

Decision for dispute CAC-UDRP-104117

Case number	CAC-UDRP-104117
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Time of filing	2021-11-02 09:31:43
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Domain names	ren-broker.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Renaissance Financial Holdings Limited and Renaissance Broker Limited
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Complainant representative

Organization	McEvedys Solicitors & Attorneys Ltd
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Respondent

Name	Roman Siniy
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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 Complainants are the owners, among others, of the following trademark registrations:

- EUTM No. 005523287 - RENAISSANCE CAPITAL (dev.) for classes 16, 35, 36 and 41, registered on January 22, 2013 in the name of Renaissance Financial Holdings Limited;
- EUTM No. 018173094 - RENCAP for class 36, registered on May 22, 2020 in the name of Renaissance Financial Holdings Limited;
- Russian Trademark No. 391367 - RENAISSANCE BROKER (Cyrillic) for classes 16, 35, 36 and 41, registered on October 13, 2009 in the name of Renaissance Holdings Management Limited and licenced to Renaissance Broker Limited;
- Russian Trademark No. 391364 - RENAISSANCE BROKERAGE (dev.) for classes 16, 35, 36 and 41, registered on October 13, 2009 in the name of Renaissance Holdings Management Limited and licenced to Renaissance Broker Limited;
- Russian Trademark application No. 2021738762 - RENCAP for classes 9, 16, 35, 36, 38, 41, 42 and 45, applied for on June 22, 2021 in the name of Renaissance Financial Holdings Limited; and
- Russian Trademark application No. 2021719024 - RENBROKER for classes 16, 35, 36, 38, 41, 42 and 45, applied for on January 4, 2021 in the name of Renaissance Financial Holdings Limited.

The Complainants are the owners, among others, of the following domain names:

- <rencap.com> registered on December 5, 1995; and
 - <renbroker.ru> registered on May 11, 2009 in the name of Renaissance Broker Limited.
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FACTUAL BACKGROUND

RENAISSANCE CAPITAL GROUP (the Group) consists of investment bank Renaissance Financial Holdings Limited and brokerage Renaissance Broker Limited, the Complainants. The First Complainant is Renaissance Financial Holdings Ltd, trading as RENAISSANCE CAPITAL. This is the parent and holding company of the Group. It is currently incorporated in Bermuda. The Group is a leading financial institution with offices in London, New York and Moscow, of a strong reputation and substantial business activity in Africa and emerging markets. The Second Complainant is its Russian brokerage subsidiary, Renaissance Broker Limited.

The Group has been trading for 25 years and its name and marks are well-known marks or marks with a reputation. It has unregistered rights enforceable in the law of passing off in common law jurisdictions. Due to extensive use and the revenue associated with its trademarks worldwide, the Complainants enjoy a high degree of renown around the world and particularly in the financial sector.

According to the Complainants the disputed domain name <ren-broker.com> is confusingly similar to the names and trademarks of the Complainants and to the domain name <renbroker.ru>. In addition, the Complainants note that the website linked to the domain name in dispute is identical to the website linked to the domain name <renessans-broker.com> which was transferred to the Complainants in a previous CAC Case (No. 103910), which is why the Complainants believe that the Respondent is really the same or a related party and has simply migrated their original website to the domain name in dispute. Furthermore, the Complainants observe that the name of the company illustrated in the website linked to the disputed domain is indicated as Renessans Broker or Renaissance Broker LLC and that the RENAISSANCE BROKER trademark is clearly recognizable in the fake company name (Renaissance Broker LLC) illustrated in the disputed domain name's website.

The Complainants inform that they have never licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent affiliated to the Complainant in any form or has endorsed or sponsored the Respondent or the Respondent's website. Furthermore, according to the Complainants, there is no evidence that the Respondent (indicated as Roman Siniy) is known by the disputed domain name. Furthermore, the Complainants insist that they succeeded in the previous CAC Case No. 103910 and that in said situation, before the commencement of the proceedings, a cease and desist letter was sent to the domain name's owner. According to the Complainants, immediately after the above mentioned cease and desist letter, the Respondent applied for this current disputed domain name. The Complainants view is that Respondent is really the same or a related party with respect to the domain name's owner in the CAC Case No.103910 since the almost identical website is a strong evidence and may not be qualified as a coincidence.

