Decision for dispute CAC-UDRP-103658

Case number	**CAC-UDRP-103658**
Time of filing	**2021-03-17 09:06:40**
Domain names	**rid.com**

Case administrator

Organization	**Denisa Bilík (CAC) (Case admin)**

Complainant

Organization	**Oystershell Consumer Health, Inc.**

Complainant representative

Organization	**BAP IP BV - Brantsandpatents**

Respondent

Organization	**Titan Networks**

Respondent representative

Organization	**Muscovitch Law P.C.**

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 relies on the following registered rights:

- US trademark registration n°2276127, registered on 7 September 1999 for goods in class 05;
- US trademark registration n°2276153, registered on 7 September 1999 for goods in class 05;
- US trademark registration n°2290522, registered on 7 September 1999 for goods in class 05;
- Latvian trademark registration n°M13344 RID, registered on 10 March 1994 for goods in class 05; and
- Estonian trademark registration n°9847 RID, registered on 5 April 1994 for goods in class 05.

FACTUAL BACKGROUND

The Complainant is Oystershell Consumer Health, Inc., the US branch of Oystershell, NV, an international company specialized in consumer healthcare products.

In July 2020, the Complainant purchased by agreement with Bayer HealthCare LLC, the brand RID, a lice treatment product, becoming a global leader in lice treatment by combination with its ELIMAX products.

The Respondent is Titan Networks, a registered business name of Insecure.com, LLC, a California limited liability company registered on April 13, 2000. It is a network security company and produces free and open-source security scanning applications and drivers. The Respondent also invests in digital assets, namely valuable generic domain names and has done so for many years but the Respondent avoids domain names which correspond to terms which are exclusively distinctive of a particular company and confines itself to domain names which consist of investment-grade.

The Respondent registered the disputed domain name nearly 13 years ago and before the Complainant acquired the brand in July, 2020.

It acquired it at an auction and under a contract that warranted that no notices of any infringement had been received from any third parties. The Respondent paid USD $16,000.00 for the disputed domain name at that auction.

PARTIES CONTENTIONS

The Complainant
In July 2020, the Complainant came to an agreement with the healthcare giant Bayer HealthCare LLC to acquire the brand RID, one of the leading brands in lice treatment in the world, thus becoming the global leader in lice treatment by combination with its ELIMAX products. This product was initially developed and by the American biopharmaceutical multinational Pfizer in the 1970's. Across the following decades, the product as such and branding of RID was perfected by Pfizer, who conducted successful randomized clinical trials for the product in the 1980's and strongly marketed the product as a reliable, effective, safe and child-friendly product that – contrary to some other lice treatments at the time, killed all lice in minutes. The trademark was the subject of never-seen-before (televised) marketing campaigns reaching millions of Americans and, by 1984, RID was one of the three main brands for lice treatment in the US, with the market being equally divided between RID, a prescription-only product named KWELL from Reed & Carnrick, and Norcliff-Thayer's A-200, an over-the-counter drug (Enclosure E). Over the course of the following 10 years, these two companies would not be able to compete with RID and abandon their leading position in the market as RID would become one of the most recognized brands in healthcare products in the US. By the end of the 90's, in the context of the merger of Pfizer with its competitor Warner-Lambert Company, the US Federal Trade Commisson (FTC) would indicate that "Pediculicides are over-the-counter (OTC) products used to treat head-lice infestation, which affects more than eight million children each year. U.S. sales are currently more than $150 million per year. Pfizer and Warner are the two leading suppliers of OTC lice treatments in the United States, each with about 30 percent of a market that is already highly concentrated. Following the merger, the companies would have 60 percent of the market." Following these findings, the FTC ordered Pfizer to divest the brand RID in its entirety to Bayer Healthcare. The sale of the brand was concluded in 2000 for $78 million. The brand and its importance and recognizable character was further developed by Bayer in the following 20 years and in 2019, RID achieved $25 million in retail sales and was the #2 brand in the US lice treatment market. It often figures in lists of "best lice treatments" and the RID-range is sold in all major supermarkets in the US, such as Target, Walmart, CVS, RiteAid and Amazon. The name RID was first registered as a trademark by Pfizer in 1976 in the US (US Trademark n°1052746 – Enclosure I) and then in many other countries in the following years such as Malaysia, Israel, Guatemala, Mexico, Latvia, Lithuania, Estonia, Uruguay, Vietnam, Paraguay, Ecuador, Moldova, India, Ireland, Canada, the Benelux and others. Not all of these trademarks survived the years and two sales of the brand, but the Complainant can, for example, rely on following protected rights for the name RID:

- US trademark registration n°2276127 RID, registered on September 7th 1999 for goods in class 05;
- US trademark registration n°2276153 , registered on September 7th 1999 for goods in class 05;
- US trademark registration n°2290522 RID, registered on September 7th 1999 for goods in class 05;
- Latvian trademark registration n°M13344 RID, registered on March 10th 1994 for goods in class 05; and

- Estonian trademark registration n°9847 RID, registered on April 5th 1994 for goods in class 05.

Due to its long lasting and intensive use since the 1970's RID is to be considered as a reputed brand and one of the most recognizable brands for healthcare products, at least in the US. Through this use, the Complainant's mark has acquired a high distinctiveness and a high brand awareness.

Upon review of the related assets to the brand, the Complainant has noticed that the domain name rid.com, essential to the further development of the brand outside of the US, was registered in bad faith by the Respondent in 1997. In view of the clearly abusive practices of the Respondent, who, for example, announces a price of more than $100.000 for the sale of the domain knowing that it retains a certain value for the owner of the RID-brand, the Complainant now has decided to submit the matter to arbitration and hereby requests that the complaint be submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy.

1. First UDRP Element - The Domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name is identical to the Complainants' registered trademark rights for RID. The domain name incorporates the Complainants' RID trade mark in its entirety under the ".com" generic Top-Level Domain. In similar situations, prior panels deciding under the Policy have held that "when a domain name wholly incorporates a complainant's registered mark that is sufficient to establish identity or confusing similarity for purposes of the Policy". See, for example, Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525. No difference between the mark and the domain can be raised and, accordingly, we can only conclude that the disputed domain name is identical to the Complainant's trademark rights. Additionally, we hereby insist on the fact that the Complainant's trademark is a well-known mark.

