Decision for dispute CAC-UDRP-100223

Case number	CAC-UDRP-100223
Time of filing	2011-02-08 16:22:36
Domain names	sstalamo.com

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	Vanguard Trasdemark Holdings USA LLC

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Name	Rampe Purda

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the mark "ALAMO" registered in the EU and the US for car rental and other services. The Complainant's licensee uses this mark for car rental services in numerous countries around the world.

FACTUAL BACKGROUND

The Complainant is the owner of the ALAMO mark which it licenses to Alamo Rent A Car.

Started in 1974, Alamo Rent A Car has locations in more than 42 countries worldwide, with more than 1,200 Alamo car rental locations throughout the United States, Canada, Europe, Latin America, the Caribbean, Asia Pacific, Africa and Australia. Since long prior to the registration of the sstalamo.com domain name by its current owner and Registrar on 25 June 2010, Complainant’s licensee has been engaged in the car rental business under the ALAMO mark.

Alamo Rent A Car operates an on-line car rental site at alamo.com.

The Complainant has registered its ALAMO mark and owns the following European Community registration:

European Community Trademark Registration No. 1860592 dated 16 February 2002 for ALAMO in International Classes 12, 16, 36 and in International Class 39 for the following services: “provision of transport services including for both leisure and business purposes; hiring of transport vehicles including the provision of such services to the functioning of airports; loaning

of vehicles; vehicle parking; hiring of vehicle accessories; inspection of vehicles before transport; travel for and escorting of travellers; provision of information about the transport of goods and information relating to tariffs, timetables and methods of transport; transport reservation and arranging services; vehicle rental, reservation and leasing services; relating online services; and related promotional and discount services; automobile rental and leasing services; car leasing services; vehicle rental, reservation and leasing services."

In addition, the Complainant has registered and owns the following United States registrations:

Registration No. 1,097,722 issued 25 July 1978
ALAMO in International Class 39 for "automotive renting and leasing services."

Registration No. 2,805,426 issued 13 January 2004
ALAMO.COM in International Class 35 for "promoting the goods and services and of others through a membership benefit program which entitles members to receive discounts on renting and leasing vehicles" and in International Class 39 for "vehicle renting and reservation services; vehicle leasing services."

In addition to its registrations in the European Community and the United States, the Complainant has registered the ALAMO mark for vehicle rental services in many other countries.

The web page at sstalamo.com contains numerous links to sites offering vehicle rental services in competition with the Complainant's licensee. For example, the sstalamo.com web page has links to Action Car Rental, Real Auto Rent, U-Save Car & Truck Rental, Ez Auto Rent and Hertz Car Rental, all of whom are competitors of Complainant's licensee, as well as other web sites that offer car rental services from various vehicle rental providers.

The Complainant has not licensed or otherwise permitted the Respondent to use the ALAMO mark in connection with vehicle rental services or any other goods or services or to apply for any domain name incorporating the ALAMO mark. The web page used by Respondent is the type of web page commonly used by domain name owners seeking to "monetize" their domain names through "click-through" fees.

There is nothing in the WHOIS records or on Respondent's web page to indicate that Respondent Rampe Purda is commonly known as ""Sstalamo."

The Respondent has set up its web site to which the domain name at issue resolves with a view to commercial gain from "click-through" payments from Internet users who find their way to Respondent's web site. Although some visitors may realize their mistake, there will inevitably be a number who do "click through". The Respondent does not operate businesses known as "Sstalamo".

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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 language of the registration agreement is Finnish. The Complainant has requested that the language of this proceeding be English, on the grounds that

(1) The Respondent appears to be very familiar with the English language since the disputed domain name resolves to a website which appears to have exclusively English content and virtually all of the links on the web page to which the disputed domain name resolves are in English.

(2) There have been quite a number of UDRP proceedings involving the Respondent "Rampe Purda," all of which determined that the domain names were registered and used in bad faith, including Hertz System, Inc. v. Rampe Purda/PrivacyProtect.org, WIPO Case No. D2010-0636; U. S. Natural Resources, Inc. v. Rampe Purda/Privacy--Protect.org, WIPO Case No. D2010-0720; LEGO Juris A/S v. Rampe Purda/Privacy--Protect.org, WIPO Case No. D2010-0840; and L'Oréal v. Rampe Purda/Privacy —Protect.org, WIPO Case No. D2010-0870. Respondent did not exercise the option to take part in those proceedings and they were conducted in English.

(3) Under the circumstances, to require the Complainant to incur the heavy expense of translation of the documents in this case into Finnish would be unduly onerous and would reward a serial cybersquatter. The Respondent, "Rampe Purda" almost certainly chose to register the domain name at issue with a Chinese Registrar using Finnish as the language of the registration agreement just for the reason that it would make a UDRP action more expensive and burdensome and possible discourage a UDRP filing.

(4) In addition, as noted by a recent UDRP Panelist in a proceeding involving the Respondent, "Rampe Purda", a check with the Finnish Population Register found that no one with either the name Rampe or Purda is currently registered as a resident in Finland, neither Rampe nor Purda appears on the Finnish Trade Register (which lists all trading entities in Finland), and the Finnish address given for the Respondent is improbable as a trading address, leading to the Panelist's conclusion to doubt the existence of an individual/entity called Rampe Purda in Finland. See The RueDuCommerce Company v. Rampe Purda/Privacy--Protect.org, WIPO Case No. D2010-1632.

The Panel is satisfied that in the circumstances it is appropriate for the language of the proceedings to be English and the Panel so determines pursuant to paragraph 11(a) of the UDRP Rules.

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

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain name is confusingly similar to the Complainant's "ALAMO" mark. The Respondent's use of the domain name for a web page containing links to websites offering and promoting car rental services supports the view that the initial letters of the domain name are insufficient to distinguish it from the Complainant's mark.

The Panel considers that the Respondent's use of the disputed domain name is not a bona fide offering of goods or services. The Respondent is not commonly known by the domain name and is not engaging in legitimate non-commercial or fair use of it. On the contrary, the Respondent is using the domain name for commercial gain, in the form of click-through commissions, by diverting consumers seeking the Complainant's website, through confusion with the Complainant's mark, to the Respondent's web page which provides links to the websites of competitors of the Complainant. The Panel is satisfied that the Respondent does not have any rights or legitimate interests in respect of the domain name.

The Panel finds that the Respondent has used the domain name to attract Internet users to his web page for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source of his web page. In accordance with

paragraph 4(b)(iv) of the UDRP this constitutes evidence of bad faith registration and use. There is no evidence displacing this presumption. Accordingly, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SSTALAMO.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2011-03-17

Publish the Decision