Decision for dispute CAC-UDRP-103341

Case number	CAC-UDRP-103341
Time of filing	2020-10-09 10:18:32
Domain names	swinercon.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Swinerton Incorporated

Complainant representative

Organization	RiskIQ, Inc. c/o Jonathan Matkowsky

Respondent

Name	Odemwingie Precious

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks, including:

- USA trademark registration no. 2284825 for the word "SWINERTON", registered on October 12, 1999 for services in class 35;
- USA trademark registration no. 2282855, for the word "SWINERTON", registered on October 5, 1999 for services in class 37;
(hereinafter referred to as the "SWINERTON Mark").

FACTUAL BACKGROUND

The Complainant was founded in 1888 and provides commercial construction and construction management services throughout the United States of America.

The disputed domain name <swinercon.com> was registered on September 8, 2020.

According to the Complaint, which was not refuted by the Respondent, the disputed domain name resolved to a website that

masqueraded as a website from the Complainant. According to the Complainant, the Respondent created the disputed domain name for the sole purpose of masquerading as Swinerton as part of a fraudulent scheme, likely some variation of a business email compromise scam given that the website itself collected personal data (first and last names and email accounts) intended for the Complainant via submission forms, and an email server was configured on the disputed domain name masquerading as the legitimate website of the Complainant.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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

1. The Panel finds that the disputed domain name is confusingly similar to the SWINERTON Mark as the only difference between the disputed domain name and the Complainant's SWINERTON Mark is caused by an obvious misspelling of the SWINERTON Mark. The Respondent replaced the letter "t' of the SWINERTON Mark with the letter "c" in the disputed domain name.

2. The Panel finds that the Complainant successfully made a prima facie case that the Respondent has made no use of, or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, neither is Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. The Panel finds that the Complainant successfully demonstrated that the disputed domain name represents an example of typo squatting and is masquerading Complainant's landing page, likely for illegal activities. The Complainant's allegations were not challenged by the Respondent.

3. In the absence of a Response, the Panel infers that the Respondent must have had the SWINERTON Mark in mind when registering the disputed domain name, in order to take advantage of the apparently intentional typographical error in the disputed domain name of the Complainant's SWINERTON Mark. For these reasons the Panel finds that the disputed domain name was registered and used in bad faith.

Therefore, the Panel finds that all three elements under the paragraph 4(a) of the Policy have been proved by the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SWINERCON.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2020-11-16

Publish the Decision