2. Second UDRP Element - the Respondent (domain-name holder) should be considered as having no rights or legitimate interests in respect of the domain name that is the subject of the Complaint.
On this element, we point out that none of the Respondent defenses under UDRP paragraph 4(c) are applicable in this case:

(i) Before any notice of the dispute, the Respondent did not use the domain name or a name corresponding to the domain name in connection to bona fide offering of goods or services, nor are there any indications that the Respondent was preparing to use the domain name in such a way. For the recorded past, the domain name was not used to host any significant content, only featuring automatically generated pay-per-click links or referral pages. The automatically generated "Related Searches" tab feature links to searches for products strongly related to the RID-brand registration and for which the Claimant enjoys a high reputation ("Rid for head lice", "pest control customer service".). This is obviously misleading and could –as it probably has happened already – lead to consumer confusion and diversion. Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

(ii) The Respondent (as an individual, business, or other organization) has not been commonly known by the domain name. This is supported by the fact that the domain is not actually used, that no evidence of business formation could be found, as well as by the active protection by the various owners of the trademark rights on the name RID. If there was any party with a lawful claim to the domain name, the Complainant would necessarily know it. Moreover, the Complainant has not licensed or otherwise permitted the Respondent – or any other party for that matter - to use any of its trademarks or to apply for or use any domain name incorporating its marks. In the course of business RID as such can be considered to be an invented word, and as such it is not a name traders would legitimately choose unless seeking to create an impression of an association with the Complainant. Lastly, the fact that the Respondent has never been commonly known by the domain name (or has used it in in a bona fide way) further derives from the sales page linked on the website linked to the domain name. In that sales page, the Respondent admits to owning multiple "Trophy Domains", which would be sold only for outrageous amounts (available at: http://titan.net/ Considering that the Respondent could not have been unaware of the fact that RID was a registered trademark, used for one of the most recognizable brands of healthcare products in the US at the time of registration, we can only conclude that the Respondent's only intention was to obtain the registration of the domain in order to sell it to the owner of the RID brand. From the very high price mentioned by the Respondent – $100 000 - as a minimum to obtain the domain, we derive that the Respondent, when setting this price, was bearing in mind the importance of the RID-brand on the US market as well as the fact that it was, at

the time of registration, and has been for the whole life of the domain name, an actively used and marketed trademark. Not only has the Respondent never been known by the domain name, he was aware that it was (and still is) another party's trademark. Accordingly, the Respondent (domain-name holder) cannot be considered as having rights or legitimate interests in respect of the domain name.

(iii) The Respondent is not making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. There is nothing in the (inactive) use of the domain by the Respondent that could lead us to believe that there is any intention to use the domain in a legitimate way. The above fulfils Complainant's task to make out a prima facie case that the Respondent lacks rights or legitimate interests. While indeed the overall burden of proof in UDRP proceedings is on the complainant, it should be recognized that proving that the Respondent lacks rights or legitimate interests in the disputed domain name may result in the often impossible task of "proving a negative". As a possible legitimate interest requires information that is often only within the knowledge or control of the Respondent, we respectfully ask that the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name since the Complainant proved that there is prima facie no such interest. If the Respondent fails to come forward with such relevant evidence, we ask the Panel to confirm that the Complainant are deemed to have satisfied the second element.

3. Third UDRP Element - the disputed domain name has been registered and is being used in bad faith. With a registration date on 3 November 1997, the domain name registration comes well after the reputation and the recognizable character of the brand RID was established and well after the name had been registered as a trademark in the US and beyond. Indeed, the first registrations of RID as a trademark date from 1976. Moreover, in all likelihood, the domain was acquired by the Respondent around 2007/2008/2009, when the development of RID was at an even further stage, which establishes the bad faith of the Respondent even more strongly. Since the registration of the domain more than 20 years ago, it has never resolved to an active web site and was always either completely empty or reverting to automatic parking pages, first from web-development company KingWeb then from the Respondent. Of course, all of this will not be contested by the Respondent, who is an acknowledged Domainer, whose sole intention to sell the domain – most probably to the owner of the RID trademark – is made very clear on the sales page linked on the website. The lack of intention to use the domain for any other purpose than to sell it to the Complainant or a competitor is completely obvious from this sales page and the absurdly high price requested to discuss a transfer of the domain only supports the fact that the Respondent knows RID is a registered trademark, and used as such since the 1970's. The Complainant's trademark is widely known and was known at the time of registration of the domain and, as such, the Respondent cannot credibly claim to have been unaware of it. Even taking into account the fact that the Complainant's mark is short, the extensive use and intense marketing of the RID brand by the Complainant and its predecessors has given it a high distinctiveness and a high brand awareness with the general public in the US. At the time of the registration of the domain, RID was one of the two market leaders in the lice treatment market, and was very broadly recognized, as its treatment was considered by the parents of more than eight million children affected by lice each year, in the US alone.
In previous cases Panels have held that Domainers undertaking bulk purchases or automated registrations have an affirmative obligation to avoid the registration of trademark-abusive domain names. It is indeed reasonable to require the Respondent, whose status as a Domainer is made very clear on its sales page, to conduct a trademark search or even just to bear in mind the current market. Both Parties are located in the U.S. and RID was USPTO-registered trademark at the date the Respondent acquired the Disputed Domain Name Yumiko, LLC v. Domain Hostmaster, Customer ID: 44519875664713, Whois Privacy Services Pty Ltd / Stanley Pace, WIPO Case No. D2015-1669, <yumiko.com>. Taking into account the considerable reputation the Complainant's trademark had at the time of registration – and even more so at the time the domain was acquired by the Respondent – the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the Complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name.
Accordingly, we consider that the Respondent registered the domain name in full knowledge of the Complainants' trade mark rights and, on balance, with the intention of taking advantage of such rights. In our view, there is little doubt that the Respondent registered the domain name in bad faith.
Based on the above, we believe to have sufficiently substantiated our Complaint and we respectfully request for the transfer of the disputed domain name rid.com to Oystershell Consumer Health, LLC.