Additionally, the Complainants note that the Respondent's offering is not bona fide; this also because the website linked to the disputed domain name illustrates the Complainants address as the company's place of business.

The Complainants argue that the Respondent registered the disputed domain name in May 2021 and targets Russia and elsewhere while the Complainants had registered the mark RENAISSANCE BROKER in Russia well before. The Complainants insist that the above mark is well-known throughout the world, particularly in its home country of Russia which the Respondent deliberately targets, as evidenced by its website language and the contact information. It is therefore inconceivable, in the Complainants view, that the Respondent was unaware of the existence of the Complainants when it registered the disputed domain name. Consequently, according to the Complainants, it is highly likely the Respondent registered the disputed domain name having the Complainants in mind and with the clear intent of free-riding on the Complainants reputation and goodwill and confuse and deceive the public.

The Complainants observe that in the previous case (CAC Case No. 103910) there was unlawful use of the disputed domain name by phishing, fraud and deception. Actually, the Panel, in that case, ruled: 'the panel holds as undisputed, the

Complainants have been inundated with complaints from people who have been swindled by the phishing of the site at the disputed domain name and this correspondence clearly show that the disputed domain name was used for fraudulent and unlawful behavior'. In the Complainants view, since the website at the current disputed domain <ren-broker.com> is the same as in CAC Case No. 103910, <renessans-broker.com>, it is clear that it could be used for phishing, fraud and deception. Therefore, the Complainants believe that the Respondent registered the disputed domain name with the express intent and purpose of "phishing" in order to induce and divert the Complainants' legitimate customers to its website to steal their bank details and ultimately, their money. Finally, according to the Complainants, even excluding any "phishing" purposes or other illicit use of the domain names in the present case, there can be no other possible legitimate use of the disputed domain name.

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 disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Complainants own, among others, the RENAISSANCE BROKER and RENAISSANCE BROKERAGE trademarks which are used in the field of financial and brokerage services. The Complainants also own domain names composed by the "REN" element (i.e. - <renbroker.ru>). In particular the domain name <renbroker.ru> redirects to the Renaissance Broker Limited's official website. That being said, the Panel takes the view that the threshold required by the first element of the Policy is met. As a matter of fact the element "REN" could indeed be considered as an abbreviation of RENAISSANCE as confirmed by (i) the registration and use by the Complainants of the above mentioned domain name and (ii) by the application with the Rospatent of the Russian Trademark application No. 2021719024 RENBROKER which, differently from the Complainants assertions, was filed on January 4, 2021 (The Panel has performed a search with the Rospatent's trademark register) and not on June 22, 2021 and therefore before the registration of the disputed domain name dated May 10, 2021. The Panel considers of relevance also the way the disputed domain name is used. The Complainants have submitted evidence that the Respondent used <ren-broker.com> to impersonate itself as the Complainant since the brokerage services shown in the website linked to the disputed domain name are referred to a company indicated sometimes as Renessans Broker and sometimes as Renaissance Broker LLC (in a way similar or identical to the second Complainant's name). This confirms that in the Respondent's scheme "REN" could be perceived as an abbreviation of the Complainants trademark.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainants trademarks, for the purposes of the first element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainants demonstrated that the website connected to the disputed domain name is a website almost identical to the one considered in a previous CAC Case (no.103910) where the domain name was transferred to the Complainants. In the above cited case the website was proved to be used for "phishing" activities and therefore there is a high possibility that also the disputed domain name in the present case could be used in connection with a "phishing" scheme. Anyway, the Respondent's offering is not bona fide because (i) the activity shown in the website linked to the domain name in dispute is referred to a company indicated sometimes as Renessans Broker and sometimes as Renaissance Broker LLC (in a way similar or identical to the second Complainant's name) and (ii) the business address of the company indicated in the website linked to the domain name in dispute fully corresponds to the Complainants address.

