

## Decision for dispute CAC-UDRP-104041

Case number CAC-UDRP-104041

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Time of filing 2021-09-30 08:55:22

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Domain names Compare-Meerkat.com

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### Case administrator

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

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### Complainant

Organization Compare the Market Limited

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### Complainant representative

Organization TLT LLP

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### Respondent

Name Sean Whelehan

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#### OTHER LEGAL PROCEEDINGS

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

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#### IDENTIFICATION OF RIGHTS

The Complainant owns the following trademarks:

- UK00002504071 for "COMPARETHEMEERKAT.COM" registered in the UK on 3 April 2009 in Nice Classification classes 35 and 36; and

- UK00002521895 for "COMPARETHEMEERKAT" registered in the UK on 25 June 2010 in classes 3, 9, 16, 18, 21, 24, 25, 28, 35, 36, 38, 41.

The Complainant is the registrant of the <comparethemeerkat.com> domain name and has been since 3 October 2007.

The Respondent registered the disputed domain name <compare-meerkat.com> on 16 August 2021.

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#### FACTUAL BACKGROUND

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

The Complainant is Compare the Market Limited (CTM), a subsidiary of BGL Group Limited (BGL). CTM operates a leading UK price comparison website under BDL's domain name <comparethemarket.com>. The scope of the Complainant's website includes financial services, and the Complainant is authorized and regulated in the UK as a provider of such services.

In 2009, BGL launched a successful advertising campaign which features anthropomorphized meerkat characters in order to exploit a play on words between Compare the Market and Compare the Meerkat. BGL/CTM owns the goodwill in connection with the price comparison services it provides in this manner.

The disputed <.com> domain name, which employs the words "compare" and "meerkat" joined by a hyphen in its stem, was registered and is being used in the absence of any connection with or authorization by the Complainant.

The UK Financial Conduct Authority (FCA), which is the financial regulator in the UK, brought the disputed domain name to the Complainant's attention by an e-mail dated 23 September 2021.

In that e-mail the FCA reported that it had "recently received concerns that an entity is suspected to be cloning Compare The Market Limited" and that these concerns "have been passed onto the Unauthorised Business Department (UBD), a component of the Enforcement & Market Oversight Division at the FCA" with a view to further action being taken in regard to that entity.

FCA in addition mentioned its power to "issue alerts to warn consumers against dealing with unauthorised firms" and stated that, based on the concerns raised and "in order to protect consumers from suffering financial loss and to protect the integrity of the financial markets, we intend to issue an alert to our list of unauthorised firms ... and the Financial Services Register".

The FCA explained that "The proposed alert will clearly differentiate between the authorised firm and the unauthorised firm using the genuine firm's details".

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## PARTIES CONTENTIONS

### PARTIES' CONTENTIONS:

#### COMPLAINANT:

The Respondent's website is directed at consumers based in the UK who are familiar with the Complainant's branding.

The disputed domain name is identical or highly similar to the Complainant's trade marks.

Their use in the disputed domain name implies that there is a commercial relationship between the Parties when there is none. To the contrary, the Respondent seeks to trade on the Complainant's goodwill and reputation without authorization or permission in order to promote financial services that the Respondent's website alleges it is providing, despite having no regulatory authorization.

The FCA has in this regard indicated to the Complainant its intention to warn the public of the Respondent's impersonation in the interest of protecting consumers.

Thus, the Respondent's continued use of the disputed domain name is likely to cause substantial damage to the Complainant's reputation and goodwill alongside infringement of its trademarks.

It is moreover inconceivable that at the time of registering the disputed domain name the Respondent did not know of the similarity between it and the Complainant's domain name and trade marks.

Rather, it is evident that the Respondent purposefully used the Complainant's trade marks so as fraudulently to deceive the public into a mistaken belief that the disputed domain name is connected to the Complainant. Such intent is shown in particular by the Respondent not being authorized to offer regulated financial products or services in the UK whereas the Complainant -- whom the Respondent is impersonating -- is so authorized. Registration and use of the disputed domain name to defraud third parties excludes any legitimate interest and shows bad faith.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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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).

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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).

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PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

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PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the Complainant has proven its case in all regards for the purposes of the Policy's cumulative three-part test. In particular:

(1) The Respondent has been shown to have reproduced in the disputed domain name one of the Complainant's trade marks except for omission of the non-substantive word "the" and addition of a hyphen. The disputed domain name is hence, in conjunction with the TLD suffix <.com>, nearly identical to the Complainant's mark;

(2) There is no question in this case of the Respondent having a legitimate interest in the use of the disputed domain name. By contrast, the UK financial regulator has, on the basis of concerns it had received, taken the step of announcing its intention to warn the public -- so as to protect consumers -- of an entity "cloning" the Complainant's offering, that entity being the Respondent (who, incidentally, may not be the person named as registrant judging by inconsistency between some of the contact details in the Case File);

(3) All the indications are that the purpose sought in registering and using the disputed domain name has been to conduct a consumer scam at the expense of the Complainant's rights and reputation. A finding of bad faith is inescapable in these circumstances.

The Panel therefore orders the transfer of the disputed domain name to the Complainant.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. COMPARE-MEERKAT.COM: Transferred

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## PANELLISTS

Name Kevin J. Madders

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DATE OF PANEL DECISION 2021-11-10

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Publish the Decision

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