Respondent

Introduction

Nowhere in the Complaint does Complainant acknowledge the obvious; that “rid” is a common English dictionary word, a potential acronym, and even a surname. It is a term that is used by millions of people around the world. Yet Complainant contends that it is exclusively entitled to the domain name, rid.com (“the “Domain Name”). Complainant expressly claims that rid “can be considered an invented word” and “it is not a name traders would legitimately choose unless seeking to create an impression of an association with Complainant”. Complainant further expressly contends that “if there was any party with a lawful claim to the domain name, Complainant would necessarily know it”. Notwithstanding these farfetched claims and feigned lack of knowledge as to the ubiquity of the term, it will be amply demonstrated through extensive evidence that Complainant has no exclusive right to the Domain Name, that Respondent registered the Domain Name nearly 13 years ago for reasons that have nothing to do with Complainant, and that Respondent had no awareness of Complainant’s lice product, nor had ought to have. Complainant states that it recently (July, 2020) bought the rights to a certain RID-branded head lice product and that “upon review of the related assets to the brand, Complainant has noticed that the domain name rid.com [is] essential to the further development of the brand outside of the US”. However, merely being covetous of a Domain Name does not warrant transfer pursuant to the UDRP. In order to warrant the transfer of the Domain Name, Complainant must demonstrate that Respondent registered the Domain Name specifically and solely because of Complainant and for no other reason. There is no such evidence and the evidence in fact shows the opposite.

Respondent and Respondent’s Registration of the Domain Name. The Respondent, Titan Networks, is a registered business name of Insecure.com, LLC, a California limited liability company registered on April 13, 2000. Insecure.com, LLC is a network security company that produces free and open-source security scanning applications and drivers used by millions of people and businesses and publishes several popular network security websites such as Seclists.org, Nmap.org, Sectools.org, and Insecure.org. Respondent, Titan Networks invests in digital assets, namely valuable generic domain names and has done so for many years. Pursuant to the sworn Declaration of Respondent’s Manager and principal, Gordon Lyon made under penalty of perjury, Respondent scrupulously avoids acquiring any domain names which correspond to terms which are exclusively distinctive of a particular company and confines itself to domain names which consist of investment-grade descriptive, generic, or otherwise non-infringing terms. On or about December 11, 2008, Respondent purchased the Domain Name at a public auction of domain names held by Sedo.
According to the Sedo website, “Sedo is the world’s largest platform for the professional trading of web addresses” with over 19 million listed domains and 2 million customers and handles every second domain name transaction globally. Any member of the public, including Complainant or Complainant’s predecessor in interest, was free to participate in the public auction and bid for the Domain Name amongst numerous other bidders. Domain Names in “.com” which comprise short and common dictionary words and three-letter acronyms are rare and inherently valuable since they are capable of so many uses by the widest variety of potential users, including both existing users and new entrants to the marketplace. Domain Names which are short, common dictionary words and which also are potential acronyms, are particularly valuable. The Respondent provided a report from NameBio.com which lists numerous three-letter acronym and short dictionary word .com domain names which have been traded over the years, including at Sedo. This partial list includes for example, Let.com which sold for USD $200,000.00 on March 28, 2021, Zag.com which sold for USD $450,000.00 on February 2, 2021, Ore.com which sold for USD $100,000.00 on December 16, 2018, and Can.com which sold for USD $155,000.00 on January 1, 2018. It was solely and exclusively the inherent value in the Domain Name - due to it being both a common English dictionary word and potential acronym – which interested Respondent which led to Respondent competitively bidding for the Domain Name against numerous other anonymous potential purchasers. The Respondent was the successful bidder at USD $16,000.00 and executed a contract for the purchase and sale of the Domain Name with Internet REIT, Inc., dated December 11, 2008 (the “Contract”). At the time in 2008, Internet REIT or iREit, was a corporate domain name investor “that acquires, develops, and monetizes high quality domain names and web properties” and had raised over USD $100 million in capital to acquire domain name portfolios. At the time of Respondent’s successful bid and purchase of the Domain Name in late December, 2008, iReit was in the process of selling many of its assets and the “Great Recession” was underway, thereby depressing prices for most assets including domain names, resulting in an excellent though far-sighted value investment by Respondent. The Respondent recognized in the Domain Name that it would likely appreciate in value over time and would be attractive to many who wanted a short, common dictionary word domain name

that was also a potential acronym for use in connection with a website and for email. The Respondent had never heard of Complainant, Complainant's predecessor in title, or the RID branded lice product referred to by Complainant and in fact, the Contract specifically and expressly stated that the seller, iReit: "guarantees that the purchase object is not encumbered by the rights of third parties and that he/she has, up to now, received neither warnings or preliminary injunctions related to the purchase object nor in any other way, legally or extra-judicially, become aware of the violation of third-party rights or of a violation against applicable law. "It was on the basis of the inherent "generic" nature of the Domain Name in conjunction with the well-established reputation of Sedo, iReit's established business in trading domain names, and the express guarantee provided in the Contract, that Respondent had comfort in knowing that the Domain Name was a freely tradable asset that was not subject to any third party rights and was a bona fide and good faith investment capable of widespread and lawful use in the future by any number of people or businesses.

