

Decision for dispute CAC-UDRP-103711

Case number	CAC-UDRP-103711
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Time of filing	2021-04-08 11:05:12
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Domain names	swinerton.org
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Swinerton Incorporated
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Complainant representative

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

Organization	caroldaniel
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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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks with the word "SWINERTON" in the United States, such as:

- U.S. trademark SWINERTON (Standard Characters), reg. No. 2,284,825, registered on October 12, 1999;
- U.S. trademark SWINERTON (Standard Characters), reg. No. 2,282,855, registered on October 5, 1999;
- U.S. trademark SWINERTON (& Design), reg. No. 5,756,816, registered on May 21, 2019.

The Complainant also has common law rights in the United States going as far back as 1923 based on the certified first-use dates in the 2,284,825 and 2,282,855 registrations.

Furthermore, the Complainant is the owner of the domain name <SWINERTON.COM>.

FACTUAL BACKGROUND

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

The Complainant is one of the largest private companies across all industries providing commercial construction and construction management services throughout the U.S. Since its founding in 1888, it has been nationally recognized in the U.S. through its predecessors-in-interest and subsidiaries.

The Complainant uses, inter alia, the domain name <SWINERTON.COM> and its trademark “SWINERTON” for its services and as company name.

The disputed domain name <SWINERTON.ORG> has been registered by the Respondent on March 26, 2021. It does not point to any website.

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel considers the contentions of the Complainant as conceded by the Respondent.

A. The disputed domain name is identical to the trademark “SWINERTON” of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid trademark rights in “SWINERTON”. The disputed domain name includes the Complainant’s trademark in its entirety.

Also, the addition of the gTLD suffix “.ORG” is not sufficient to escape the finding that the disputed domain name is identical to the Complainant’s trademark and does not change the overall impression of the designation as being connected to the trademark of the Complainant.

B. The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or

consent to use its trademarks in a domain name.

Furthermore, the domain name at stake does not correspond to the name of the Respondent, neither is the Respondent commonly known as “SWINERTON”.

In addition, the disputed domain points to no website. This passive holding of the domain indicates that the Respondent's lacks rights and legitimate interests in the disputed domain name.

Summarised, there is no evidence for any bona fide offer of goods or services or a legitimate non-commercial or fair use of the disputed domain name.

C. The disputed domain name has been registered and is being used in bad faith within the meaning of the Policy.

Given the size and long existence of the Complainant, the Complainant's trademark “SWINERTON” is widely known. Given the distinctiveness of the Complainant's trademark and in view of the fact that the name "Swinerton has been used since 1923 in the USA, it can be concluded that the Respondent has registered the disputed domain name with full knowledge of the Complainant and its trademark.

Also, the passive holding of the Domain with presumed knowledge of the corresponding trademark rights of the Complainant indicates, that the Respondent has registered and is using 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. **SWINERTON.ORG**: Transferred

PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION	2021-05-14
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Publish the Decision