Decision for dispute CAC-UDRP-100941

Case number	CAC-UDRP-100941
Time of filing	2015-03-20 10:02:03
Domain names	trianglerentalcar.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Enterprise Holdings, Inc.

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Organization	PPA Media Services

OTHER LEGAL PROCEEDINGS

None

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of United States federally registered trademark TRIANGLE, Reg. No. 2,191,897 issued on September 29, 1998 in International Class 35 for “automobile dealership services featuring used rental cars” and in International Class 39 for “renting and leasing of automobiles; limousine services; and valet parking at airports”.

FACTUAL BACKGROUND

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

The TRIANGLE mark has been used in connection with rental car services since 1981 and was assigned to the Complainant by Triangle Rent A Car, LLC. The Complainant’s licensee operates an online rental car site at trianglerentacar.com. The Complainant’s predecessor in interests’ registration and extensive use of the TRIANGLE mark for rental car services sufficiently establishes its rights in the mark pursuant to ICANN’s Uniform Dispute Resolution Policy (“Policy”).

The domain name trianglerentalcar.com was registered on June 26, 2002. It resolves to a "pay-per-click" web page with a list of “Related Links” which contain links to web sites offering rental car services, including those of the Complainant and its competitors.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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. In particular, the Panel is satisfied that the CAC discharged its responsibility under paragraph 2(a) of the ICANN Rules for Uniform Domain Name Dispute Resolution Policy to employ reasonably available means calculated to achieve actual notice of the Complaint to the Respondent.

PRINCIPAL REASONS FOR THE DECISION

Although the word "triangle", standing alone, is a common dictionary word, its registration as a trademark in connection with car rental services demonstrates that, in that context, it is distinctive of the Complainant, as assignee and current registrant of that mark. The domain name wholly incorporates the Complainant's TRIANGLE mark, together with the words "rental car", which serves to describe the Complainant's business, and the inconsequential gTLD ".com", which may be ignored. Accordingly, the domain name is confusingly similar to the Complainant's mark.

The Complainant asserts that the Respondent cannot have any legitimate rights in the domain name in connection with a site that serves merely to drive Internet traffic to web sites offering rental car services from the Complainant’s licensee and its competitors. The Complainant has not licensed or otherwise permitted the Respondent to use its TRIANGLE mark in connection with rental car services or any other goods or services or to apply for any domain name incorporating the TRIANGLE mark. Further, the WHOIS record lists “Ryan G Foo, PPA Media Services” as the registrant of the domain name and the web site to which the domain name resolves gives no indication that the Respondent is known as, operating a business as, or advertising as “Triangle Rental Car.”

The Panel accepts the Complainant's assertion that the Respondent’s registration and use of a domain name that merely adds terms descriptive of the Complainant’s business to the Complainant’s TRIANGLE mark for a web site that attempts to attract Internet users to the Respondent’s web page, evidences an intent on the part of the Respondent to trade upon the goodwill associated with the Complainant’s TRIANGLE mark for rental car services. Further, that the Respondent is using a domain name that is confusingly similar to the Complainant’s mark 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 site and the services offered at such web site.

In the absence of any Response, the only conclusion that can be drawn from the Respondent’s registration of a domain name that consists of nothing more than the Complainant’s mark and terms specifically identifying the Complainant’s business for a website with links to the Complainant’s actual website and those of its competitors is that such registration and use of the domain name was and is in bad faith under paragraph 4(b)(iv) of the Policy.

The Complainant has not disclosed the date on which it became the assignee of the TRIANGLE mark nor offered any

explanation as to why these proceedings have been brought 13 years after the domain name was registered. On the material before the Panel and in the absence of any Response, however, these matters do not preclude a finding in favour of the Complainant.

Accordingly the Panel finds that the 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. **TRIANGLERENTALCAR.COM**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2015-04-21

Publish the Decision