Domain name investing is a well-established and lawful business that has its own industry trade group and has numerous participants including publicly traded companies such as MicroStrategy who sold Voice.com for USD $30 million and invests in numerous other valuable dictionary word domain names as digital assets. The publicly traded company and the world's largest domain name registrar, GoDaddy owns one of the largest secondary market portfolios of domain names through its NameFind, LLC subsidiary and expressly supports and encourages domain name investing.
Corroborating Respondent's good faith investment in and registration of the Domain Name, and also corroborating the total absence of any targeting of Complainant's mark, is evidence of precisely which other domain names Respondent acquired during the time period immediately prior to and immediately after, purchasing the rid.com Domain Name on or about December 12, 2008. Submitted in evidence is a complete and unedited list of domain names that Respondent bid on and/or acquired via public auctions at Sedo commencing on December 6, 2008 (5 days before acquiring rid.com on December 11, 2008) and ending on December 24, 2009 (just over a year subsequent to acquiring the Domain Name). This list is obtained via taking actual screenshots from Respondent's Sedo account portal. The domain names which indicate "transfer completed" are the ones where Respondent was the successful bidder. As can readily be seen, all of these domain names correspond to dictionary words and acronyms just like rid.com, demonstrating through contemporaneous evidence that rid.com was merely one of numerous comparably generic domain names that Respondent registered in complete good faith as part of its stock-in-trade in investment quality generic domain names. The Rid.com was amongst the most expensive since it was both a dictionary word and a potential acronym. Had Respondent truly been engaged in cybersquatting, surely this list of domains from the corresponding material time period would contain at least one instance of a questionable or inherently infringing domain name. But it does not, and that is clear and compelling corroborative and contemporaneous proof of Respondent's bona fides and good faith registration of the Domain Name. Moreover, at no time in the nearly 13-year history of Respondent's ownership of the Domain Name did Respondent ever solicit Complainant for the sale of the Domain Name. This too is compelling evidence of Respondent's good faith registration, as had Respondent registered the Domain Name to sell to Complainant as alleged by Complainant, surely Respondent would have made such a solicitation at some point during the preceding nearly 13 years. Rather, the Respondent openly and publicly listed the Domain Name for possible sale on its website and stated that the cost of the Domain Name would be at least USD $100,000.00, which is well within the current market price range to the general public for a short three-letter, dictionary word .com domain name as set out above in the Namebio report. There is no evidence whatsoever that this price is derived from the Domain Name's value to Complainant. Rather, the evidence (see Namebio report, supra) is that such single dictionary word and three letter acronym combinations often sell for at least this much and more, just based upon their inherent general desirability. There was nothing untoward let alone unlawful about the Respondent offering its Domain Name to the general public. Three-letter dictionary word / acronym domain names are exceedingly rare and inherently valuable and therefore uniformly command a premium price, therefore explaining why Respondent rightfully considered this a "trophy" domain name.

Complainant's Mark and Reputation

As aforesaid, Complainant recently acquired a RID-branded lice treatment from its previous owner. Complainant explains that it wants the Domain Name for itself to assist with its new marketing plans and therefore claims that it was registered and used in bad faith by Respondent. Although the Rid-branded lice product appears from the Complaint to have originated in 1977, by Complainant's own admission the sales volumes are fairly modest at only USD $25 million per year, particularly compared to actually well-known and household brands such as Advil at USD $449 million in the United States alone, or Tylenol with sales of $379 million per year in the US alone. Nevertheless, Complainant boldly claims that its brand "is considered as a reputed brand

and one of the most recognizable brands for healthcare products, at least in the US". However, there is simply no evidence of this provided by Complainant beyond its conclusory statement. All that Complainant provided by way of supporting evidence for its reputation is; a) its own announcement from its own website announcing its recent acquisition in June 24, 2020; b) a 1988 abstract for an article in an unidentified research journal that makes reference to "RID" without identifying it as a trademark; c) a single advertisement from nearly 30 years ago in 1992, in an unidentified magazine or newspaper with unknown circulation; d) a 1984 newspaper article about a tv advertisement for Rid lice treatment that ostensibly aired 40 years ago in the 1980's; and an online article from an unknown website called "VeryWellHealth.com" that claims that the product is "the best shampoo" with no data about circulation or views. The Complainant's evidence in support of its contention that it is "one of the most recognizable brands for healthcare products, at least in the US", is therefore severely lacking. Indeed, based upon this extremely limited evidence, barely any current reputation is established at all. One would have thought that had Complainant truly been "one of the most recognizable brands in the US" such that Respondent 'surely must have had Complainant in mind when registering the Domain Name 13 years ago', that it would have easily been able to provide substantial evidence of reputation and not rely on a newspaper article about a tv ad that apparently ran 40 years ago.

Moreover, aside from the paucity of evidence establishing any substantial reputation, Complainant hasn't even remotely supported its allegation that "Respondent cannot credibly claim to have been unaware of [Complainant's brand]". Given the absence of any compelling evidence submitted by Complainant, there is simply no basis to cast any doubt upon Respondent's sworn Declaration under penalty of perjury, that Respondent had never heard of the Rid lice brand prior to registering the Domain Name. Furthermore, even if Respondent had somehow been aware of Complainant's lice treatment, which Respondent denies, that would not by any stretch establish that Complainant had any sort of monopoly of exclusive right to the word, "rid" such that the purpose of registering the Domain Name would have necessarily been to target Complainant. Complainant's lice product is hardly "IBM". In fact, there are an embarrassing number of parties all over the world who use the word, "rid" without any permission of Complainant, demonstrating that no authorization or license from Complainant is necessary at all to use the term, "rid" for anything non-lice related, and indeed would be laughable. First of all, "rid" is an English dictionary word meaning "to not now have an unwanted or unpleasant task, object, or person." A Google search for "rid" reveals 309 million references, of which barely any refer to Complainant's product. The WIPO Global Brand Database shows hundreds of "RID" and RID-formative trademarks, including RID marks registered in Germany, France, New Zealand, India, Singapore, Philippines, United States, and many more countries for all manner of goods and services that have nothing to do with Complainant or its lice product. Many of these trademarks were registered long after Respondent registered the Domain Name, demonstrating that its appeal is not just to prior users, but new entrants to the marketplace. As just one of the many examples of such registrations, RID is even registered as a trademark with the USPTO for "veterinary insecticidal shampoo" by Cardinal Laboratories, thereby demonstrating that Complainant's trademark has an extraordinarily limited scope of protection and co-exists with other identical marks. In Canada, there are dozens of "Rid" businesses registered, including for example, "Rid Management", "R.I.D. Construction Limited", "R.I.D. Landscaping Inc.". and "Rid Investments Ltd.". Any one of these companies, many formed long after Respondent registered the Domain Name, would be interested in the Domain Name. Likewise, UK Companies House shows numerous "Rid" companies, many formed after the Domain Name registration date, as does the NY and California Secretary of States' respective registries. Many of these businesses appear to be at least if not far more prominent users of RID than Complainant, raising the question of why Complainant would conveniently believe itself to be the one business entitled to the Domain Name, for free no less. For example:

a) RID radio station in Italy (rid968.com);
b) Rid Solution in France, a wood log supplier (Rid-Solution.fr);
c) RID, a US charity (Reduce Infection Deaths);
d) RID De Liemers, a Dutch municipal service center (RIDdeliemers.nl);
e) RID (Revista Iberica do Direito) a Portuguese legal journal;
f) RID Revision, a Danish accounting firm (R-I-D.dk);
g) RID (Rete Italiana Disinfestazioni), an Italian pest control company (RisinfestazioniRID.it);
h) Rid Group, a German industrial, aerospace, building and personnel service company (Rid-Group.com);
i) RID International, a German agricultural generator company (RID-International.com);
j) Rid Foundation, retailer association (Rid-Stiftung.de);
k) RID, a Dutch dyslexia institute (Rid.nl);
l) RID Consulting Group, a Polish safety management company (Rid.pl);

m) Rid, a German department store (Rid.de); and
n) Rid Hotel, a German hotel (Hotel-Rid.de).