Furthermore, the Complainants provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use the Complainants trademarks. The Respondent, in the absence of any Response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainants therefore succeed on the second element of the Policy.

3. The disputed domain name was registered and is used in bad faith.

Paragraph 4(b) of the UDRP Policy sets out the following examples of circumstances that will be considered by an Administrative Panel to be evidence of the bad faith registration and use of a domain name:

- (i) circumstances indicating that the domain name was registered or acquired 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 domain name registrant's out-of-pocket costs directly related to the domain name; or
- (ii) the domain name was registered in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the domain name registrant has engaged in a pattern of such conduct; or
- (iii) the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the domain name registrant intentionally attempted to attract for financial gain, Internet users to the registrant'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 registrant's website or location or of a product or service on the registrant's website or location.

The above examples are not exclusive and other circumstances may exist that demonstrate the registration and use of a domain name in bad faith.

As to the registration of the disputed domain name in bad faith, the reputation of the Complainants trademarks is such that, in the Panel's view, the Respondent could not ignore the trademarks RENAISSANCE BROKER and RENAISSANCE BROKERAGE at the time of the registration of <ren-broker.com>. This consideration is reinforced by the fact that the Respondent has chosen to register a domain name which almost corresponds to (i) the domain name <renbroker.ru>, the Complainants domain name which redirects users on the Complainants official website used to offer brokerage services and (ii) to the Russian trademark RENBROKER applied for by Complainants before the disputed domain name registration.

It is therefore obvious that the Respondent selected the disputed domain name to create confusion with the domain name <renbroker.ru>, used by the Complainants to offer brokerage services. In addition, the Panel shares the Complainants view that the Respondent is really the same to (or somehow related to) the domain name's owner in the previous CAC Case No. 103910 since the use of an identical website could not be considered simply as a coincidence. Since in the above case the Respondent lost the domain name used for "phishing" purpose against the Complainants it was in need of finding a new domain name to migrate the same website and obviously it had to find a domain name that was idoneous to create confusion with Complainants names and trademarks. This further reinforces the circumstance that the Respondent was really well aware of the existence of the Complainants and of their trademark rights when it decided to register the disputed domain name.

Furthermore, the use of the disputed domain name is in bad faith. The Panel has duly considered that this is a case of simple migration of a website already used for "phishing" against the Complainants to a new domain name. Even if there are not concrete evidence of present "phishing" activities through the domain name in dispute, it must be considered that, according to the relevant case-law, the very act of having acquired the domain name raises the probability of Respondent using it in a manner that is contrary to Complainant's legal rights and legitimate interests. To argue that a Complainant should have to wait for some future negative impact from use of the disputed domain names to mature in order to demonstrate the Respondent's

bad faith use is to render intellectual property law an instrument of abuse by the Respondent. The result would be the likelihood of the accumulation and use of disputed domain names for the implicit, if not explicit, purpose of misappropriating or otherwise unlawfully undermining Complainant's goodwill and business. The fact that this misappropriation may occur in any as yet undetermined manner at an uncertain future date does not negate Respondent's bad faith. On the contrary, it raises the spectre of continuing bad faith abuse by Respondent of Complainant's Mark, name and related rights and legitimate business interests (WIPO Case No. D2004-0615, Comerica Inc. v. Horoshiy, Inc.). In any case, it is the Panel's view that, as discussed previously, the composition of the disputed domain name and the use by the Respondent that resolved to a website which creates an impression of association with the Complainants since it displays the name and the address of Complainants, clearly translates into a bad faith use under the Policy (see WIPO Case No. D2020-0543 LGT Gruppe Stiftung v. Domain Administrator). The Respondent's conduct clearly indicates an attempt to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, which constitutes bad faith under paragraph 4 (b)(iv) of the Policy. The Complainants therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **REN-BROKER.COM**: Transferred

PANELLISTS

Name	Avv. Guido Maffei
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DATE OF PANEL DECISION 2021-12-03

Publish the Decision