Decision for dispute CAC-UDRP-100598

Case number	CAC-UDRP-100598
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Domain names	meerkatcarinsurance.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	BGL Group Limited

Complainant representative

Organization	TLT LLP

Respondent

Name	David Clark

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has put forward the following trademark rights:

UK Trademark 2521908 for "meerkat";
UK Trademark 2521895 for "comparethemeerkat";
UK Trademark 2504071 for "comparethemeerkat.com";
UK Trademark 2456693B;
UK Trademark 2522721 for "comparethemarket";
UK Trademark 2486675 for "comparethemarket.com".

The Respondent did not put forward any rights and the Panel has no indication any such rights would exist.

FACTUAL BACKGROUND

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

This Complaint is submitted by TLT LLP, a firm of solicitors regulated in the United Kingdom by the Solicitors Regulation

Authority, on behalf of BGL Group Limited. The Czech Arbitration Court (CAC) is requested to submit this Complaint for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, the Rules for Uniform Domain Name Dispute Resolution Policy and CAC's UDRP Supplemental rules of the Czech Arbitration Court.

The Complainant, BGL Group Limited (BGL) is a company incorporated in England and Wales with company number 02593690. It was incorporated on 21 March 1991.

BGL originally operated as an insurance underwriter. Since 1997, BGL has operated as an intermediary for UK personal-lines insurance.

In 2005, BGL created its "Compare the Market" (CtM) brand as part of its business as a personal-lines insurance intermediary. As part of the CtM brand, BGL created the website www.comparethemarket.com. This was, and is, a price-comparison website for personal-lines insurance products.

The domain comparethemarket.com and the domain comparethemarket.co.uk were both registered on 21 September 2004. They are registered to BISL Ltd, which is a wholly owned subsidiary of BFSL Ltd. BFSL Ltd is in turn a wholly-owned subsidiary of BGL. In effect BGL owns the domains comparethemarket.com and comparethemarket.co.uk.

In January 2009, the CtM brand was re-launched. The re-launch included television adverts featuring Aleksandr the Meerkat, an anthropomorphized meerkat character. A companion website was also created at www.comparethemeerkat.com.

The domain comparethemeerkat.com was registered on 3 October 2007. It is registered to BGL.

The CtM brand is very well-known in the UK, particularly by reference to the Aleksandr the Meerkat character. For example:

VCCP, the advertising agency which created the Aleksandr character for BGL, has won awards for its work: see for example http://www.vccp.com/news/2009/06/vccp-win-double-at-nma-awards.

BGL won the Marketing Week Engage 2010 Brand of the Year award for their CtM brand: http://www.marketingweek.co.uk/news/congratulations-to-the-winners-of-the-marketing-week-engage-awards/3013601.article

VCCP maintain a webpage on their work for BGL here:

http://www.vccp.com/work/comparethemarketcom/comparethemarketcom

BGL owns the following trademarks (together, the Trademarks), all registered in classes 35 and 36 (which covers motor vehicle insurance):

UK Trademark 2521908 for "meerkat";
UK Trademark 2521895 for "comparethemeerkat";
UK Trademark 2504071 for "comparethemeerkat.com";
UK Trademark 2456693B;
UK Trademark 2522721 for "comparethemarket";
UK Trademark 2486675 for "comparethemarket.com".

BGL also owns the goodwill in the CtM brand, and in associated marketing such as the character of Aleksandr the Meerkat.

Why is the domain name an Abusive Registration?

The Respondent is the registrant of the domain "meerkatcarinsurance.com" (the Domain). The Domain was registered on 19 February 2012, more than 5 years after BGL registered comparethemeerkat.com. The Respondent lives in the UK and at the

time the Domain was registered, BGL's Aleksandr the Meerkat was well recognised as part of BGL's CtM brand.

BGL considers this to be a case of 'cybersquatting' which seeks and at the time sought to take unfair advantage of BGL's CtM brand.

The Domain is comprised of three words ("meerkat", "car" and "insurance"). As mentioned above, BGL owns UK trademark 2521908 for "meerkat". It is registered in classes 35 and 36 which cover insurance services. One of the main services BGL provides on its site is car insurance. Therefore by using BGL's trademark 2521908 for a service the trademark is registered for and listing a product BGL on its site, the Registrant is taking unfair advantage of BGL's reputation and is causing confusion.

The Domain takes the user to a site that advertises Quote Zone. If the user clicks on a link at the site, it takes the user to QuoteZone.co.uk. Quote Zone is a direct competitor of BGL.

The Domain causes confusion as users trying to access BGL's site only need to mistakenly type BGL's trademark "meerkat" along with a descriptive term, describing a service BGL provides "car insurance" and they end up at a competitor's site. This means that BGL potentially loses the opportunity to interact with those users.

The purpose and effect of the Domain is to take advantage of errors made by people seeking BGL's site, and thereafter to direct them to BGL's competitor's website.

An average internet user would understand the Domain to be deliberately taking unfair advantage of the errors of people seeking BGL's website.

A screenshot of the Website at the Domain is provided. The Domain was registered in bad faith because the Registrant seeks only to take unfair advantage of BGL’s CtM brand. The sole motivation is to benefit from errors made by people seeking BGL’s website.

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 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 <meerkatcarinsurance.com> is partially identical to the Complainant’s earlier trade mark "meerkat". The Panel considers the words "carinsurance" to be descriptive of the activities of the Complainant. The Panel

therefore finds that the disputed domain name <meerkatcarinsurance.com> is confusingly similar to the Complainant's earlier trade mark "meerkat".

2.
Respondent has not proven any use of the disputed domain name in connection with a bona fide offering of goods or services. The Respondent is obviously not commonly known by the domain name and he is not making legitimate non-commercial or fair use of it. There appears to be no other basis on which the Respondent could claim any rights or legitimate interests. The Complainant has rights in the trade mark which predate the registration of the domain name and the Respondent, based in the United Kingdom, ought to have been aware of the Complainant's rights and the meerkat character. There appears to be no reason why the Respondent would incorporate the Complainant's mark in the disputed domain name and the Respondent has not submitted any reason for doing so.

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3.
The Complainant contends that the website at the domain name includes information about a competitor's website and a picture of a meerkat, and submits proof thereof. The Panel has not been able to verify this contention as it appears such website no longer exists. The Respondent has not challenged Complainant's contention, so the Panel accepts the Complainant's submission. In addition, the Panel has seen at least one auction website in which the domain name is being offered for sale (https://flippa.com/).

Therefore, the Panel is satisfied that the Respondent registered and used the disputed domain name in bad faith. UDRP 4(b)(i).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MEERKATCARINSURANCE.COM**: Transferred

PANELLISTS

Name	**Jose Checa**

DATE OF PANEL DECISION 2013-06-15

Publish the Decision