Any one of these companies would love to have the Rid.com Domain Name and their entitlement is equal to that of Complainant's, which is nil. The word "RID" is not even remotely exclusively associated with Complainant. For example, "RID" in Australia refers to an insect repellant and is apparently a prominent Australian brand since 1956. Another prominent user of RID is the Registry of Interpreters for the Deaf, a major US and worldwide organization that uses the website, RID.org.
Rid is also a relatively common personal and surname, as shown by the hundreds of people sharing the name on Facebook and in telephone directories. Accordingly, it is extraordinarily farfetched to believe Complainant's self-serving contention that Respondent registered the Domain Name because of Complainant. The only bit of evidence that Complainant ultimately has to show is solely related to alleged bad faith – not bad faith registration. It is a single undated and likely recent screenshot that Complainant included in evidence which has one out of five links that inadvertently directly references Complainant ("Rid for head lice") and another which is indirectly related to Complainant but uses the word "rid" descriptively ("How to Get Rid of Head Lice"). The other three links are unrelated to Complainant, i.e. for "Dating Free", "Termite Control", "Getting Rid of Ants", and "Pest Control Open Now", demonstrating no intent to target Complainant. Surely if the intention had been to use the Domain Name in bad faith, all the links would have been directly related to Complainant. The inclusion of the single Complainant-related link was unintentional and inadvertent and was not placed there by Respondent but rather was apparently automatically generated by the Domain Name's platform using an algorithm and was immediately removed once it came to Respondent's attention upon receipt of the Complaint. Complainant's other screenshot is from 2006 and pre-dates Respondent's registration of the Domain Name.

Identical or Confusingly Similar to a Trademark in Which Complainant has Rights. The Respondent acknowledges that Complainant's RID marks are identical to the Domain Name as understood by the Policy. And of course, so are the marks of the many, many other parties. Whether Respondent has Rights or Legitimate Interests in the Domain Name. In order to meet this part of the three-part test under the UDRP, the Panel must find that Respondent has "a total lack of any right or legitimate interest"; not merely that Complainant has a purported "better" right or legitimate interest (See; Borges, S.A., v. James English (WIPO D2007-0477). A finding that Complainant has a purported or arguable "better" legitimate interest, however measured, is insufficient. As stated in the WIPO Consensus View 3.0 at Section 2.10.2, whereas here, Respondent has amply demonstrated a credible and legitimate intent in registering a domain name corresponding to a commonly used acronym, a legitimate interest may be found. Also at Section 2.1, the Consensus View correctly states as follows: "Over the course of many UDRP cases, panels have acknowledged further grounds which, while not codified in the UDRP as such, would establish respondent rights or legitimate interests in a domain name. For example, generally speaking, panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP."

It has been long-held in UDRP disputes that where a domain name is descriptive or generic dictionary word such as "rid", the first person to register it in good faith is entitled to the domain name and has a legitimate interest in it, regardless whether or not the Respondent has a trademark (See for example: CRS Technology Corporation v. CondeNet (Forum FA0002000093547) (concierge.com). and see also, Target Brands, Inc. v. Eastwind Group (FA0405000267475) regarding the domain name, target.org; "Additionally, where a domain name is generic, the first person to register it in good faith is entitled to the domain name and this is considered a legitimate interest. Time and time again, UDRP Panels have ruled in favor of respondents when it comes to domain names corresponding to three-letter acronyms, including by domain name investors such as Respondent. As explained in SK Lubricants Americas v. Andrea Sabatini, Webservice Limited, WIPO Case No. D2015-1566), as early as the year 2000, it was decided in Philippe Tenenhaus v. Telepathy, Inc., Forum Claim No. 94355, that the complainant trademark owner did not have exclusive rights to the acronym DAF, as many other parties also used it. Likewise, in 2000 in Kis v. Anything.com Ltd., WIPO Case No. D2000-0770, the legitimate interest in short domain names was confirmed by that panel's statement that: "All or nearly all of the three-letter names have long been taken; respondent itself holds a number of other short domain names …Respondent appears to have selected the Domain Name 'kis.com' because of its length …rather than because it corresponds to Complainant's trademark – indeed, it seems unlikely that Respondent was even aware of Complainant's trademark when it selected the domain name."

In 2012, in Electronic Arts Inc. v. Abstract Holdings, Forum Claim Number: FA111100141590,

it was held that the three-letter acronym ‘ssx’ is composed of common or generic letters and Complainant did not hold a monopoly over the term. The Panel found that the buying and selling of such generic domain names is a bona fide offering of goods under Policy paragraph 4(c)(i)). Here, Respondent has clearly and credibly established why it registered the Domain Name, consistent with its lawful interest in trading in generic three-letter and dictionary word domain names, and without any intent to target Complainant. Respondent’s legitimate interest arises from Respondent’s business of investing in such descriptive terms and there is no evidence of any intention to register the Domain Name because of Complainant or its trademarks. As held in Alphalogix, Inc. v. DNS Services d/b/a MarketPoints.com - New Media Branding Svcs., Forum Claim Number: FA0506000491557, and as unanimously followed by the three-member Panel in Arrigo Enterprises, Inc. v. PortMedia Domains, Forum Claim Number: FA1304001493536, the business of creating and supplying names for new entities is a “legitimate activity in which there are numerous suppliers”. As such, Respondent was engaged in legitimate investment supported by the Policy. As held in Allocation Network GmbH v. Steve Gregory, WIPO Case No. D2000-0016, where a ubiquitous acronym or dictionary term Domain Name forms part of a Respondent’s stock-in-trade as a domain name trader (as it does here), it constitutes “use of the domain name in connection with a bona fide offering of goods or services” and as such Respondent has rebutted Complainant’s allegations of lack of rights and legitimate interest in the Domain Name.

