Decision for dispute CAC-UDRP-100912

Case number	CAC-UDRP-100912
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Domain names	wechatforenterprise.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Enterprise Holdings, Inc.

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Organization	Whois Privacy Protection Service, Inc.

OTHER LEGAL PROCEEDINGS

None

IDENTIFICATION OF RIGHTS

US Registered Trademark No. 1,343,167 issued June 18, 1985: ENTERPRISE in Classes 35 for “automotive fleet management services”; 37 for “automotive repair services”; 39 for “short-term rental and leasing of automobiles and trucks”; and 42 for “automotive dealership services”

US Registered Trademark No. 2,458,529 issued June 5, 2001: ENTERPRISE.COM in Class 39 for “vehicle rental and leasing services, and reservation services for the rental and leasing of vehicles”

Common law rights in these marks as a result of extensive use for car hire services

FACTUAL BACKGROUND

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

The Complainant, Enterprise Holdings, Inc. is the proprietor of the registered trademarks identified above (“ENTERPRISE marks”), which it licenses to Enterprise Rent-A-Car. Enterprise Rent-A-Car is very well known in the vehicle rental business, in fact 90% of the American population lives within 15 miles of an Enterprise Rent-A-Car location. Started in 1974, Enterprise is

an internationally recognized brand serving the daily rental needs of customers throughout the United States, Canada, Ireland, Germany and the United Kingdom. Complainant's licensee operates an online car rental site at enterprise.com.

As far as the Complainant's assertions are concerned the Complainant claims that the domain name wechatforenterprise.com is confusingly similar to the Complainant's registered ENTERPRISE mark. It fully incorporates Complainant's ENTERPRISE mark, merely adding the generic phrase "we chat for" without spaces and adding the generic top level domain identifier, ".com." The wechatforenterprise.com domain name is also confusingly similar to the Complainant's registered ENTERPRISE.COM mark in that it fully incorporates the mark, merely adding the generic phrase "we chat for" without spaces.

The Complainant states its U.S. registrations for ENTERPRISE and ENTERPRISE.COM for rent a car services issued in June 1985 and June 2001. These registrations pre-date the September 2014 initial registration of the wechatforenterprise.com domain name by thirteen and twenty-nine years respectively.

According to the Complainant the Respondent has no rights or legitimate interests in the wechatforenterprise.com domain name. On January 14, 2015, the web site at the wechatforenterprise.com domain name resolved to a web page with a list of "Related Links" to web sites offering car rental services, including Complainant's licensee, Enterprise Rent-A-Car and its competitors.

Furthermore, the Complainant asserts the Respondent is attempting to use the wechatforenterprise.com domain name to drive Internet traffic to its wechatforenterprise.com web site when Internet users are trying to reach the Enterprise Rent-A-Car web site.

The web site to which the wechatforenterprise.com domain name resolves gives no indication that the Respondent is known as, operating a business as, or advertising as "We Chat for Enterprise." As of the date of commencement of the administrative proceeding, the domain name at issue, wechatforenterprise.com, was registered in the name of Whois Agent c/o Whois Privacy Protection Service, Inc., a domain privacy service. The Complainant assesses there is nothing in the WHOIS record that would indicate the Respondent is or is commonly known as "We Chat for Enterprise."

The Complainant claims it has not licensed or otherwise permitted the Respondent to use its ENTERPRISE marks in connection with car rental services or any other goods or services or to apply for any domain name incorporating the ENTERPRISE marks. In addition, the Respondent is clearly not making any legitimate noncommercial or fair use of wechatforenterprise.com. The wechatforenterprise.com web page is a generic type of web page commonly used by domain name owners seeking to monetize their domain names through "click-through" fees.

The Respondent is deliberately using a domain name that is confusingly similar to the Complainant's marks to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its web sites and the services offered at such web sites.

The web page for wechatforenterprise.com includes links to the real Enterprise Rent-A-Car web page and for which Enterprise Rent-A-Car must pay a click-through fee if that link is used. The web page to which the wechatforenterprise.com domain name resolves is a "pay-per-click" web page. It contains online advertising that will provide someone, presumably the Respondent, with revenue from "click-through" fees from Internet users who find their way to the web page at wechatforenterprise.com. At least some Internet visitors to the Respondent's web page at wechatforenterprise.com will either not realize that they have been unwittingly directed to a web site that has no affiliation to Enterprise Rent-A-Car or not care that they are not at the "official" Enterprise Rent-A-Car web site and will "click through" the links provided by the Respondent.

The Respondent has no legitimate rights in the wechatforenterprise.com domain name. The Respondent has merely registered the wechatforenterprise.com domain name to capitalize on the goodwill that the Complainant has developed in its ENTERPRISE and ENTERPRISE.COM marks to drive Internet traffic inappropriately to other web sites for commercial gain.

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

The Complainant clearly has registered and unregistered rights in the marks ENTERPRISE and ENTERPRISE.COM as a result of its registrations of these marks in the Principal US Trademark Register and their extensive use for car hire services. The Panel is satisfied on balance that the disputed domain name is confusingly similar to these marks. The Panel does not accept the Complainant's submission that this domain name is necessarily confusingly similar because it incorporates the entirety of the Complainant's marks together with generic words. However, the Panel notes that the Complainant's trademarks are very well known. In addition, the Respondent's use of links to websites of the Complainant's licensee and its competitors is evidence that there is a real likelihood of confusion, whether the association with the Complainant was identified by a human operator or the automatic functioning of a monetisation program. In all the circumstances the Panel concludes that the relatively low threshold of the first requirement of the UDRP is satisfied.

It is apparent that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Its use of the domain name for a web page with sponsored links to websites of the Complainant's licensee and its competitors is not a bona fide offering of goods and services. Nor is it a legitimate non-commercial or fair use of the domain name. On the contrary, it is a use of the domain name in bad faith to divert Internet users seeking the Complainant's website through confusion and thereby to profit unfairly from the Complainant's licensee's goodwill. It is also evident that the Respondent is not commonly known by the disputed domain name and has not been licensed by the Complainant.

The Panel finds that by its use of the disputed domain name the Respondent has intentionally attempted to attract Internet users to its web page by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of that web page, for commercial gain in the form of click-through commissions on sponsored links. In accordance with paragraph 4(b)(iv) of the UDRP this constitutes evidence of registration and use of the disputed domain name in bad faith. There is no material on the file controverting this presumption. In all the circumstances the Panel finds 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. **WECHATFORENTERPRISE.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2015-03-06

Publish the Decision