

Decision for dispute CAC-UDRP-103649

Case number	CAC-UDRP-103649
Time of filing	2021-03-16 10:05:29
Domain names	urnusic.com, umusic.com

Case administrator

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

Organization	UMG Recordings, Inc.
Organization	Universal Music Group Holdings, Inc.

Complainant representative

Organization	RiskIQ, Inc. - Incident Investigation and Intelligence (i3), Jonathan Matkowsky
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Respondent

Name	Charmaine Nichols
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant UMG Recordings, Inc. is the owner of the US trademark registration nos. 6,158,412, 6,158,413, and 6,158,414 "UMUSIC EXPERIENCE", each of them issued on September 22, 2020, which cover various goods and services in international classes 09, 35, and 41.

The disputed domain names were registered on January 20, 2021 (for <UMUSLC.COM>) and on January 25, 2021 (<URNUSIC.COM>), respectively, i.e. the Complainant's trademark registrations predate the registration of the disputed domain names.

FACTUAL BACKGROUND

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

Both Complainants are members of Universal Music Group (UMG), which they claim is the world leader in music-based entertainment, with a broad array of businesses engaged in recorded music, music publishing, merchandising, and audiovisual

content in more than 60 countries. The Complainants use the domain name <umusic.com> in connection with their business, asserting that “UMUSIC” is a known-abbreviation for 'Universal Music'. The domain name <umusic.com> was registered in 1997 and points to Complainants’ homepage at www.universalmusic.com.

For many years, Complainant has continuously used and is currently using the brand “UMUSIC”, both standing alone and as the dominant element in composite marks, including “UMUSIC EXPERIENCE”. Complainant’s registered and unregistered marks comprising the word “UMUSIC” have become associated exclusively with Complainant and its goods and services. Consumers have come to rely on the “UMUSIC” trademarks to identify Complainant’s goods and services and to distinguish them from the goods and services of others.

Respondent is not affiliated with, nor authorized by the Complainant in any way. The Complainants do not carry out any activity for, nor have any business with the Respondent. Neither license, nor authorization has been granted by the Complainants to the Respondent to make any use of the Complainants’ trademark, or apply for registration of the disputed domain names or any other domain name. The Respondent is not commonly known by the disputed domain names.

Respondent uses the disputed domain names for websites displaying pay-per-click commercial advertisements.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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 names (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.

The nominal registrants of the disputed domain names have stated that they did not register the disputed domain names. They have denied any affiliation with the disputed domain names, and alleged that their identities were stolen and abused for registering the respective domain names. The Panel is convinced that these statements are true, and orders the CAC to remove the nominal registrants’ contact data from the published version of this decision.

The Panel accepts the requested consolidation regarding both disputed domain names. Both disputed domain names were registered within a few days with the same reseller at the same registrar and exploit typos of the same brand. Furthermore, both domain names were registered by misappropriating stolen identities of data breach victims. The Panel is therefore convinced that both domain names are subject to common control, and that consolidation is procedurally efficient, and fair, and equitable to all parties.

Furthermore, the Panel accepts that the two Complainants Universal Music Group Holdings, Inc. (hereafter, "UMG Holdings") and UMG Recordings, Inc. (hereafter, "UMG") proceed jointly. UMG Holdings is the parent company of UMG, so that UMG and UMG Holdings are part of the same common corporate structure. Both Complainants have a common interest that is affected by the Respondent's conduct. Furthermore, UMG Holdings and UMG each own relevant rights, and for many years, its respective

predecessors-in-interest and licensees have continuously used, and are currently using the “UMUSIC” brand relied on for purposes of standing in this proceeding. The Panel thus finds that both Complainants have common grievance against the Respondent, that the Respondent engaged in common conduct that has affected both Complainants in a similar fashion, and that it is equitable and procedurally efficient to permit this consolidation as well.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain names are confusingly similar to the Complainants’ registered “UMUSIC EXPERIENCE” trademarks cited above. The generic word “EXPERIENCE” in the Complainants’ registered trademarks does not sufficiently differentiate the disputed domain names from the rights asserted by the Complainant. Both domain names are evident cases of “typo-squatting” regarding the Complainants’ own <umusic.com> website, based on the visual similarity between “rn” and “m” for URNUSIC.COM as well as “l” (capital “i”) and “l” (lower-case “L”) for <UMUSLC.COM>.

The Panel finds that the Complainants successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain names 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 names, nor is the Respondent commonly known under either of the disputed domain names. This prima facie evidence was not challenged by Respondent.

In the absence of a Response, the Panel infers that the Respondent had the Complainants’ “UMUSIC” brand and the <umusic.com> domain name in mind when registering and using the disputed domain names as described above. The Respondent’s reliance of identity theft to register the disputed domain names, and their use for a parking page with commercial links to monetize the domain names indicates that the disputed domains names were registered and are being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy, i.e. attempting to attract, for commercial gain, internet users to a web site by creating a likelihood of confusion with the Complainant’s mark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **URNUSIC.COM**: Transferred
 2. **UMUSLC.COM**: Transferred
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PANELLISTS

Name	Dr. Thomas Schafft
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DATE OF PANEL DECISION	2021-04-23
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Publish the Decision