As eloquently stated by the majority of the Panel in HP Hood LLC v. hood.com (FA0408000313566), whereas here, “an established domain name resale enterprise that restricts its portfolio in a good faith effort to avoid misleading the public qualifies as a legitimate interest and a defense under Section 4(c)(i)…The rights and legitimate interests cited in that provision are not limiting, but simply illustrative of some situations that would be considered.”

Whether the Domain Name Has Been Registered and is Being Used in Bad Faith. The Complaint must prove bad faith registration and bad faith use. These are two distinct concepts and both are required for a finding of bad faith as understood by the Policy. Pursuant to Hydrologic Services, Inc. v. Name Delegation c/o Steven Sacks, Forum Claim Number: FA0605000707617, absent direct evidence that Respondent registered the domain name specifically because of Complainant, bad faith will not be found to exist. There is simply no evidence whatsoever of Respondent registering the Domain Name because of Complainant. All the evidence points to Respondent registering the Domain Name because of the inherent value in such three-letter acronyms and dictionary words, along with numerous other comparable domains. The fact that the subject Domain Name is composed solely of a common a three-letter word weighs heavily against a finding of bad faith registration. Absent direct proof that such a generic domain name was registered solely to target a specific trademark owner, there can be no finding of bad faith. For example, in Ultrafem, Inc. v. Warren Royal, Forum Claim No. FA0106000097682 the 3-member panel, in ruling in favor of the owner of the common term domain name Instead.com held: A bad faith showing would require Complainant to prove that Respondent registered instead.com specifically to sell to Complainant, or that the value of "instead" as a domain derived exclusively from the fame of its trademark. Neither has been proven in this case. In the absence of an intent to capitalize on Complainant’s trademark interest, Complainant cannot assert an exclusive right over a domain name that is a common, generic term. Here, there is ample evidence of widespread use of the term corresponding to the Domain Name which is wholly unrelated to Complainant. To echo the words of the Panelist in De Lage Landen International B.V. v. Steve Thomas, WIPO Case No. D2017-2045 (dll.com), “it seems fanciful in the extreme to suggest Respondent chose the Disputed Domain Name…because of any perceived connection with Complainant, given there is no credible evidence suggesting why Respondent should have been aware of Complainant at all” [emphasis added]. The considerable widespread usage of the term, “rid” by established and new entrants to the marketplace and thousands of individuals as amply demonstrated herein, makes it impossible to believe that Complainant was the “target” of the registration. Complainant has no priority or exclusive entitlement. Indeed, this principle was confirmed by a CAC Panel just last week, where the Panel stated inter alia in relation to the Complainant’s trademark for ONE, that “no one can own a number or dictionary word to the exclusion of the rest of the world… they remain the property of all…no one trader should be able to monopolise them…those selecting such terms as marks have to tolerate confusion and the Policy reflects this. Furthermore, consumers are not easily confused by such terms as they understand they are common ordinary terms, employed by many undertakings, with a low degree of distinctiveness” (One.com Group AB v. Stan N., CAC Case No. 103567, March 31, 2021).

The Panel is urged to follow the reasoning in Compañía Logística v. Privacy Administrator: On the evidence, clearly the acronym CLH, whether as a registered trademark or potentially having common law trademark status by association with the names of companies or other entities, and whether alone or in combination, is in wide use as the identifier of numerous business and other

entities. Each of those users of the acronym CLH is a potential customer for a domain name comprising or incorporating CLH, some of which Respondent has shown to be already in use, including for example <clh.hu>, <clh.com.au> and <clh.org>. The lack of any factual basis to the allegation of bad faith registration in this case, aside from Complainant's mere self-serving inferences, was similarly found in TMG Technologie Management v. Whois Privacy, WIPO Case No. D2005-0161:
"As to the third element of the Policy, bad faith, Complainant seems to infer bad faith by assuming that Respondent had knowledge of Complainant and its trademarks prior to the Domain Name registration, and that Respondent hoped to benefit in one way or another from the fame of Complainant and its trademarks. In weighing that assumption, the Panel notes first that Complainant is of course not the only entity in the world entitled to use those three letters in connection with an offering of goods or services, on the contrary, it is more than likely that many entities around the world could be entitled to use a three letter abbreviation such as TMG."

The Complainant has not provided evidence of any significant reputation, let alone to the extent that Respondent ought to have heard of Complainant or ought to have avoided registering the Domain Name. Complainant is not IBM, by any stretch of the imagination. In General Nutrition Investment Company v. John Gates / The Web Group, WIPO Case No. D2014-0982 (denying transfer of <gnc.asia>), the panel wrote: Complainant has not given any evidence of to what extent the [three-character] mark is known, and has not presented any evidence to support his assertion that Respondent knew of the mark when registering the Domain Name. Moreover, Panelists have generally rejected the concept of "constructive notice" of a Complainant's trademarks in UDRP proceedings, even when presented with evidence of wide-spread fame (which Complainant has not provided in this case). For example, in The Way International Inc. v. Diamond Peters, WIPO D2003-0264, and cited in Asset Marketing Systems, LLC v. Silver Lining, WIPO D2005-0560, the panel held: In the present case, there is not a scintilla of evidence that Respondent was actually aware of Complainant or its marks, nor any evidence upon which to even infer awareness. The sole and exclusive purpose of Respondent's registration was to invest in a generic term that had value independent of Complainant.

