOURT> no°451329 (figurative trademark)and <HARCOURT> no°451330 (word trademark), both registered on March 24th, 1980.

The Complainant also owns several domain names comprising the trademark <STUDIO HARCOURT>, such as the domain name <studio-harcourt.com>, registered since 2007-12-02.

PARTIES CONTENTIONS

The Complainant claims to be a Parisian photo studio which is best known for its black and white photographs of film stars and celebrities. It has immortalized great personalities of the 20th century and continues to do so in the 21st century.

The Complainant asserts that the disputed domain names <harcourt-studio.com> and <photo-harcourt.com> were registered on 19 June 2018 and are redirected to a competing black and white photography website (www.studionoir.fr).

The Respondent submits that it has no advantage from the use of the disputed domain names, but only difficulties caused by costly court proceedings. The Respondent has never purchased the domain names in question for the purpose of using them. The Respondent claims that it never used the disputed domain names either. The forwarding was due to an unintentional and human error on the part of the freelance webmaster, who was requested to delete the forwarding on 3 July 2020.

RIGHTS

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

According to paragraph 4(a) of the Policy the Complainant must prove for the requested transfer of the disputed domain names <harcourt-studio.com> and <photo-harcourt.com> that
(i) the domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
(ii) the Respondent has no rights or legitimate interests with respect to the domain names; and
(iii) the domain names has been registered and is being used in bad faith.

Without a doubt the Complain complies with all these requirements:

1.
The disputed domain names are at least confusingly similar to a trademark of the Complainant

The top-level domain “(dot)com” has to be disregarded when comparing trademarks and domain names, due to its importance, acknowledged by the market, as an essential component of domain names.

The Complainant is the proprietor of trademark rights in respect of the expression <HARCOURT> and <STUDIO HARCOURT>. Apart from the descriptive terms <PHOTO> the disputed domain names are identical with the trademark rights while it is (1) a worldwide standard that the mere addition of descriptive terms does not eliminate confusing similarity that is otherwise present and that (2) the reversal of two parts of a trademark does not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark.

2.
The Respondent has no rights or legitimate interests in the diputed domain names.

The Respondent has itself recognised that it has no rights or legitimate interests in relation to the disputed domain names, even if it erroneously assumes that only the publication of a website or an forwarding under the domain names constitutes an infringement of the Complainant's rights.

There is also no indication as to why the Respondentt might be entitled to use the disputed domain names.

Accordingly, on the evidence available to it, the Panel considers that the condition set out by paragraph 4(a)(ii) of the Policy have been met by the Complainant.

3.
The Respondent has registered and also used the disputed domain names in bad faith.

By using the domain names, the Respondent has attempted to lure Internet users to its website for commercial purposes by redirecting the disputed domain names to its website. It is irrelevant whether the Respondent himself or a third party commissioned by him has set up such redirection. The Respondent is liable for the actions of the third party commissioned by him as for his own conduct.

In this case it is obvious to the Panel that the Respondent has never used disputed the domain names nor intended to use the disputed domain names in a legitimate way. The Panel also cannot imagine how the Respondent could use the disputed domain names in a legitimate way. That there is no legitimate way to use the disputed domain names was also obvious to the Respondent for which reason he removed the redirect to his website.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HARCOURT-STUDIO.COM**: Transferred
2. **PHOTO-HARCOURT.COM**: Transferred

## PANELLISTS

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| Name | **Prof. Dr. Lambert Grosskopf, LL.M.Eur.** |

DATE OF PANEL DECISION 2020-08-11

Publish the Decision