It has long been held that speculating in and trading in generic domain names, including acronyms, can be perfectly permissible under the Policy (See; Audiopoint, Inc. v. eCorp, D2001-0509 (WIPO June 14, 2001) and also see; Havanna S.A. v. Brendhan Hight, Mdnh Inc. WIPO Case No. D2010-1652. That is precisely what Respondent was lawfully engaged in and this constitutes good faith registration and use of the Domain Name. Despite Complainant's self-serving contentions, Respondent had every right to offer its Domain Name for sale to the general public. If a registrant has a legitimate interest in a domain name, and indeed if it is in the business of investing in common three-letter acronyms and dictionary terms as Respondent is, the registrant is entitled to offer its business asset for sale at market price and this is not bad faith (See; Etam, plc v. Alberta Hot Rods, WIPO Case No. D2000-1654). A general offer on Respondent's website to sell a domain name that a party otherwise has rights to, is not bad faith; rather, it is nothing more than a legitimate effort to sell property properly owned by the party (See; Personally Cool v. Name Administration, Forum Claim No. FA1212001474325). As the lawful registrant, Respondent has the right to convey rights in the Domain Name for whatever price it deems appropriate regardless of the value that Complainant or an appraiser may ascribe to the domain name (See; Personally Cool, supra). Lastly, Complainant's reliance upon a single screenshot which shows an inadvertent link referencing Complainant is insufficient in and of itself, to warrant the transfer of the domain name for 'bad faith'. At most this would constitute only unintentional 'bad faith use' and not 'bad faith registration' since there is clear evidence of an intention to register a common three-letter and dictionary word domain name for reasons that have nothing to do with the relatively little-known Complainant brand. An inadvertent link that long-post dates a domain name is not determinative of bad faith registration in the first place (See; Aqua Engineering & Equipment, Inc. v. DOMAIN ADMINISTRATOR / PORTMEDIA HOLDINGS LTD, Forum Claim Number: FA1805001785667 (2018).

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 not, 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 not, 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

Decision

A. Identical or Confusingly Similar, §4(a)(i).

The Complainant is the new owner of a business with an old brand which it recently acquired from Bayer Health Care, LLC. It would like to have the .com to accompany the brand. It demonstrates that in acquiring the RID brand it is also the recorded assignee of five registered trademarks, two in Latvia and Estonia and three in the US. The US marks are a logo mark and two typed or painted drawing marks. They are barely stylised and not strictly word marks, but nevertheless the disputed domain name <rid.com> is similar or identical to the mark in which it now has a right.

The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") suffix (".com"). As a mere technical requirement of registration, this element may be disregarded in the comparison between a domain name and a trademark for the purposes of the first element of paragraph 4(a) of the Policy, unless the gTLD suffix has some relevance to the comparison between the trademark and the domain name as a whole. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11.

In view of the above, the Panel is satisfied that the Complainant has discharged its burden on the first requirement by demonstrating that the disputed domain name is identical or confusingly similar to a mark in which it recently acquired a right.

B. Rights or Legitimate Interests, §4(a)(ii).

Under paragraph 4(a)(ii) of the Policy, a complainant has the burden of establishing that a respondent lacks rights or legitimate interests in respect of the disputed domain name, but this burden is light. It is sufficient in the first instance for Complainant to allege a prima facie case, and if the evidence presented is conclusive or yields an inference that Respondent lacks rights or legitimate interests, the burden shifts to Respondent to rebut the allegations.

Here, Complainant relies heavily on the history of the brand RID. It contends that Respondent lacks rights or legitimate interests because it acquired <rid.com> after the marketing of the product and registrations of the trademark. It contends further that the brand was well-known at the time Complainant's predecessor was marketing the product. Respondent contests this assertion, which it claims is not supported by evidence. Complainant does not address the issue that the disputed domain name is composed of a dictionary word. It appears to argue that it has a better right to <rid.com> than Respondent who was the high bidder in a public auction on or about December 11, 2008. Nevertheless, it is a fact that is not denied that Complainant is now the successor-in-interest to a brand marketed under the trademark RID which dates back to 1999 or earlier. The question to be answered is not whether Complainant has a better right as it seems to suggest but whether Respondent has rights or legitimate interests in <rid.com>.

A respondent demonstrates that it has a right or legitimate interest by offering proof that it acquired the disputed domain names for a lawful purpose. The UDRP sets out three non-exhaustive circumstances that if "found by the Panel to be proved based on its evaluation of all evidence presents, shall demonstrate [its] rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii).

Respondent has presented a strong rebuttal. It contends that it acquired the disputed domain name at auction due to its inherent value as a dictionary word and a short domain name. It notes that the term "rid" has proved attractive to many other traders and

manufacturers over the years and that they too would have a strong interest in owning <rid.com>. Moreover, many different traders have managed to register the word internationally. Respondent also rightly says that no party can have exclusive rights in an ordinary dictionary word.

Acquiring attractive domain names that may by happenstance correspond to current marks and holding them in inventory for future sale on the secondary market has long been held to constitute a right or legitimate interest. And so it is here. Common words are just that and no-one can have a monopoly or any exclusivity in them –as many traders will want to use them for their informational value. Small differences will avoid infringement and confusion must be tolerated by traders who select highly descriptive terms for trademarks. This is reflected in trademark norms internationally and also in this case in the state of the Registers.

This view is also reflected in the Policy and it has been long held in UDRP disputes that where a domain name is descriptive or a generic dictionary word, the first person to register it in good faith is entitled to the domain name and has a legitimate interest in it, regardless of whether or not the Respondent has a trademark (See for example: CRS Technology Corporation v. CondeNet (Forum FA0002000093547) (concierge.com). and see also, Target Brands, Inc. v. Eastwind Group (Forum FA0405000267475) regarding the domain name, target.org; "The first person to register it in good faith is entitled to the domain name and this is considered a legitimate interest. That person was not the Complainant."

For these reasons, the majority of the Panel finds that Complainant has not satisfied its burden on this limb of the Policy. Respondent has successfully rebutted the contention that it lacks a right or legitimate interest in <rid.com>. The dissent is of the view that Respondent lacks legitimate interests in the disputed domain name because its website contains several hyperlinks, one of which refers to "RID for head lice." Some Panels are of the view that "the registrant is responsible for the content that is associated to the domain name and because the domain name hosts PPC links that are not genuinely related to the dictionary meaning of the word." It is for this reason that the dissent dissents on this issue.

The majority does not quarrel with this view but sees the issue as more nuanced. The fact of automatic linking is not to be congealed to a categorical rule. Rather, the majority sees it as a factor among others. In fact, the Respondent has anticipated this argument: "The inclusion of the single Complainant-related link was unintentional and inadvertent and was not placed there by Respondent but rather was apparently automatically generated by the Domain Name's platform using an algorithm."

The majority agrees with the reasoning in Aqua Engineering & Equipment, Inc. v. DOMAIN ADMINISTRATOR / PORTMEDIA HOLDINGS LTD, FA1805001785667 (Forum June 25, 2018) citing an earlier case: "The PPC Ads were not selected by Respondent at all. Rather, they were auto-generated by Google's or parking provider software and relate to topics of general interest. As noted in Mariah Media Inc. v. First Place Internet Inc. No. D2006-1275 (WIPO December 6, 2006), the appearance of links created by a third-party domain monetization service does not constitute bad faith on the part of the domain owner. As the 3-member panel there explained: 'In the face of the Respondent's denials and the automated nature of the advertising links, the Panel considers these particular links insufficient to prove the Respondent's intent to mislead Internet users by means of the Domain Name itself.'"

Accordingly, based on the record of this proceeding, the majority of the Panel finds that the Complainant has failed to satisfy the second element in paragraph 4(a) of the Policy.

3. Bad Faith registration and Bad Faith Use, §4(a)(iii).

Paragraph 4(b) of the Policy sets out four nonexclusive circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. The four specified circumstances are:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket

costs directly related to the domain name; or
(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the site or location.

Each of these factors requires proof that respondent acted with knowledge of complainant and its mark, but here Respondent affirms that it had never heard of the Complainant or the product and that it received a contractual warranty when it purchased the disputed domain name that the seller had no knowledge or notice either. It has already been noted above that the term "rid" is used by many other traders. It is not inherently distinctive and there is no evidence that for Complainant product the mark has risen in consumers' consciousness to the level of its being either well-known or famous. See WIPO Overview, section 3.2.2 ("[W]here the complainant's mark is not inherently distinctive and it also corresponds to a dictionary term or is otherwise inherently attractive as a domain name (e.g., it is a short combination of letters), if a respondent can credibly show that the complainant's mark has a limited reputation and is not known or accessible in the respondent's location, panels may be reluctant to infer that a respondent knew or should have known that its registration would be identical or confusingly similar to the complainant's mark.")

Complainant offers a perfunctory run-through of each of the Paragraph 4(b) factors. It includes no evidence that Respondent's "primary purpose" in acquiring <rid.com> was to sell it to Complainant (Paragraph 4(b)(i)); or that Respondent "has engaged in a pattern" of registering "domain name[s] in order to prevent" owners of trademarks from reflecting their marks in corresponding domain names (Paragraph 4 (b)(ii); or that it is a competitor (Paragraph 4(b)(iii); or that it "has intentionally attempted to attract . . . Internet users . . . by creating a likelihood of confusion with complainant's mark" (Paragraph 4(b)(iv). There is simply no evidence that in registering <rid.com> that Respondent had Complainant's mark "in mind" or that it acquired it for the purpose of targeting its goodwill. Nor is there any evidence of actual knowledge of the mark as owned by Complainant's assignor.

Further, Respondent rejects any suggestion of constructive notice and questions the fame of the brand at the time it acquired <rid.com>. It notes the paucity of evidence of reputation. Although the Complainant claims that its product is "'one of the most recognizable brands for healthcare products, at least in the US,' the Complainant provided by way of supporting evidence a single advertisement from nearly 30 years ago in 1992, in an unidentified magazine or newspaper with unknown circulation and a 1984 newspaper article about a tv advertisement for Rid lice treatment that ostensibly aired 40 years ago and an online article from an unknown website called 'VeryWellHealth.com' that claims that the product is 'the best shampoo' with no data about circulation or views."

This catalogue is not a sufficient showing for fame for acquired distinctiveness or secondary meaning in most common law jurisdictions. Except for the hyperlink noted above, Complainant offers no probative evidence that the link dates back to the acquisition and its current presence does not suggest free-riding on Complainant's mark. It is important to note that buying and selling and parking are not objectionable per se and are all highly fact sensitive. Trading in generic domain names, including acronyms, can also be perfectly permissible under the Policy, see Audiopoint, Inc. v. eCorp, D2001-0509 (WIPO June 14, 2001) and also see; Havanna S.A. v. Brendhan Hight, Mdnh Inc. WIPO Case No. D2010-1652.

If a registrant has a legitimate interest in a domain name, the registrant is entitled to offer its business asset for sale at market price and this is not bad faith, see; Etam, plc v. Alberta Hot Rods, WIPO Case No. D2000-1654. Nor is a general offer to sell a domain name bad faith, see Personally Cool v. Name Administration, Forum Claim No. FA1212001474325.

Another consideration beyond the above observations is that this case raises a novel issue: Can a trademark assignee's rights to assert a claim of cybersquatting accrue earlier than the date of the assignment? It is not questioned that an assignee steps into the shoes of its predecessor for ownership of the trademark, but whether it also steps into its assignor's shoes to claim infringement of a right it only recently acquired does not necessarily follow. While for purposes Paragraph 4(a)(i) Complainant has standing to maintain this proceeding its right nevertheless postdates the registration of the disputed domain name. For this

reason, its claim of cybersquatting is no different from any other complainant whose mark postdates the registration of the domain name.

For the above reasons, the Panel finds that the Complainant has failed to establish that Respondent registered or is using <rid.com> in bad faith.

Panellist Flip J.C. Petillion, concurring in part and dissenting in part

I greatly respect the thoughtful work of the majority and I agree with my learned co-panellists that the complaint must be denied. The complaint must be denied because there is no evidence that the domain name has been registered in bad faith. However, I believe that the majority errs in its finding that the Respondent has a legitimate interest in the disputed domain name.

The Respondent makes only a very minimal use of the domain name. Panels have recognised that "the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark". (See section 2.9, WIPO Overview 3.0).

The webpage associated to the domain name refers to an automated link mentioning 'RID for head lice'. The word 'RID' in the automated link is not used in relation to its dictionary meaning as a verb in this sentence, but rather refers to 'RID' as a noun with no dictionary meaning and connects it with a use for head lice. Such use of the domain name may constitute a trademark infringement, as the complainant's mark is registered and used for 'preparations for destroying lice in the hair'. As the registrant is responsible for the content that is associated to the domain name and because the domain name hosts PPC links that are not genuinely related to the dictionary meaning of the word, but rather refers to the Complainant's trademark, the majority should not have found that the Respondent has a legitimate interest in the domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **RID.COM**: Remaining with the Respondent

PANELLISTS

Name	**Victoria McEvedy, Gerald M. Levine, Ph.D, Esq., Flip Petillion**

DATE OF PANEL DECISION 2021-05-17

Publish the Decision